

110TH CONGRESS  
1ST SESSION

# H. R. 889

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

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2007

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 Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prevention of Aquatic  
5 Invasive Species Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Section 1002(a) of the Nonindigenous Aquatic Nui-  
8 sance Prevention and Control Act of 1990 (16 U.S.C.

1 4701(a)) is amended by striking “and” after the semicolon  
2 at the end of paragraph (14), by striking the period at  
3 the end of paragraph (15) and inserting a semicolon, and  
4 by adding at the end the following:

5 “(16) the introduction of aquatic invasive spe-  
6 cies into the Nation’s waters is one of the most ur-  
7 gent issues facing aquatic ecosystems in the United  
8 States;

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

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

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

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

22 “(21) it has been estimated that some 10,000  
23 non-indigenous aquatic species travel around the  
24 globe each day in the ballast water of cargo ships;

1           “(22) over 2 billion gallons of ballast water are  
2 discharged in United States waters each year;

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

6           “(24) aquatic invasive species may also be in-  
7 troduced by other vessel conduits, including the hulls  
8 of ships;

9           “(25) aquatic invasive species may be trans-  
10 ferred from other countries, or from distinct regions  
11 in the United States;

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

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

18           “(28) in 2004, the International Maritime Or-  
19 ganization agreed to a Convention, which the United  
20 States played an active role in negotiating, to pre-  
21 vent, minimize, and ultimately eliminate the transfer  
22 of aquatic invasive species through the control and  
23 management of ballast water and sediments; and

24           “(29) the International Maritime Organization  
25 agreement specifically recognizes that countries can

1 take more stringent measures than those of the Con-  
 2 vention with respect to the control and management  
 3 of ships' ballast water and sediment.”.

4 **TITLE I—PREVENTION OF IN-**  
 5 **TRODUCTION OF AQUATIC**  
 6 **INVASIVE SPECIES INTO WA-**  
 7 **TERS OF THE UNITED STATES**  
 8 **BY VESSELS**

9 **SEC. 101. BALLAST WATER MANAGEMENT.**

10 (a) IN GENERAL.—Section 1101 of the Nonindige-  
 11 nous Aquatic Nuisance Prevention and Control Act of  
 12 1990 (16 U.S.C. 4711) is amended to read as follows:

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

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

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

22 **“(A) is a vessel (or a structure being towed**  
 23 **by a vessel) of United States registry or nation-**  
 24 **ality, or operated under the authority of the**  
 25 **United States, wherever located; or**

1           “(B) is a foreign vessel that (or a struc-  
2           ture being towed by a foreign vessel that)—

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

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

9           “(2) PERMANENT BALLAST WATER VESSELS.—

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

13           “(3) ARMED FORCES VESSELS.—

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

17                   “(B) BALLAST WATER MANAGEMENT PRO-  
18                   GRAM.—The Secretary of Defense and the Sec-  
19                   retary, after consultation with the Adminis-  
20                   trator and the Under Secretary, shall imple-  
21                   ment a ballast water management program, in-  
22                   cluding the promulgation of standards for bal-  
23                   last water exchange and treatment and for sedi-  
24                   ment management, for vessels of the Armed  
25                   Forces under their respective jurisdictions de-

1 signed, constructed, or adapted to carry ballast  
2 water that is—

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

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

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

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

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

22 “(2) EXCEPTIONS.—Paragraph (1) does not  
23 apply to the uptake or discharge of ballast water or  
24 sediment in the following circumstances:

1           “(A) The uptake or discharge is solely for  
2 the purpose of—

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

5                   “(ii) saving a life at sea.

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

9                   “(i) all reasonable precautions to pre-  
10 vent or minimize ballast water and sedi-  
11 ment discharge have been taken before and  
12 after the damage occurs, the discovery of  
13 the damage, and the discharge; and

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

17           “(C) The uptake or discharge is solely for  
18 the purpose of avoiding or minimizing the dis-  
19 charge from the vessel of pollution that would  
20 otherwise violate applicable Federal or State  
21 law.

22           “(D) The uptake or discharge of ballast  
23 water and sediment occurs at the same location  
24 where the whole of that ballast water and that  
25 sediment originated and there is no mixing with

1 ballast water and sediment from another area  
2 that has not been managed in accordance with  
3 the requirements of this section.

4 “(c) AQUATIC INVASIVE SPECIES PLAN.—

5 “(1) IN GENERAL.—The operator of a vessel to  
6 which this section applies shall conduct all ballast  
7 water management operations of that vessel in ac-  
8 cordance with an aquatic invasive species plan de-  
9 signed to minimize the discharge of aquatic invasive  
10 species that—

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

13 “(B) is approved by the Secretary.

14 “(2) APPROVAL CRITERIA.—

15 “(A) IN GENERAL.—The Secretary may  
16 not approve an aquatic invasive species plan un-  
17 less the Secretary determines that the plan—

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

22 “(ii) describes in detail the procedures  
23 to be used for disposal of sediment at sea  
24 and on shore in accordance with the re-  
25 quirements of this section;



1 “(iii) describes in detail safety proce-  
2 dures for the vessel and crew associated  
3 with ballast water management;

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

7 “(v) contains the reporting require-  
8 ments for vessels established under this  
9 section and a copy of each form necessary  
10 to meet those requirements;

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

14 “(vii) includes the location of access  
15 points for sampling ballast water and sedi-  
16 ment;

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

21 “(ix) includes a contingency plan for  
22 acting under the safety or stability excep-  
23 tion under subsection (f)(4), that includes  
24 procedures to reduce the risk of organism  
25 transfer via ballast water discharge; and

1                   “(x) meets all other requirements pre-  
2                   scribed by the Secretary.

3                   “(B) FOREIGN VESSELS.—The Secretary  
4                   may approve an aquatic invasive species plan  
5                   for a foreign vessel (as defined in section 101  
6                   of title 46, United States Code) on the basis of  
7                   a certificate of compliance with the criteria de-  
8                   scribed in subparagraph (A) issued by the ves-  
9                   sel’s country of registration in accordance with  
10                  regulations promulgated by the Secretary.

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

14                         “(A) maintain a copy of the vessel’s aquat-  
15                         ic invasive species plan on board at all times;  
16                         and

17                         “(B) keep the plan readily available at all  
18                         reasonable times for examination by the Sec-  
19                         retary or a representative of the State in which  
20                         the port is located.

21                  “(4) REGULATIONS.—The Secretary, in con-  
22                  sultation with the Task Force, shall issue regula-  
23                  tions prescribing the requirements of this subsection.

24                  “(d) VESSEL BALLAST WATER RECORD BOOK.—

1           “(1) IN GENERAL.—The owner or operator of a  
2 vessel to which this section applies shall maintain a  
3 ballast water record book in English on board the  
4 vessel in which—

5           “(A) each operation involving the uptake  
6 or discharge of ballast water or sediment dis-  
7 charge is fully recorded without delay, in ac-  
8 cordance with regulations promulgated by the  
9 Secretary;

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

13           “(C) the exact nature and circumstances of  
14 any situation under which any operation was  
15 conducted under an exception set forth in sub-  
16 section (b)(2) or (f)(4) is described.

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

19           “(A) shall be kept readily available for ex-  
20 amination by the Secretary or a representative  
21 of the State at all reasonable times in each port  
22 that is entered by the vessel; and

23           “(B) notwithstanding paragraph (1), may  
24 be kept on the towing vessel in the case of an  
25 unmanned vessel under tow.

1           “(3) RETENTION PERIOD.—The ballast water  
2 record book shall be retained—

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

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

8           “(4) REGULATIONS.—In the regulations pre-  
9 scribed under this section, the Secretary shall re-  
10 quire, at a minimum, that—

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

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

17           “(C) the owner or operator of the vessel  
18 transmit such information to the Secretary re-  
19 garding the ballast operations of the vessel as  
20 the Secretary may require.

21           “(5) ALTERNATIVE MEANS OF RECORD-  
22 KEEPING.—The Secretary shall provide by regula-  
23 tion for alternative methods of recordkeeping, in-  
24 cluding electronic recordkeeping, to comply with the  
25 requirements of this subsection.

1           “(6) NATIONAL BALLAST INFORMATION CLEAR-  
2           INGHOUSE.—Records required for a vessel under  
3           this subsection shall be transmitted by the owner or  
4           operator of the vessel to the National Ballast Infor-  
5           mation Clearinghouse established under section  
6           1102(f).

7           “(e) BEST MANAGEMENT PRACTICES.—

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

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

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

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

22                         “(ii) the minimization of ballast water  
23                         uptake in areas with a greater risk of  
24                         harmful organisms entering ballast tanks,  
25                         such as areas with toxic algal blooms or

1 known outbreaks of aquatic invasive spe-  
2 cies;

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

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

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

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

15 “(f) BALLAST WATER EXCHANGE REQUIRE-  
16 MENTS.—

17 “(1) IN GENERAL.—Until a vessel is required to  
18 conduct ballast water treatment in accordance with  
19 subsection (g) of this section, the operator of a ves-  
20 sel to which this section applies may not discharge  
21 ballast water except after—

22 “(A) conducting ballast water exchange, in  
23 accordance with paragraph (3) and regulations  
24 prescribed by the Secretary, in a manner that  
25 results in an efficiency of at least 95 percent

1 volumetric exchange of the ballast water for  
2 each ballast water tank;

3 “(B) meeting the requirements of para-  
4 graph (9), if the vessel’s condition is such that  
5 the vessel is declared to have no ballast on  
6 board or is claimed to be carrying only  
7 unpumpable quantities of ballast;

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

11 “(D) using an environmentally sound alter-  
12 native ballast water treatment method if the  
13 Secretary determines that the performance of  
14 such treatment meets, for the relevant vessel or  
15 group vessels, the International Maritime Orga-  
16 nization standard for treatment in the Ballast  
17 Water Management Convention.

18 “(2) ALTERNATIVE BALLAST WATER TREAT-  
19 MENT TECHNOLOGY TO MEET IMO STANDARDS.—

20 “(A) IN GENERAL.—Within 1 year after  
21 the date of the enactment of this paragraph,  
22 the Secretary, in consultation with the Adminis-  
23 trator and the Under Secretary, shall promul-  
24 gate regulations to establish an approval proc-  
25 ess for alternative ballast water treatment tech-

1 nologies meeting the International Maritime Or-  
2 ganization standard for treatment in the Bal-  
3 last Water Management Convention.

4 “(B) COMPLIANCE WITH BALLAST WATER  
5 EXCHANGE REQUIREMENTS.—A vessel is not in  
6 compliance with paragraph (1)(D) unless the  
7 Secretary, under the approval process estab-  
8 lished under subparagraph (A) of this para-  
9 graph, approves the technology employed by the  
10 vessel for purposes of complying with paragraph  
11 (1)(D).

12 “(C) INCENTIVES FOR USE OF ALTER-  
13 NATIVE TREATMENT METHODS.—If a vessel  
14 uses an alternative ballast water treatment  
15 technology approved under this paragraph, then  
16 vessel is in compliance with subsection (g) for  
17 the 10-year period beginning on the date that  
18 the approved technology is first placed on the  
19 vessel.

20 “(D) REVOCATION OF APPROVAL.—The  
21 Secretary shall revoke approval for an alter-  
22 native technology if—

23 “(i) it is discovered the technology  
24 does not meet the International Maritime



1 Organization standard for treatment in the  
2 Ballast Water Management Convention; or

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

5 “(E) DISCRETIONARY REVOCATION OF AP-  
6 PROVAL.—The Secretary may revoke approval  
7 for an alternative technology if revocation of  
8 approval is appropriate under any circumstance.

9 “(3) EXCHANGE AREAS.—

10 “(A) IN GENERAL.—A vessel is in compli-  
11 ance with paragraph (1)(A) only if—

12 “(i) in the case of a vessel en route to  
13 a United States port or place from a port  
14 or place outside the United States exclu-  
15 sive economic zone, the vessel conducts bal-  
16 last water exchange—

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

20 “(II) in water at least 200 me-  
21 ters in depth;

22 “(ii) in the case of a vessel originating  
23 from a port or place within the United  
24 States exclusive economic zone, or from a  
25 port within 200 nautical miles of the

1 United States in Canada, Mexico, or other  
2 ports designated by the Secretary for pur-  
3 poses of this section, the vessel conducts  
4 ballast water exchange—

5 “(I) at least 50 nautical miles  
6 from the nearest point of land in the  
7 United States, or in an area deter-  
8 mined by the Secretary under sub-  
9 paragraph (B) of this paragraph or  
10 paragraph (6); and

11 “(II) in water at least 200 me-  
12 ters in depth.

13 “(B) DESIGNATION OF EXCHANGE  
14 AREAS.—

15 “(i) DESIGNATION.—If the Secretary,  
16 in consultation with the Administrator and  
17 the Under Secretary, determines based on  
18 oceanographic information that 50 nautical  
19 miles is an inadequate distance from the  
20 nearest point of land in the United States  
21 to prevent harm to coastal areas from or-  
22 ganisms released in ballast water ex-  
23 changes, the Secretary shall issue regula-  
24 tions that establish designated areas for al-  
25 lowable ballast water exchange. The des-

1           ignated areas shall be located not more  
2           than 100 nautical miles from the nearest  
3           point of land in the United States.

4           “(ii) EXCHANGE DEEMED IN COMPLI-  
5           ANCE.—Any ballast water exchange con-  
6           ducted in accordance with regulations  
7           issued under this subparagraph is deemed  
8           to comply with this paragraph.

9           “(4) SAFETY OR STABILITY EXCEPTION.—

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

18           “(B) NOTIFICATION REQUIRED.—When-  
19           ever the master of a vessel is unable to comply  
20           with the requirements of paragraphs (1) and  
21           (3) because of a determination made under sub-  
22           paragraph (A), the master of the vessel shall—

23           “(i) notify the Secretary as soon as  
24           practicable thereafter but no later than 24  
25           hours after making that determination;

1           “(ii) ensure that the determination,  
2           the reasons for the determination, and the  
3           notice are recorded in the vessel’s ballast  
4           water record book; and

5           “(iii) conduct one of the following—

6                   “(I) undertake ballast water ex-  
7                   change in an alternative area des-  
8                   ignated by the Secretary under para-  
9                   graph (3)(B) or paragraph (6);

10                   “(II) undertake discharge of bal-  
11                   last water in accordance with para-  
12                   graph (7); or

13                   “(III) act in accordance with a  
14                   contingency plan included in the ves-  
15                   sel’s aquatic invasive species plan.

16           “(C) REVIEW OF CIRCUMSTANCES.—If the  
17           master of a vessel conducts a ballast water dis-  
18           charge under this paragraph, the Secretary  
19           shall review the circumstances to determine  
20           whether the discharge met the requirements of  
21           this paragraph. The review under this subpara-  
22           graph shall be in addition to any other enforce-  
23           ment authority of the Secretary.

24           “(5) DISCHARGE UNDER WAIVER.—

1           “(A) SUBSTANTIAL BUSINESS HARDSHIP  
2 WAIVER.—If, because of the short length of a  
3 voyage, the operator of a vessel is unable to dis-  
4 charge ballast water in accordance with the re-  
5 quirements of paragraph (3)(A)(ii) without sub-  
6 stantial business hardship, as determined under  
7 regulations prescribed by the Secretary, the op-  
8 erator may request a waiver from the Secretary  
9 to discharge ballast water in accordance with  
10 paragraph (7). A request for a waiver under  
11 this subparagraph shall be submitted to the  
12 Secretary at such time and in such form and  
13 manner as the Secretary may require.

14           “(B) SUBSTANTIAL BUSINESS HARD-  
15 SHIP.—For purposes of subparagraph (A), the  
16 factors taken into account in determining sub-  
17 stantial business hardship shall include wheth-  
18 er—

19                   “(i) compliance with the requirements  
20 of paragraph (3)(A)(ii) would require a  
21 sufficiently great change in routing or  
22 scheduling of service as to compromise the  
23 economic or commercial viability of the  
24 trade or business in which the vessel is op-  
25 erated; or

1                   “(ii) it is reasonable to expect that the  
2                   trade or business or service provided will  
3                   be continued only if a waiver is granted  
4                   under subparagraph (A).

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

12                  “(6) DESIGNATION OF ALTERNATIVE AREAS.—

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

23                  “(B) REGULATIONS.—After completion of  
24                  the review in accordance with subparagraph  
25                  (A), the Secretary may issue regulations desig-

1 nating alternative areas where the discharge of  
2 ballast water would not affect the surrounding  
3 aquatic ecosystem.

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

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

19 “(7) PERMISSIBLE DISCHARGE.—

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

23 “(i) in an alternative area designated  
24 for that purpose under paragraph (6) by  
25 the Secretary; or

1                   “(ii) into a reception facility described  
2                   in subsection (g)(2).

3                   “(B) LIMITATION ON VOLUME.—The vol-  
4                   ume of any ballast water discharged under the  
5                   provisions of this paragraph may not exceed the  
6                   volume necessary to ensure the safe operation  
7                   of the vessel.

8                   “(8) PARTIAL COMPLIANCE.—

9                   “(A) IN GENERAL.—The operator of a ves-  
10                  sel that is unable to comply fully with the re-  
11                  quirements of paragraphs (1) and (3)—

12                   “(i) shall nonetheless conduct ballast  
13                   water exchange to the maximum extent  
14                   feasible in compliance with those para-  
15                   graphs;

16                   “(ii) may conduct a partial ballast  
17                   water exchange under this paragraph only  
18                   to the extent that the ballast water in an  
19                   individual ballast tank can be completely  
20                   exchanged in accordance with paragraph  
21                   (1);

22                   “(iii) shall notify the Secretary as  
23                   soon as practicable thereafter, but no later  
24                   than 24 hours after making the determina-



1           tion to conduct ballast water exchange  
2           under this paragraph; and

3                   “(iv) shall ensure that the determina-  
4           tion, the reasons for the determination,  
5           and the notice are recorded in the vessel’s  
6           ballast water record book.

7                   “(B) REVIEW OF CIRCUMSTANCES.—If the  
8           master of a vessel conducts a ballast water dis-  
9           charge under this paragraph, the Secretary  
10          shall review the circumstances to determine  
11          whether the vessel was unable to comply fully  
12          with the requirements of paragraphs (1) and  
13          (3). The review under this subparagraph shall  
14          be in addition to any other enforcement author-  
15          ity of the Secretary.

16                  “(9) SPECIAL REQUIREMENTS FOR NOBOBS.—

17                   “(A) SALTWATER FLUSHING REQUIRE-  
18          MENT.—Beginning 180 days after the date of  
19          the enactment of this paragraph, any vessel op-  
20          erating en route to the United States from out-  
21          side the exclusive economic zone of the United  
22          States that is unable to conduct ballast water  
23          exchange as otherwise required under this sub-  
24          section, other than as provided in paragraph (4)  
25          and paragraph (5), shall conduct saltwater

1 flushing of its empty ballast tanks in an area  
2 located at least 200 nautical miles from any  
3 point on land in the United States before enter-  
4 ing any port in the United States.

5 “(B) SALTWATER FLUSHING DEFINED.—

6 For the purposes of this paragraph, the term  
7 ‘saltwater flushing’ means a process that in-  
8 cludes—

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

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

15 “(iii) the discharge of the mixed  
16 water,

17 in areas greater than 200 nautical miles from  
18 the nearest point of land in the United States  
19 such that the resultant residual water remain-  
20 ing in the tank has a salinity greater than 30  
21 parts per thousand.

22 “(10) DESIGNATION OF ENCLOSED AQUATIC  
23 ECOSYSTEMS.—

24 “(A) IN GENERAL.—The Secretary, in con-  
25 sultation with the Under Secretary, the Admin-

1           istrator, the Task Force, and representatives  
2           from affected States designated by the Task  
3           Force, shall designate, in addition to the Great  
4           Lakes, enclosed aquatic ecosystems in which the  
5           potential for movement of organisms by natural  
6           and anthropogenic means is not significantly al-  
7           tered by the movement of vessels, including bal-  
8           last water discharge, to which this section  
9           apply.

10           “(B) DESIGNATION OF REPRESENTED  
11           STATES.—The Task Force shall designate the  
12           States that may appoint representatives to as-  
13           sist in designating enclosed aquatic ecosystems  
14           under subparagraph (A) and the number of  
15           representatives that may be appointed for each  
16           State. The governor of each designated State  
17           shall appoint the representatives for that State.

18           “(11) VESSELS OPERATING ON THE GREAT  
19           LAKES.—No vessel shall be operated in the Great  
20           Lakes if the master of the vessel has not certified  
21           to the Secretary or the Secretary’s designee by not  
22           later than the departure of that vessel from the first  
23           lock in the St. Lawrence Seaway that the vessel has  
24           complied with the requirements under this title, in-  
25           cluding the regulations issued under this title.

1           “(12) CERTAIN GEOGRAPHICALLY LIMITED  
2 ROUTES.—Notwithstanding paragraph (3)(B) of this  
3 subsection, the operator of a vessel is not required  
4 to comply with the requirements of paragraph (1)  
5 if—

6           “(A) the vessel operates exclusively—

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

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

12           “(iii) within any enclosed aquatic eco-  
13 system designated under paragraph (10);  
14 and

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

18           “(13) MARINE SANCTUARIES AND OTHER PRO-  
19 HIBITED AREAS.—A vessel may not conduct ballast  
20 water exchange or discharge unexchanged ballast  
21 water under this subsection within a marine sanc-  
22 tuary designated under the National Marine Sanc-  
23 tuaries Act (16 U.S.C. 1431 et seq.) or in any other  
24 waters designated by the Secretary after consulta-

1           tion with the Under Secretary and the Adminis-  
2           trator.

3           “(14) STUDY AND REQUIREMENT OF ALTER-  
4           NATIVES FOR THE GREAT LAKES.—

5           “(A) STUDY.—Not later than January 1,  
6           2012, the Secretary, in consultation with the  
7           Administer and the Under Secretary, shall con-  
8           duct a study to evaluate alternatives to on-  
9           board treatment, including but not limited to  
10          cargo transfer and shore-based treatment, for  
11          vessels entering the Great Lakes from beyond  
12          the exclusive economic zone.

13          “(B) REGULATIONS.—The Secretary may  
14          promulgate regulations based on the results of  
15          the study to require alternatives that would as-  
16          sist in preventing the introduction of aquatic  
17          invasive species from vessels.

18          “(15) PUBLIC NOTICE OF ACTIONS.—

19          “(A) NOTICE REQUIREMENT.—The Sec-  
20          retary shall provide public notice of each of the  
21          following:

22                  “(i) Exemptions applied under para-  
23                  graph (4), including the nature and cir-  
24                  cumstances surrounding the application of  
25                  the exemption.

1           “(ii) Waivers granted under para-  
2           graph (5), including the nature and cir-  
3           cumstances surrounding the waiver.

4           “(iii) Instances of partial compliance  
5           under paragraph (8), including the nature  
6           and circumstances surrounding the in-  
7           stance of partial compliance.

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

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

13               “(i) in the Federal Register and on  
14               relevant web sites maintained by the Sec-  
15               retary;

16               “(ii) once every 2 weeks; and

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

21          “(C) DATABASE OF NOTICES.—The Sec-  
22          retary shall make all notices published under  
23          subparagraph (B)(i) available, at all times, to  
24          the public on relevant World Wide Web sites  
25          maintained by the Secretary.

1           “(16) REGULATIONS DEADLINE.—The Sec-  
2           retary shall issue a final rule for regulations re-  
3           quired by this subsection within 1 year after the  
4           date of enactment of the Prevention of Aquatic  
5           Invasive Species Act of 2007.

6           “(g) BALLAST WATER TREATMENT REQUIRE-  
7           MENTS.—

8           “(1) PERFORMANCE STANDARDS.—A vessel to  
9           which this section applies shall conduct ballast water  
10          treatment in accordance with the requirements of  
11          this subsection before discharging ballast water so  
12          that the ballast water discharged will contain—

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

16                 “(B) less than 1 living organism per 10  
17                 milliliters that is less than 50 micrometers in  
18                 minimum dimension and more than 10 microm-  
19                 eters in minimum dimension;

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

22                         “(i) 1 colony-forming unit of  
23                         toxicogenic *Vibrio cholera* (serotypes O1  
24                         and O139) per 100 milliliters, or less than

1           1 colony-forming unit of that microbe per  
2           gram of wet weight of zoological samples;

3           “(ii) 126 colony-forming units of esch-  
4           erichia coli per 100 milliliters; and

5           “(iii) 33 colony-forming units of intes-  
6           tinal enterococci per 100 milliliters; and

7           “(D) concentrations of such additional in-  
8           dicator microbes as may be specified in regula-  
9           tions promulgated by the Secretary, after con-  
10          sultation with the Administrator, that are less  
11          than the amount specified in those regulations.

12          “(2) RECEPTION FACILITY EXCEPTION.—

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

16           “(i) a land-based facility for the re-  
17          ception of ballast water that meets stand-  
18          ards prescribed by the Administrator; or

19           “(ii) a water-based facility for the re-  
20          ception of ballast water that meets stand-  
21          ards prescribed by the Secretary.

22          “(B) PROMULGATION OF STANDARDS.—

23          Within 1 year after the date of enactment of  
24          the paragraph—



1                   “(i) the Administrator shall promul-  
2                   gate standards for—

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

5                                 “(II) the disposal or treatment of  
6                                 ballast water discharged into a land-  
7                                 based or water-based reception facility  
8                                 in a way that does not impair or dam-  
9                                 age the environment, human health,  
10                                 property, or resources; and

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

14                                 “(3) IMPLEMENTATION SCHEDULE.—Para-  
15                                 graph (1) applies to vessels in accordance with the  
16                                 following schedule:

17   “(A) FIRST PHASE.—Beginning January  
18   1, 2010, for vessels constructed on or after that  
19   date with a ballast water capacity of less than  
20   5,000 cubic meters.

21   “(B) SECOND PHASE.—Beginning January  
22   1, 2013, for vessels constructed on or after that  
23   date with a ballast water capacity of 5,000  
24   cubic meters or more.

1           “(C) THIRD PHASE.—Beginning January  
2           1, 2015, for vessels constructed before January  
3           1, 2010, with a ballast water capacity of 1,500  
4           cubic meters or more but not more than 5,000  
5           cubic meters.

6           “(D) FOURTH PHASE.—Beginning Janu-  
7           ary 1, 2017, for vessels constructed—

8                   “(i) before January 1, 2010, with a  
9                   ballast water capacity of less than 1,500  
10                  cubic meters or 5,000 cubic meters or  
11                  more; or

12                   “(ii) on or after January 1, 2010, and  
13                  before January 1, 2013, with a ballast  
14                  water capacity of 5,000 cubic meters or  
15                  more.

16           “(4) TREATMENT SYSTEM APPROVAL RE-  
17           QUIRED.—The operator of a vessel may not use a  
18           ballast water treatment system to comply with the  
19           requirements of this subsection unless the system is  
20           approved by the Secretary under paragraph (8) or  
21           (10).

22           “(5) FEASIBILITY REVIEW.—

23                   “(A) IN GENERAL.—Not less than 2 years  
24                  before the date on which paragraph (1) applies  
25                  to vessels under each subparagraph of para-

1 graph (3), or as that date may be extended  
2 under this paragraph, the Secretary, in con-  
3 sultation with the Administrator, the Under  
4 Secretary, and the Task Force, shall complete  
5 a review to determine whether appropriate tech-  
6 nologies are available to achieve the standards  
7 set forth in paragraph (1) for the vessels to  
8 which they apply under the schedule set forth  
9 in paragraph (3). In reviewing the technologies  
10 the Secretary shall consider—

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

13 “(ii) feasibility in terms of compat-  
14 ibility with vessel design and operations;

15 “(iii) safety considerations;

16 “(iv) whether a technology is deter-  
17 mined to have an adverse impact on the  
18 environment under the criteria issued  
19 under paragraph (11); and

20 “(v) cost effectiveness.

21 “(B) DELAY IN SCHEDULED APPLICA-  
22 TION.—If the Secretary determines, on the  
23 basis of the review conducted under subpara-  
24 graph (A), that compliance with the standards  
25 set forth in paragraph (1) in accordance with

1 the schedule set forth in any subparagraph of  
2 paragraph (3) is not feasible for any class of  
3 vessels, the Secretary, in consultation with the  
4 Administrator, the Under Secretary, and the  
5 Task Force, shall—

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

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

12 “(C) HIGHER STANDARDS; EARLIER IM-  
13 PLEMENTATION.—

14 “(i) STANDARDS.—If the Secretary  
15 determines that ballast water treatment  
16 technology exists that exceeds the perform-  
17 ance standards required under this sub-  
18 section, the Secretary, in consultation with  
19 the Administrator, the Under Secretary,  
20 and the Task Force, shall, for any class of  
21 vessels, revise the performance standards  
22 to incorporate the higher performance  
23 standards.

24 “(ii) IMPLEMENTATION.—If the Sec-  
25 retary determines that technology that

1 achieves the applicable performance stand-  
2 ards required under this subsection can be  
3 implemented earlier than required by this  
4 subsection, the Secretary, in consultation  
5 with the Administrator, the Under Sec-  
6 retary, and the Task Force, shall, for any  
7 class of vessels, accelerate the implementa-  
8 tion schedule under paragraph (3). If the  
9 Secretary accelerates the implementation  
10 schedule pursuant to this clause, the Sec-  
11 retary shall provide notice at least 24  
12 months before such accelerated implemen-  
13 tation goes into effect.

14 “(iii) DETERMINATIONS NOT MUTU-  
15 ALLY EXCLUSIVE.—The Secretary shall  
16 take action under both clause (i) and  
17 clause (ii) if the Secretary makes deter-  
18 minations under both clauses.

19 “(D) INTERIM STANDARDS.—If the Sec-  
20 retary determines that appropriate technologies  
21 are not available to meet the standards set  
22 forth in paragraph (1), then the International  
23 Maritime Organization standard for treatment  
24 in the Ballast Water Management Convention  
25 shall apply instead of the standards set forth in

1 paragraph (1), in accordance with the imple-  
2 mentation schedule established under paragraph  
3 (3), until the standards set forth in paragraph  
4 (1) take effect pursuant to subparagraph (B).

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

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

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

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

22 “(D) as necessary, revise regulations pro-  
23 mulgated under this section and promulgate  
24 new regulations.

1           “(7) SPECIAL REVIEW AND REVISION.—Not  
2 later than 90 days after the date on which the Task  
3 Force makes a request to the Secretary for a special  
4 review and revision of the regulations promulgated  
5 under this section, the Secretary, in consultation  
6 with the Administrator, shall conduct a special re-  
7 view in accordance with paragraph (6), including the  
8 revision of regulations or the promulgation of new  
9 regulations as necessary.

10           “(8) APPROVAL OF BALLAST WATER TREAT-  
11 MENT SYSTEMS.—

12           “(A) REGULATIONS.—The Secretary, in  
13 consultation with the Administrator, the Under  
14 Secretary, and the Task Force and by not later  
15 than 1 year after the date of the enactment of  
16 this paragraph, shall issue regulations estab-  
17 lishing an approval process for ballast water  
18 treatment systems. The regulations shall in-  
19 clude standards for the certification of treat-  
20 ment or practices and an ongoing enforcement  
21 of the use of treatments and practices.

22           “(B) QUALIFIED TYPE-APPROVAL PROC-  
23 ESS.—The approval of ballast water treatment  
24 systems shall be based on a qualified type-ap-  
25 proval process that is capable of estimating the

1 extent to which treated ballast water discharge  
2 is to comply with the standards of paragraph  
3 (1).

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

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

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

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

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

21 “(ii) safe for vessel and crew.

22 “(E) ESTIMATION OF USEFUL LIFE.—The  
23 approval process for ballast water treatment  
24 systems may be used to estimate the useful life  
25 of the ballast water treatment system, as deter-



1           mined on the basis of voyage patterns and nor-  
2           mal use conditions.

3           “(F) SHIP-BOARDING TESTING.—The ap-  
4           proval process of ballast water treatment sys-  
5           tems shall include a ship-boarding testing com-  
6           ponent, and may include a shore-based testing  
7           component.

8           “(G) MONITORING.—The approval process  
9           for ballast water treatment systems shall pro-  
10          vide for appropriate monitoring.

11          “(H) APPLICATION FORM AND INFORMA-  
12          TION.—The Secretary shall approve an applica-  
13          tion for certification of ballast water treatment  
14          system only if the application is in such form  
15          and contains such information as the Secretary  
16          requires.

17          “(9) MONITORING AND EFFECTIVENESS; REV-  
18          OCATION OF CERTIFICATION.—Based on the results  
19          of appropriate monitoring of ballast water treatment  
20          systems, the Secretary shall revoke the certification  
21          of a ballast water treatment system if it is found  
22          that ballast water treated with the system does not  
23          meet the standards of paragraph (1) or paragraph  
24          (11).

1           “(10) APPROVAL OF EXPERIMENTAL BALLAST  
2 WATER TREATMENT TECHNOLOGIES.—

3           “(A) IN GENERAL.—If a vessel participates  
4 in a program approved by the Secretary to test  
5 and evaluate promising ballast water treatment  
6 technologies that are likely to result in treat-  
7 ment technologies achieving a standard that is  
8 the same as or more stringent than the stand-  
9 ard that applies under paragraph (1) before the  
10 first date on which paragraph (1) applies to  
11 that vessel, the Secretary shall certify a vessel  
12 to allow the use of that technology and such  
13 vessel shall be deemed to be in compliance with  
14 the requirements of paragraph (1) during the  
15 period of certification.

16           “(B) GUIDELINES BY SECRETARY.—The  
17 Secretary, in consultation with the Adminis-  
18 trator, the Under Secretary, and the Task  
19 Force, within 1 year after the date of the enact-  
20 ment of this paragraph shall issue guidelines  
21 for the approval of experimental ballast water  
22 treatment technologies that are likely to meet  
23 the standards of paragraph (1).

24           “(C) GUIDELINES BY ADMINISTRATOR.—  
25 The Administrator, in consultation with the

1 Secretary, the Under Secretary, and the Task  
2 Force, within 1 year after the date of the enact-  
3 ment of this paragraph shall issue guidelines  
4 for the approval of ballast water treatment  
5 technologies under this paragraph pursuant to  
6 the environmental soundness criteria under  
7 paragraph (11).

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

21 “(E) CERTIFICATION BY ADMINIS-  
22 TRATOR.—Not later than 90 days after receiv-  
23 ing an application, the Administrator shall re-  
24 view the application for compliance with envi-  
25 ronmental soundness criteria under paragraph

1 (11) and certify the ballast water treatment  
2 system covered by the application as meeting  
3 environmental requirements if it indeed meets  
4 those criteria. The Administrator’s determina-  
5 tion should be based on independent and peer-  
6 reviewed information.

7 “(F) APPROVAL OR DISAPPROVAL BY SEC-  
8 RETARY.—Not later than 180 days after receiv-  
9 ing an application, the Secretary shall—

10 “(i) determine if the ballast water  
11 treatment system covered by the applica-  
12 tion meets the requirements of this sub-  
13 section;

14 “(ii) approve or disapprove the appli-  
15 cation; and

16 “(iii) provide the applicant written no-  
17 tice of the approval or disapproval.

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

23 “(H) CERTIFICATION BY ADMINISTRATOR  
24 REQUIRED.—The Secretary shall approve and  
25 certify a ballast water treatment system only if

1 the Administrator certifies the system as meet-  
2 ing the criteria of paragraph (11).

3 “(I) CONDITIONS OF USE OF APPROVED  
4 SYSTEMS.—As determined by the Secretary in  
5 consultation with the Administrator and the  
6 Under Secretary, approved ballast water treat-  
7 ment systems shall be used only for voyage pat-  
8 terns, durations, or any other characteristic  
9 that may affect the effectiveness or environ-  
10 mental soundness of the ballast water treatment  
11 system covered by the application.

12 “(J) DETERMINATION OF VESSELS TO USE  
13 APPROVED SYSTEM.—Approved ballast water  
14 treatment systems may be applicable to a spe-  
15 cific vessel or group of vessels as determined by  
16 the Secretary.

17 “(K) VARIETY AND TYPE OF PARTICI-  
18 PATING VESSELS.—The Secretary shall seek to  
19 ensure that a wide variety of vessel types and  
20 voyages are included in the program, but may  
21 not grant a delay under this paragraph to more  
22 than 5 percent of the vessels to which this sub-  
23 section applies.

24 “(L) EXEMPTIONS.—A vessel operating en  
25 route to the United States from outside the ex-

1 exclusive economic zone of the United States that  
2 declares to have no ballast on board or is  
3 claimed to be carrying only umpumpable quan-  
4 tities of ballast are exempt from the require-  
5 ments of subparagraph (K).

6 “(M) TERM OF CERTIFICATION.—The cer-  
7 tification of an approved ballast water treat-  
8 ment system shall be valid only for the lesser of  
9 the following:

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

12 “(ii) 10 years.

13 “(iii) Until such time as the Secretary  
14 or Administrator (as appropriate) deter-  
15 mines that, based on available information,  
16 the ballast water treatment system fails to  
17 meet the requirements of this subsection.

18 “(N) TERMINATION OF CERTIFICATION.—  
19 The Secretary may terminate the certification  
20 of a vessel under this subsection if participation  
21 of the vessel in the program is terminated with-  
22 out the consent of the Secretary.

23 “(O) SAMPLING AND REPORTING INFOR-  
24 MATION.—Upon receiving approval for a treat-  
25 ment under this paragraph, the owner or oper-

1           ator of a vessel shall collect and report such in-  
2           formation requested by the Secretary regarding  
3           the operational and biological effectiveness of  
4           the treatment through sampling of the intake  
5           and discharge ballast.

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

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

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

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

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

1                   “(ii) to grant environmental sound-  
2                   ness exceptions under subparagraph (B).

3                   “(B) EXCEPTIONS.—In reviewing applica-  
4                   tions under paragraph (10) in an emergency  
5                   situation to achieve reductions in significant  
6                   and acute risk of transfers of invasive species  
7                   by vessels, the Secretary and the Administrator  
8                   may jointly determine to make an exception to  
9                   criteria described in subparagraph (A)(i).

10                  “(12) INCENTIVES FOR USE OF BALLAST  
11                  WATER TREATMENT SYSTEMS.—The Secretary, the  
12                  Secretary of Transportation, and the Administrator  
13                  shall assist owners or operators of vessels that seek  
14                  to obtain experimental approval for installation of  
15                  ballast water treatment systems, including through  
16                  providing guidance on—

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

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

21                         “(C) examples of shipboard evaluation  
22                         studies.

23                  “(13) SELECTION OF TECHNOLOGIES AND  
24                  PRACTICES.—In selecting technologies and practices  
25                  for shipboard demonstration under section 1104(b),



1 the Secretary of the Interior and the Secretary of  
2 Commerce shall give priority consideration to tech-  
3 nologies and practices that have received or are in  
4 the process of receiving certification under para-  
5 graph (10).

6 “(14) ANNUAL SUMMARIES ON PERFORMANCE  
7 OF BALLAST WATER TREATMENT TECHNOLOGIES.—

8 “(A) ANNUAL SUMMARIES.—The Secretary  
9 shall annually summarize, and make available  
10 to interested persons, all available information  
11 on the performance of technologies proposed for  
12 ballast water treatment to facilitate the applica-  
13 tion process for experimental approval for bal-  
14 last water treatment.

15 “(B) PUBLICATION OF OTHER INFORMA-  
16 TION.—The Administrator, in consultation with  
17 the Invasive Species Council, shall publish not  
18 later than 1 year after the date of the enact-  
19 ment of this paragraph and update annually—

20 “(i) a list of environmentally sound  
21 treatment methods that meet the require-  
22 ments of this section;

23 “(ii) accompanying research that sup-  
24 ports the environmental soundness of each  
25 approved treatment method; and

1                   “(iii) explicit guidelines under which  
2                   each treatment method can be used in an  
3                   environmentally sound manner.

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

8                   “(15) CRITERIA FOR ADEQUACY AND EFFEC-  
9                   TIVENESS.—Not later than 1 year after the date of  
10                  the enactment of this paragraph and every 3 years  
11                  thereafter, the Task Force shall submit to the Sec-  
12                  retary criteria for determining the adequacy and ef-  
13                  fectiveness of all regulations promulgated under this  
14                  section.

15                  “(16) HIGH-RISK VESSELS.—

16                  “(A) VESSEL LIST.—Within 1 year after  
17                  the date of enactment of the Prevention of  
18                  Aquatic Invasive Species Act of 2007, the Sec-  
19                  retary shall initiate a list, in consultation with  
20                  States, of vessels that, due to factors such as  
21                  the origin of their voyages, the frequency of  
22                  their voyages, the volume of ballast water they  
23                  carry, the biological makeup of the ballast  
24                  water, and the fact that they frequently dis-  
25                  charge unexchanged or improperly exchanged

1 ballast water pursuant to an exception under  
2 subsection (f), pose a relatively high risk of in-  
3 troducing aquatic invasive species into the wa-  
4 ters of those States.

5 “(B) INCENTIVE PROGRAMS.—The Sec-  
6 retary shall—

7 “(i) give priority to vessels on the list  
8 for participation in pilot programs de-  
9 scribed in paragraph (10); and

10 “(ii) encourage Federal and State  
11 technology development programs or other  
12 incentives (whether positive or negative) to  
13 give priority to such vessels in order to en-  
14 courage the adoption of ballast water  
15 treatment technology by those vessels con-  
16 sistent with the requirements of this sec-  
17 tion on an expedited basis.

18 “(17) QUALIFIED EXEMPTIONS.—

19 “(A) IN GENERAL.—A vessel operating en-  
20 tirely on the Great Lakes or in enclosed aquatic  
21 ecosystems designated under subsection (f)(10)  
22 shall be granted an exemption from the require-  
23 ments of this subsection if the vessel meets re-  
24 quirements prescribed by the Secretary.

1           “(B) GUIDELINES ESTABLISHING PROC-  
2           ESS.—The Secretary, in consultation with the  
3           Administrator and the Task Force, shall issue  
4           guidelines establishing a process for certifying  
5           vessels as exempt under this paragraph. The  
6           guidelines shall ensure that ships receiving an  
7           exemption carry only ballast water and sedi-  
8           ment from the enclosed aquatic ecosystem in  
9           which the vessel operates.

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

17           “(D) REVIEW OF EXEMPTIONS.—

18           “(i) REQUIRED REVIEW.—The Sec-  
19           retary shall review any exemption granted  
20           under this paragraph at least as often as  
21           every 2 years, and shall approve or revoke  
22           the exemption based on the review and the  
23           requirements of this paragraph.

1                   “(ii) DISCRETIONARY REVIEW.—The  
2                   Secretary may review an exemption at any  
3                   time.

4                   “(iii) REVIEW UPON REQUEST.—The  
5                   Administrator or the Task Force may re-  
6                   quest a review of an exemption at any  
7                   time. Upon receipt of such a request, the  
8                   Secretary shall complete a review within 14  
9                   days.

10                  “(h) WARNINGS CONCERNING BALLAST WATER UP-  
11 TAKE.—

12                   “(1) IN GENERAL.—The Secretary shall notify  
13                   vessel owners and operators of any area in waters  
14                   subject to the jurisdiction of the United States in  
15                   which vessels should not uptake ballast water due to  
16                   known conditions.

17                   “(2) CONTENTS.—The notice shall include—

18                   “(A) the coordinates of the area; and

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

21                   “(i) SEDIMENT MANAGEMENT.—

22                   “(1) IN GENERAL.—The operator of a vessel to  
23                   which this section applies may not remove or dispose  
24                   of sediment from spaces designed to carry ballast  
25                   water except—

1           “(A) in accordance with this subsection  
2           and the aquatic invasive species plan required  
3           under subsection (c); and

4           “(B) more than 200 nautical miles from  
5           the nearest point of land in the United States  
6           or into a reception facility that meets the re-  
7           quirements of paragraph (3).

8           “(2) DESIGN REQUIREMENTS.—

9           “(A) NEW VESSELS.—After December 31,  
10           2009, it shall be unlawful to construct a vessel  
11           in the United States to which this section ap-  
12           plies unless that vessel is designed and con-  
13           structed, in accordance with regulations pre-  
14           scribed under subparagraph (C), in a manner  
15           that—

16                   “(i) minimizes the uptake and entrap-  
17                   ment of sediment;

18                   “(ii) facilitates removal of sediment;

19                   and

20                   “(iii) provides for safe access for sedi-  
21                   ment removal and sampling.

22           “(B) EXISTING VESSELS.—Every vessel to  
23           which this section applies that was constructed  
24           before January 1, 2010, shall be modified be-  
25           fore January 1, 2010, to the extent practicable,

1 to achieve the objectives described in clauses (i),  
2 (ii), and (iii) of subparagraph (A).

3 “(C) REGULATIONS.—The Secretary shall  
4 promulgate regulations establishing design and  
5 construction standards to achieve the objectives  
6 of subparagraph (A) and providing guidance for  
7 modifications and practices under subparagraph  
8 (B). The Secretary shall incorporate the stand-  
9 ards and guidance in the regulations governing  
10 the aquatic invasive species plan.

11 “(3) SEDIMENT RECEPTION FACILITIES.—

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

23 “(B) DESIGNATION.—The Administrator  
24 shall designate facilities for the reception of ves-  
25 sel sediment that meet the requirements of the

1 regulations promulgated under subparagraph  
2 (A) at ports and terminals where ballast tanks  
3 are cleaned or repaired.

4 “(j) EXAMINATIONS AND CERTIFICATIONS.—

5 “(1) INITIAL EXAMINATION.—

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

9 “(i) there is an aquatic invasive spe-  
10 cies plan for the vessel that meets the re-  
11 quirements of this section; and

12 “(ii) the equipment used for ballast  
13 water and sediment management in ac-  
14 cordance with the requirements of this sec-  
15 tion and the regulations promulgated here-  
16 under is installed and functioning properly.

17 “(B) NEW VESSELS.—For vessels con-  
18 structed on or after January 1, 2010, the Sec-  
19 retary shall conduct the examination required  
20 by subparagraph (A) before the vessel is placed  
21 in service.

22 “(C) EXISTING VESSELS.—For vessels con-  
23 structed before January 1, 2010, the Secretary  
24 shall—



1           “(i) conduct the examination required  
2           by subparagraph (A) before the date on  
3           which subsection (g)(1) applies to the ves-  
4           sel according to the schedule in subsection  
5           (g)(3); and

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

8           “(D) FOREIGN VESSELS.—In the case of a  
9           foreign vessel (as defined in section 101 of title  
10          46, United States Code), the Secretary shall  
11          perform the examination required by this para-  
12          graph the first time the vessel enters a United  
13          States port.

14          “(2) SUBSEQUENT EXAMINATIONS.—The Sec-  
15          retary shall examine vessels no less frequently than  
16          once each year to ensure vessel compliance with the  
17          requirements of this section.

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

23          “(4) REQUIRED CERTIFICATE.—If, on the basis  
24          of an initial examination under paragraph (1) the  
25          Secretary finds that a vessel complies with the re-

1 requirements of this section and the regulations pro-  
2 mulgated hereunder, the Secretary shall issue a cer-  
3 tificate under this paragraph as evidence of such  
4 compliance. The certificate shall be valid for a period  
5 of not more than 5 years, as specified by the Sec-  
6 retary. The certificate or a true copy shall be main-  
7 tained on board the vessel.

8 “(5) NOTIFICATION OF VIOLATIONS.—If the  
9 Secretary finds, on the basis of an examination  
10 under paragraph (1) or paragraph (2), sampling  
11 under paragraph (3), or any other information, that  
12 a vessel is being operated in violation of the require-  
13 ments of this section and the regulations promul-  
14 gated hereunder, the Secretary shall—

15 “(A) notify—

16 “(i) the master of the vessel; and

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

19 “(B) take such other action as may be ap-  
20 propriate.

21 “(6) COMPLIANCE MONITORING.—The Sec-  
22 retary shall by regulation establish sampling proce-  
23 dures to monitor compliance with the requirements  
24 of this section.

1           “(7) EDUCATION AND TECHNICAL ASSISTANCE  
2 PROGRAMS.—The Secretary may carry out education  
3 and technical assistance programs and other meas-  
4 ures to promote compliance with the requirements  
5 issued under this section.

6           “(k) DETENTION OF VESSELS.—

7           “(1) IN GENERAL.—The Secretary, by notice to  
8 the owner, charterer, managing operator, agent,  
9 master, or other individual in charge of a vessel,  
10 may detain that vessel if the Secretary has reason-  
11 able cause to believe that—

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

14                   “(B) the vessel does not comply with the  
15 requirements of this section or of the regula-  
16 tions issued hereunder or is being operated in  
17 violation of such requirements.

18           “(2) CLEARANCE.—

19                   “(A) IN GENERAL.—A vessel detained  
20 under paragraph (1) may obtain clearance  
21 under section 42101 of title 46, United States  
22 Code, only if the violation for which it was de-  
23 tained has been corrected.

24                   “(B) WITHDRAWAL.—If the Secretary  
25 finds that a vessel detained under paragraph

1           (1) has received a clearance under section  
2           42101 of title 46, United States Code, before it  
3           was detained under paragraph (1), the Sec-  
4           retary shall withdraw, withhold, or revoke the  
5           clearance.

6           “(1) SANCTIONS.—

7           “(1) CIVIL PENALTIES.—Any person who vio-  
8           lates a regulation promulgated under this section  
9           shall be liable for a civil penalty in an amount not  
10          to exceed \$50,000. Each day of a continuing viola-  
11          tion constitutes a separate violation. A vessel oper-  
12          ated in violation of the regulations is liable in rem  
13          for any civil penalty assessed under this subsection  
14          for that violation.

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

18          “(3) REVOCATION OF CLEARANCE.—Except as  
19          provided in subsection (k)(2), upon request of the  
20          Secretary, the Secretary of the Treasury shall with-  
21          hold or revoke the clearance of a vessel required by  
22          section 4197 of the Revised Statutes (46 U.S.C.  
23          App. 91), if the owner or operator of that vessel is  
24          in violation of the regulations issued under this sec-  
25          tion.

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

4                   “(A) the master of a vessel discharges bal-  
5           last water in accordance with subsection (f)(4);  
6           and

7                   “(B) the Secretary determines that the re-  
8           quirements of subsection (f)(4) are met.

9           “(m) ENFORCEMENT.—

10           “(1) ADMINISTRATIVE ACTIONS.—If the Sec-  
11           retary finds, after notice and an opportunity for a  
12           hearing, that a person has violated any provision of  
13           this section or any regulation promulgated here-  
14           under, the Secretary may assess a civil penalty for  
15           that violation.

16           “(2) CIVIL ACTIONS.—At the request of the  
17           Secretary, the Attorney General may bring a civil  
18           action in an appropriate district court of the United  
19           States to enforce this section, or any regulation pro-  
20           mulgated hereunder. Any court before which such an  
21           action is brought may award appropriate relief, in-  
22           cluding temporary or permanent injunctions and  
23           civil penalties.

24           “(n) COORDINATION WITH OTHER AGENCIES.—The  
25           Secretary is encouraged to use, with consent of the head

1 of the Federal or State agency concerned, the expertise,  
2 facilities, and personnel of appropriate Federal and State  
3 agencies and organizations that have routine contact with  
4 vessels, as determined by the Secretary.

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

15       “(p) INTERNATIONAL COOPERATION.—The Sec-  
16 retary, in cooperation with the Under Secretary, the Sec-  
17 retary of State, the Administrator, the heads of other rel-  
18 evant Federal agencies, the International Maritime Orga-  
19 nization of the United Nations, and the Commission on  
20 Environmental Cooperation established pursuant to the  
21 North American Free Trade Agreement, is encouraged to  
22 enter into negotiations with the governments of foreign  
23 countries to develop and implement an effective inter-  
24 national program for preventing the unintentional intro-  
25 duction and spread of aquatic invasive species, particularly

1 by seeking bilateral and multilateral agreements with Can-  
2 ada (through the International Joint Commission), Mex-  
3 ico, and other nations in the Wider Caribbean (as defined  
4 in the Convention for the Protection and Development of  
5 the Marine Environment of the Wider Caribbean,  
6 Cartagena Convention).

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

14       “(r) SUPPORT FOR FEDERAL BALLAST WATER DEM-  
15 ONSTRATION PROJECT.—In addition to amounts other-  
16 wise available to the Maritime Administration, the Na-  
17 tional Oceanographic and Atmospheric Administration,  
18 and the United States Fish and Wildlife Service for the  
19 Federal Ballast Water Demonstration Project, the Sec-  
20 retary shall provide support for the conduct and expansion  
21 of the project, including grants for research and develop-  
22 ment of innovative technologies for the management,  
23 treatment, and disposal of ballast water and sediment, for  
24 ballast water exchange, and for other vessel vectors of  
25 aquatic invasive species such as hull-fouling. There are au-

1 thORIZED to be appropriated to the Secretary such sums  
2 as may be necessary for each of fiscal years 2008 through  
3 2012 to carry out this subsection.

4 “(s) CONSULTATION WITH TASK FORCE.—The Sec-  
5 retary shall consult with the Task Force in carrying out  
6 this section.

7 “(t) PREEMPTION.—

8 “(1) IN GENERAL.—Except as provided in para-  
9 graph (2) but notwithstanding any other provision of  
10 law, the provisions of subsections (f) and (g) super-  
11 sede any provision of State or local law that is in-  
12 consistent with the requirements of those sub-  
13 sections or that conflicts with the requirements of  
14 those subsections. The imposition, by State or local  
15 law, of greater penalties or fees for acts or omissions  
16 that are violations of such law and also violations of  
17 this Act shall not be considered to be inconsistent  
18 with, or to conflict with, the requirements of those  
19 subsections. Nothing in the preceding sentence limits  
20 the scope of State or local law provisions that are  
21 not to be considered to be inconsistent with, or to  
22 conflict with, the requirements of those subsections

23 “(2) RECEPTION FACILITIES.—The standards  
24 prescribed by the Administrator or the Secretary  
25 under subsection (g)(2) do not supersede any more



1 stringent standard under any otherwise applicable  
2 Federal, State, or local law.

3 “(3) APPLICATION WITH OTHER STATUTES.—

4 This section provides the Federal authority for ad-  
5 dressing aquatic invasive species in ballast water or  
6 sediment. If there is a conflict between any other-  
7 wise applicable provision of Federal law and the re-  
8 quirements of this section, the provisions of this sec-  
9 tion shall control to the extent that such require-  
10 ments relate to vessels with respect to aquatic  
11 invasive species in ballast water or sediment.

12 “(u) REGULATIONS.—

13 “(1) IN GENERAL.—The Secretary, after con-  
14 sultation with the Administrator, shall issue such  
15 regulations as may be necessary initially to carry out  
16 this section within 1 year after the date of enact-  
17 ment of the Prevention of Aquatic Invasive Species  
18 Act of 2007.

19 “(2) JUDICIAL REVIEW.—

20 “(A) 120-DAY RULE.—An interested per-  
21 son may bring an action for review of a final  
22 regulation promulgated under this section by  
23 the Secretary of the department in which the  
24 Coast Guard is operating, or by the Adminis-  
25 trator, in the United States Circuit Court of

1 Appeals for the Federal judicial district in  
2 which that person resides or transacts business  
3 which is directly affected by that regulation  
4 only if that action is filed within—

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

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

10 “(B) REVIEW IN ENFORCEMENT PRO-  
11 CEEDINGS.—A regulation for which review  
12 could have been obtained under subparagraph  
13 (A) of this paragraph is not subject to judicial  
14 review in any civil or criminal proceeding for  
15 enforcement.”.

16 (b) DEFINITIONS.—Section 1003 of the Nonindige-  
17 nous Aquatic Nuisance Prevention and Control Act of  
18 1990 (16 U.S.C. 4702) is amended—

19 (1) by redesignating—

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

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

23 (C) paragraphs (4), (5), (6), (7), (8), (9),  
24 and (10) as paragraphs (9), (10), (11), (12),  
25 (13), (14), and (15), respectively;

1 (D) paragraphs (11) and (12) as para-  
2 graphs (18) and (19), respectively;

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

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

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

9 (2) by striking—

10 (A) “nuisance” in paragraph (2), as redes-  
11 igned, and inserting “invasive”;

12 (B) “nuisance” in paragraph (11), as re-  
13 designated, and inserting “invasive”;

14 (C) “Nuisance” in paragraph (21), as re-  
15 designated, and inserting “Invasive”; and

16 (D) “Canandian” in paragraph (12), as re-  
17 designated, and inserting “Canadian”;

18 (3) by inserting before paragraph (2) the fol-  
19 lowing:

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

22 (4) by striking paragraph (5), as redesignated,  
23 and inserting after paragraph (3), as redesignated,  
24 the following:

1           “(4) ‘ballast tank’ means any tank, space, or  
2 compartment on a vessel that is used for carrying,  
3 loading, or discharging ballast water, including any  
4 multi-use tank, space, or compartment designed to  
5 allow carriage of ballast water;

6           “(5) ‘ballast water’—

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

9           “(i) water taken on board a vessel to  
10 control trim, list, draught, stability, or  
11 stresses of the vessel, including matter sus-  
12 pended in such water; and

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

16           “(B) does not include water that—

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

19           “(ii) was taken on board a vessel and  
20 used for a purpose described in subpara-  
21 graph (A);

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

24           “(7) ‘ballast water management’ means me-  
25 chanical, physical, chemical, and biological processes

1 used, either singularly or in combination, to remove,  
2 render harmless, or avoid the uptake or discharge of  
3 harmful aquatic organisms and pathogens within  
4 ballast water and sediment;

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

7 “(A) the keel is laid;

8 “(B) construction identifiable with the spe-  
9 cific vessel begins;

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

14 “(D) the vessel undergoes a major conver-  
15 sion;”;

16 (5) by inserting after paragraph (15), as reded-  
17 icated, the following:

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

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

23 “(A) changes its ballast water carrying ca-  
24 pacity by at least 15 percent;

25 “(B) changes the vessel class;

1           “(C) is projected to prolong the vessel’s life  
2           by at least 10 years (as determined by the Sec-  
3           retary); or

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

6                   “(i) component replacement-in-kind;  
7                   or

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

10           (6) by inserting after paragraph (19), as reded-  
11           ignated, the following:

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

14           (7) by inserting after paragraph (24), as reded-  
15           ignated, the following:

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

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

22                           “(A) any vessel owned or operated by the  
23                           Department of Defense, other than a time or  
24                           voyage chartered vessel; and

1           “(B) any vessel owned or operated by the  
2           Department of Homeland Security that is des-  
3           ignated by the Secretary of the department in  
4           which the Coast Guard is operating as a vessel  
5           equivalent to a vessel described in subparagraph  
6           (A);”;

7           (8) by striking the period at the end of para-  
8           graph (24), as redesignated, and inserting a semi-  
9           colon; and

10          (9) by inserting after paragraph (27), as redesi-  
11          gnated, the following:

12                 “(28) ‘waters subject to the jurisdiction of the  
13                 United States’ means navigable waters and the terri-  
14                 torial sea of the United States, the exclusive eco-  
15                 nomic zone, and the Great Lakes.”.

16 **TITLE II—PREVENTION OF THE**  
17 **INTRODUCTION OF AQUATIC**  
18 **INVASIVE SPECIES BY OTHER**  
19 **PATHWAYS**

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

23           (a) REPORT ON HULL-FOULING AND OTHER VESSEL  
24 SOURCES.—Within 180 days after the date of enactment  
25 of this Act, the Commandant of the Coast Guard shall

1 transmit a report to the Congress on vessel-related vectors  
2 of harmful aquatic organisms and pathogens other than  
3 ballast water and sediment, including vessel hulls and  
4 equipment, and from vessels equipped with ballast tanks  
5 that carry no ballast water on board.

6 (b) BEST PRACTICES.—

7 (1) STANDARDS AND PROCEDURES.—As soon  
8 as practicable, the Coast Guard shall develop and  
9 implement best practices standards and procedures  
10 designed to reduce the introduction of invasive spe-  
11 cies into and within the United States from vessels  
12 and establish a timeframe for implementation of  
13 those standards and procedures by vessels, in addi-  
14 tion to the mandatory requirements set forth in sec-  
15 tion 1101 for ballast water.

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

22 (3) REPORT ON STANDARDS AND PROCE-  
23 DURES.—The Commandant of the Coast Guard shall  
24 transmit a report to the Congress describing the  
25 standards and procedures developed and the imple-



1       mentation timeframe, together with any rec-  
2       ommendations, including legislative recommenda-  
3       tions if appropriate, the Commandant deems appro-  
4       priate.

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

9           (c) TRANSITING VESSELS.—Within 180 days after  
10      the date of enactment of this Act, the Commandant of  
11      the Coast Guard shall transmit a report to the Congress  
12      containing—

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

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

## 21       **TITLE III—COORDINATION**

### 22      **SEC. 301. PROGRAM COORDINATION.**

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

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

3           (2) in paragraph (3) by striking “of the Envi-  
4           ronmental Protection Agency”;

5           (3) by redesignating paragraph (7) as para-  
6           graph (12); and

7           (4) by inserting after paragraph (6) the fol-  
8           lowing:

9           “(7) the Director of the United States Geologi-  
10          cal Survey;

11          “(8) the Director of the Smithsonian Environ-  
12          mental Research Center;

13          “(9) the Secretary of State;

14          “(10) the Secretary of Transportation;

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

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

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

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

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

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

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

7           “(B) not later than 2 years after the date  
8 of enactment of the Prevention of Aquatic  
9 Invasive Species Act of 2007, and every 3 years  
10 thereafter, submit to Congress a report that  
11 summarizes the status of the conduct of activi-  
12 ties authorized by and required under this Act;  
13 and

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

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

22           “(3) RECOMMENDATIONS FOR LISTS.—The  
23 Task Force shall annually recommend to Federal  
24 agencies of jurisdiction such additions of aquatic

1       invasive species as the Task Force determines to be  
2       appropriate for inclusion on—

3               “(A) any list of species of wildlife under  
4               the Lacey Act Amendments of 1981 (16 U.S.C.  
5               3371 et seq.) (including regulations under such  
6               Act); or

7               “(B) any list of noxious weeds under the  
8               Plant Protection Act (7 U.S.C. 7701 et seq.)  
9               (including regulations promulgated under that  
10              Act contained in part 360 of title 7, Code of  
11              Federal Regulations (or any successor regula-  
12              tions)).”.

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

17       “(d) ANNUAL INTERREGIONAL MEETING.—The Task  
18 Force shall annually convene all regional panels estab-  
19 lished pursuant to this Act for the purpose of information  
20 transfer between and among panels, and between the pan-  
21 els and the Task Force, regarding aquatic invasive species  
22 management.

23       “(e) ORGANIZATIONS.—An interstate organization  
24 that has a Federal charter authorized by law, interstate  
25 agreement, or Executive Order for purposes of fisheries

1 or natural resource management may receive funds under  
2 this Act to implement activities authorized under this  
3 Act.”.

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

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

10 “(A) identify and describe State and local  
11 programs for environmentally sound prevention  
12 and control of the target aquatic invasive spe-  
13 cies in accordance with guidelines issued by the  
14 Task Force under paragraph (5), including—

15 “(i) rapid response contingency strate-  
16 gies under section 1211;

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

19 “(iii) aquatic plant control programs  
20 pursuant to other law.”;

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

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

24 “(5) GUIDELINES.—

1           “(A) IN GENERAL.—Not later than 1 year  
2 after the date of enactment of the Prevention of  
3 Aquatic Invasive Species Act of 2007, the Task  
4 Force shall publish in the Federal Register  
5 guidelines for the development of plans under  
6 this subsection, including guidelines for report-  
7 ing progress in implementing the plans, to en-  
8 courage consistency in implementation of and  
9 reporting under those plans.

10           “(B) GUIDELINES.—The guidelines pub-  
11 lished under subparagraph (A) shall include, for  
12 the purpose of paragraph (2)(A), guidelines  
13 concerning—

14                   “(i) aquatic plant control programs;

15                   and

16                   “(ii) the review and revision of re-  
17 quirements of this subsection and the re-  
18 approval process under this subsection.

19           “(6) RELATIONSHIP TO OTHER PLANS.—

20           “(A) IN GENERAL.—A plan approved  
21 under paragraph (4) shall be deemed to meet  
22 any State planning requirement of the program  
23 established under section 104 of the River and  
24 Harbor Act of 1958 (33 U.S.C. 610) for a plan  
25 to control noxious aquatic plant growths.

1           “(B) ENFORCEMENT.—Funds provided to  
2 States for implementation of plans pursuant to  
3 section 1204 may be used by States to enforce  
4 requirements relating to aquatic invasive species  
5 under the Plant Protection Act (7 U.S.C. 7701  
6 et seq.) (including regulations promulgated  
7 under that Act contained in part 360 of title 7,  
8 Code of Federal Regulations (or any successor  
9 regulations)).

10           “(7) REVIEW AND REVISION.—

11           “(A) IN GENERAL.—Each State shall peri-  
12 odically review and, as necessary and subject to  
13 subparagraph (B), revise the management plan  
14 of the State in accordance with guidelines of  
15 the Task Force under paragraph (5).

16           “(B) UPDATE OF EXISTING PLANS.—A  
17 State plan approved under the section before  
18 the date of the enactment of the Prevention of  
19 Aquatic Invasive Species Act of 2007 shall be  
20 revised by the State under guidelines issued by  
21 the Director to conform to the guidelines pub-  
22 lished under paragraph (5), but shall be treated  
23 as a plan approved under this subsection for  
24 purposes of grants under this section.

1           “(8) OTHER STATE MANAGEMENT PLANS.—In  
2           addition to the management plans required under  
3           this subsection, the Director shall encourage each  
4           State to develop and implement new, and expand ex-  
5           isting, State management plans to improve State ac-  
6           tions to prevent and control aquatic invasive spe-  
7           cies.”.

8           (f) GRANT PROGRAM.—Section 1204(b)(1) of the  
9           Nonindigenous Aquatic Nuisance Prevention and Control  
10          Act of 1990 (16 U.S.C. 4724(b)(1)) is amended by strik-  
11          ing “subsection (a) for the implementation of those  
12          plans.” and inserting the following: “subsection (a) to de-  
13          velop and implement those plans.”.

14          **SEC. 302. INTERNATIONAL COORDINATION.**

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

18                 (1) by striking the subtitle heading and insert-  
19                 ing the following:

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

21                 and

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



1 **“SEC. 1402. COORDINATION WITH NEIGHBORING COUN-**  
2 **TRIES.**

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

11 “(b) NEGOTIATIONS.—As soon as practicable after  
12 the date of enactment of the Prevention of Aquatic  
13 Invasive Species Act of 2007, the Secretary of State may  
14 enter into negotiations with—

15 “(1) Canada to issue a request that the Inter-  
16 national Joint Commission, by not later than 18  
17 months after the date of enactment of that Act, re-  
18 view, research, conduct hearings on, and submit to  
19 the parties represented on the International Joint  
20 Commission a report that describes the success of  
21 current policies of governments in the United States  
22 and Canada having jurisdiction over the Great  
23 Lakes in anticipating and preventing biological inva-  
24 sions of the aquatic ecosystem in the Great Lakes,  
25 including—

1           “(A) an analysis of current Federal, State  
2           or Provincial, local, and international laws, en-  
3           forcement practices, and agreements;

4           “(B) an analysis of prevention efforts re-  
5           lated to all likely pathways for biological inva-  
6           sions of the aquatic ecosystem in the Great  
7           Lakes; and

8           “(C) recommendations of the International  
9           Joint Commission for means by which to im-  
10          prove and harmonize the policies and enforce-  
11          ment practices referred to in clause (i); and

12          “(2) Mexico, to ensure coordination of efforts of  
13          the United States with efforts of Mexico to manage  
14          invasive species established in the United States-  
15          Mexico border region.”.

## 16       **TITLE IV—AUTHORIZATION OF** 17       **APPROPRIATIONS**

### 18       **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

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

### 22       **“SEC. 1301. AUTHORIZATION OF APPROPRIATIONS.**

23          “‘There are authorized to be appropriated such sums  
24          as are necessary to carry out this Act for each of fiscal  
25          years 2008 through 2012.’”.

1                   **TITLE V—CONFORMING**  
2                   **AMENDMENTS**

3 **SEC. 501. CONFORMING AMENDMENTS.**

4           (a) **REPEAL OF SECTION 1103.**—Section 1103 of the  
5 Nonindigenous Aquatic Nuisance Prevention and Control  
6 Act of 1990 (16 U.S.C. 4713) is repealed.

7           (b) **MISCELLANEOUS AMENDMENTS.**—The Non-  
8 indigenous Aquatic Nuisance Prevention and Control Act  
9 of 1990 is amended—

10           (1) by striking “**AQUATIC NUISANCE**” in  
11 the heading for title I of Public Law 101–646 (104  
12 Stat. 4761) and inserting “**AQUATIC**  
13 **INVASIVE SPECIES**”;

14           (2) by striking “**Nuisance**” in the heading for  
15 subtitles B and C of title I of Public Law 101–646  
16 (104 Stat. 4761 et seq.) and inserting “**Invasive**”;

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

19           (4) by striking “Nuisance” each place it ap-  
20 pears and inserting “Invasive”;

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

23           (6) by striking “nonindigenous” in section  
24 1104(b)(1) (16 U.S.C. 4714(b)(1)) and inserting  
25 “invasive”;

1 (7) by striking “nonindigenous” in section  
2 1002(b)(4) (16 U.S.C. 4701(b)(4);

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

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

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

8 **“SEC. 1204. STATE AQUATIC INVASIVE SPECIES MANAGE-**  
9 **MENT PLANS.”;**

10 and

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

12 (A) in subsection (a) by striking the sub-  
13 section heading and inserting the following:

14 “(a) STUDIES ON INTRODUCTION OF AQUATIC  
15 INVASIVE SPECIES BY VESSELS.—”;

16 and

17 (B) in subsection (b)—

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

19 (ii) by redesignating paragraphs (2)  
20 and (3) as paragraphs (1) and (2), respec-  
21 tively.

22 (c) REFERENCES IN OTHER LAWS, ETC.—Any ref-  
23 erence to the Aquatic Nuisance Species Task Force in any  
24 other Federal law, Executive Order, rule, regulation, or  
25 delegation of authority, or any document or pertaining to

1 the Aquatic Nuisance Species Task Force or a member  
2 or employee of the Aquatic Nuisance Species Task Force,  
3 is deemed to refer to the Aquatic Invasive Species Task  
4 Force or a member or employee of the Aquatic Invasive  
5 Species Task Force, as appropriate.

6 (d) SHORT TITLE REFERENCES.—Any reference in  
7 a law, map, regulation, document, paper, or other record  
8 of the United States to the Nonindigenous Aquatic Nui-  
9 sance Prevention and Control Act of 1990 is deemed to  
10 refer to the Nonindigenous Aquatic Invasive Species Pre-  
11 vention and Control Act of 1990.

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

○