

Digest of Federal Resource Laws of Interest to the U.S. Fish and Wildlife Service

Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990

This Act, Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 -- Title I of P.L. 101-646 (104 Stat. 4761, 16 U.S.C. 4701, enacted November 29, 1990) established a broad new Federal program to prevent introduction of and to control the spread of introduced aquatic nuisance species and the brown tree snake. The U.S. Fish and Wildlife Service, the U.S. Coast Guard, the Environmental Protection Agency, the Army Corps of Engineers, and the National Oceanic and Atmospheric Administration all were assigned major, new responsibilities, including membership on an Aquatic Nuisance Species Task Force established to develop a program of prevention, monitoring, control, and study.

Responsibilities involving the Service include:

- As a Task Force member, the Service must be consulted by the Secretary of the Transportation (through the Coast Guard) on regulations requiring ballast-water exchange or treatment requirements for ships entering the Great Lakes.
- As a Task Force member and joint chair of the Task Force, the Service must: (1) jointly conduct a study on the environmental effects of ballast water exchange on receiving water and identify areas within waters of the U.S. and the Exclusive Economic Zone where exchange of ballast water poses no threat; (2) jointly conduct a study of whether aquatic nuisance species threaten the ecological characteristics and uses of the waters of the U.S. other than the Great Lakes; and (3) cooperate in a study to determine the need for controls on vessels entering waters of the U.S. other than the Great

Lakes.

- The Service must act with the National Oceanic and Atmospheric Administration as co-chair of the Aquatic Nuisance Species Task Force, and by May 29, 1991, the Director and the Under Secretary of NOAA were directed to develop an MOU describing their roles in carrying out the subtitle.
- The Task Force, composed of Federal agencies and representatives of States and regional entities, is to develop and implement an aquatic nuisance species program to prevent their introduction and dispersal in waters of the U.S.

By December 29, 1990, the Task Force was directed to request the Great Lakes Commission to convene a panel for Great Lakes regional coordination.

- The Director may make grants to States for implementation of approved management plans submitted by State Governors.
- The Task Force shall advise the Secretary of State concerning aquatic nuisance species in waters shared with other countries.
- By November 29, 1991, the Task Force was directed to identify and evaluate approaches for reducing the risk of adverse consequences from intentional introductions and report to Congress.
- The Task Force shall undertake a program to control the brown tree snake.

The relevant documents comprising the legislative history include: H.R. 5390; pages H13277-87 from the October 27, 1990, Congressional Record, reporting final passage in the House; page S17147-60 from the October 26, 1990, Congressional Record, reporting passage by the Senate; Senate Report 101-523, filed on October 2, 1990; and pages H8492-96 from the October 1, 1990, Congressional Record, reporting passage in the House amended.

The most recent amendments which affect the Department of the Interior and the Fish and Wildlife Service were passed on October 26, 1996. Among the provisions, P.L. 104-332 orders the Secretary of the Interior and the Secretary of Commerce, with the concurrence of and in cooperation with the Secretary of Transportation, to conduct a ballast water management demonstration program to demonstrate technologies and practices to prevent the introduction of aquatic non-indigenous species into the Great Lakes and other United States waters. A report on the demonstration program is to be submitted to Congress no later than 3 years after the passage date of the amendments (110 Stat. 4083). Also, the Director of the Fish and Wildlife Service, the Secretary of Transportation and the Under Secretary of Commerce for Oceans and Atmosphere are authorized to issue rules and regulations to implement the Aquatic Nuisance Species Program at the recommendation of the Aquatic Nuisance Species Task Force (110 Stat. 4085, 4087, 4091). The 1996 amendments also authorize the Director of the Fish and Wildlife Service to make grants to states with approved state or interstate invasive species management plans (110 Stat. 4089, 4091). Finally, appropriations for the years 1997 to 2002 are made to the Secretary of the Department of the Interior and the Director of the Fish and Wildlife Service for prevention of unintentional introductions of aquatic nuisance species, for implementation of the Aquatic Nuisance Species Program (including the brown tree snake control program) and for making grants to states for implementation by the Director of the Fish and Wildlife Service in Rhode Island of their state management programs. Finally, appropriations are authorized for implementation of a Ballast Water Management Demonstration Program.

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