



# Aquatic NIS-Related Legislation

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# National Invasive Species Act

## Committees of Jurisdiction

### ■ Senate

- Whole bill: EPW
- Ship Provisions: Commerce (courtesy referral if part of broader bill)

### ■ House

- Ship Provisions: T and I: Coast Guard and Water Resources
- Non-ship Provisions: Resources and T and I: Water Resources
- Research Provisions: Science and T and I: Water Resources

# Pending NISA Reauth Bills - Senate

- NAISA (S. 770) – Revised S. 525 (2003)
  - Comprehensive -- ship vector, other pathways, screening, rapid response, monitoring, research,
  - Ship title
    - Sets floor for ballast treatment performance;
    - Directs agencies to set high bar protective standard;
    - Provides option of BWE or best performing treatment above floor before 2011 at latest;
    - Requires best treatment (not BWE) by 2011;
    - Regulates all significant ship modes
  - No State or CWA Preemption
  - Pending in Committee

# Pending Senate Bills, Con't

- Ballast Water Management Act (S. 363)
  - Ship vector only
  - Modeled after IMO agreement
    - Sets protective standard in statute (stricter than IMO)
    - Sets staged deadlines (from 2009 – 2016)
      - Must be moved forward if technology develops faster
      - Can be moved back if technology not available
  - Treatments used prior to deadline must be “at least as effective as BWE”
  - State and CWA Preemption Provisions
  - Reported by Committee
- Included in S. 1224, the National Oceans Protection Act

# Pending NISA Reauth Bills-House

- NAISA (HR. 1591 and 1592) – Same as HR 1080 and 1081 (2003)
  - Companions to S. 525
  - Major difference: Ship Title retains Interim/Final standard formulation
    - Provides option of BWE or treatment to meet or exceed a set performance floor until 2011;
    - Best performing treatment required after 2011



# NISA Reauth Bills, In Prep

- Senate EPW
  - Comprehensive
  - Mix of S. 770 and S. 363 Ship Provisions
- House T and I
  - Ship Vector only



# NISA Reauth: A Way Forward?

- Combine aspects of S. 363 and S. 770 ship vector program provisions
- Add other aspects of S. 770 with minor modifications

# Hybrid Ship Vector Program?

- Like S. 363

- Set deadline for treatment to meet protective standard
- Set protective standard

- Like S. 770

- Allow/encourage treatment in lieu of BWE prior to deadline
- Benchmark minimum performance of treatment substitutes for BWE prior to deadline only use IMO standard

# Preemption?

- **Remove preemption of CWA, and**
  - Require EPA and USCG to undertake their respective responsibilities in collaboration pursuant to an MOU
  - Require EPA and USCG to exercise their responsibilities consistent with IMO, if ratified
- **Remove State preemption, or**
  - explicitly allow states to require treatment of ships prior to deadline consistent with Act

# Asian Carp Prevention and Control Act H.R.3049 and S.1402

- In WRDA (Introduced in House, Reported in Senate)
  - The Secretary shall upgrade and make permanent, at full Federal expense, the existing dispersal barrier
  - The Secretary shall operate and maintain barrier system, at full Federal expense, to optimize effectiveness.
- House only—
  - Feasibility study of range of barrier options
- Senate only--
  - the Secretary shall construct, at full Federal expense, a back-up Dispersal Barrier
  - The Secretary shall credit to each State the proportion of funds that the State contributed to the authorized dispersal barriers. A State may apply the credit to existing or future projects of the Corps of Engineers.

# Asian Carp Barrier Funding

## ■ Problem:

- No funding for 2006 in ACOE approps bills
- No authorization for ACOE to use O&M base

## ■ Solution?

- Seek earmark in other approps bill; AND
- Seek Sense of Congress/Senate that
  - Operation of barrier part of routine O&M for commercial navigation
  - Operation of barrier in keeping with court order to assure that waterway use will not negatively affect Great Lakes system



# National Invasive Species Council Act H.R. 1593 and S. 507

- Codifies Council, ISAC

# Pest Management and Fire Suppression Flexibility Act HR 1749

- Waives NPDES permit requirements for
  - The proper use of a FIFRA approved pesticide
  - Government-related use of a fire retardant, chemical, or water for fire suppression, control, or prevention per relevant Federal guidelines;
  - Silviculture activities except for specified point source activities;
  - Use of biological control organisms for the prevention, control, or eradication of plant pests or noxious weeds per Plant Protection Act.
- Designed in response to “Talent Decision”
- Hearing held?

