

16 USC Ch. 67: AQUATIC NUISANCE PREVENTION AND CONTROL

From Title 16—CONSERVATION

CHAPTER 67—AQUATIC NUISANCE PREVENTION AND CONTROL

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SUBCHAPTER I—GENERAL PROVISIONS

§4701. Findings and purposes

(a) Findings

The Congress finds that—

- (1) the discharge of untreated water in the ballast tanks of vessels and through other means results in unintentional introductions of nonindigenous species to fresh, brackish, and saltwater environments;
- (2) when environmental conditions are favorable, nonindigenous species become established, may compete with or prey upon native species of plants, fish, and wildlife, may carry diseases or parasites that affect native species, and may disrupt the aquatic environment and economy of affected nearshore areas;
- (3) the zebra mussel was unintentionally introduced into the Great Lakes and has infested—
 - (A) waters south of the Great Lakes, into a good portion of the Mississippi River drainage;
 - (B) waters west of the Great Lakes, into the Arkansas River in Oklahoma; and
 - (C) waters east of the Great Lakes, into the Hudson River and Lake Champlain;
- (4) the potential economic disruption to communities affected by the zebra mussel due to its colonization of water pipes, boat hulls and other hard surfaces has been estimated at \$5,000,000,000 by the year 2000, and the potential disruption to the diversity and abundance of native fish and other species by the zebra mussel and ruffe, round goby, and other nonindigenous species could be severe;

- (5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate;
- (6) in 1992, the zebra mussel was discovered at the northernmost reaches of the Chesapeake Bay watershed;
- (7) the zebra mussel poses an imminent risk of invasion in the main waters of the Chesapeake Bay;
- (8) since the Chesapeake Bay is the largest recipient of foreign ballast water on the East Coast, there is a risk of further invasions of other nonindigenous species;
- (9) the zebra mussel is only one example of thousands of nonindigenous species that have become established in waters of the United States and may be causing economic and ecological degradation with respect to the natural resources of waters of the United States;
- (10) since their introduction in the early 1980's in ballast water discharges, ruffe—
- (A) have caused severe declines in populations of other species of fish in Duluth Harbor (in Minnesota and Wisconsin);
- (B) have spread to Lake Huron; and
- (C) are likely to spread quickly to most other waters in North America if action is not taken promptly to control their spread;
- (11) examples of nonindigenous species that, as of October 26, 1996, infest coastal waters of the United States and that have the potential for causing adverse economic and ecological effects include—
- (A) the mitten crab (*Eriocheir sinensis*) that has become established on the Pacific Coast;
- (B) the green crab (*Carcinus maenas*) that has become established in the coastal waters of the Atlantic Ocean;
- (C) the brown mussel (*Perna perna*) that has become established along the Gulf of Mexico; and
- (D) certain shellfish pathogens;
- (12) many aquatic nuisance vegetation species, such as Eurasian watermilfoil, hydrilla, water hyacinth, and water chestnut, have been introduced to waters of the United States from other parts of the world causing or having a potential to cause adverse environmental, ecological, and economic effects;
- (13) if preventive management measures are not taken nationwide to prevent and control unintentionally introduced nonindigenous aquatic species in a timely manner, further introductions and infestations of species that are as destructive as, or more destructive than, the zebra mussel or the ruffe infestations may occur;
- (14) once introduced into waters of the United States, aquatic nuisance species are unintentionally transported and introduced into inland lakes and rivers by recreational boaters, commercial barge traffic, and a variety of other pathways; and
- (15) resolving the problems associated with aquatic nuisance species will require the participation and cooperation of the Federal Government and State governments, and investment in the development of prevention technologies.

(b) Purposes

The purposes of this chapter are—

- (1) to prevent unintentional introduction and dispersal of nonindigenous species into waters of the United States through ballast water management and other requirements;
- (2) to coordinate federally conducted, funded, or authorized research, prevention control, information dissemination and other activities regarding the zebra mussel and other aquatic nuisance species;
- (3) to develop and carry out environmentally sound control methods to prevent, monitor and control unintentional introductions of nonindigenous species from pathways other than ballast water exchange;
- (4) to understand and minimize economic and ecological impacts of nonindigenous aquatic nuisance species that become established, including the zebra mussel; and
- (5) to establish a program of research and technology development and assistance to States in the management and removal of zebra mussels.

(Pub. L. 101–646, title I, §1002, Nov. 29, 1990, 104 Stat. 4761; Pub. L. 104–182, title III, §308(a), Aug. 6, 1996, 110 Stat. 1689; Pub. L. 104–332, §2(a)(1), (h)(1), Oct. 26, 1996, 110 Stat. 4073, 4091; Pub. L. 117–263, div. K, title CXIII, §11327(e)(1), Dec. 23, 2022, 136 Stat. 4097.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", which, to reflect the probable intent of Congress, was translated as reading "this title" meaning title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4761, known as the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out below and Tables.

AMENDMENTS

2022—Subsec. (b)(2). Pub. L. 117–263 inserted comma after "funded".

1996—Pub. L. 104–332, §2(h)(1), made technical amendment to Pub. L. 101–646, §1002, which enacted this section.

Subsec. (a)(2), (3). Pub. L. 104–332, §2(a)(1)(A), added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

"(2) when environmental conditions are favorable, nonindigenous species, such as the zebra mussel (*Dreissena polymorpha*), become established and may disrupt the aquatic environment and economy of affected coastal areas;

"(3) the zebra mussel was unintentionally introduced into the Great Lakes and, if left uncontrolled, is expected to infest over two-thirds of the continental United States through the unintentional transportation of larvae and adults by vessels operating in inland waters;"

Subsec. (a)(4). Pub. L. 104–332, §2(a)(1)(B)(i), inserted "by the zebra mussel and ruffe, round goby, and other nonindigenous species" after "other species".

Subsec. (a)(5). Pub. L. 104–182 added par. (5).

Subsec. (a)(6) to (15). Pub. L. 104–332, §2(a)(1)(B)(ii), (C), (D), added pars. (6) to (15).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–332, §1(a), Oct. 26, 1996, 110 Stat. 4073, provided that: "This Act [enacting sections 4713 and 4714 of this title, amending sections 941 to 941g, 4701, 4702, 4711, 4712, 4721 to 4728, 4741 and 4751 of this title, section 42 of Title 18, Crimes and Criminal Procedure, and section 2761 of Title 33, Navigation and Navigable Waters, enacting provisions set out as a note under this section, and amending provisions set out as notes under this section, section 941 of this title, and section 2701 of Title 33] may be cited as the 'National Invasive Species Act of 1996'."

SHORT TITLE

Pub. L. 101–646, title I, §1001, Nov. 29, 1990, 104 Stat. 4761, as amended by Pub. L. 104–332, §2(h)(1), Oct. 26, 1996, 110 Stat. 4091, provided that: "This title [enacting this chapter and amending section 42 of Title 18, Crimes and Criminal Procedure] may be cited as the 'Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990'."

INVASIVE SPECIES IN ALPINE LAKES PILOT PROGRAM

Pub. L. 116–260, div. AA, title V, §507, Dec. 27, 2020, 134 Stat. 2749, as amended by Pub. L. 117–263, div. H, title LXXXI, §8382(b), Dec. 23, 2022, 136 Stat. 3828, provided that:

"(a) ESTABLISHMENT.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall establish a pilot program (referred to in this section as the 'pilot program') to develop and carry out effective measures necessary to prevent, control, or eradicate aquatic invasive species in alpine lakes that are not located within a unit of the National Park System.

"(b) PARTNERSHIPS.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall offer to enter into a partnership to carry out the pilot program with—

"(1) any relevant partnering Federal agency; and

"(2) any relevant compact agency organized with the consent of Congress under article I, section 10 of the Constitution of the United States.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the pilot program \$25,000,000 for the period of fiscal years 2022 through 2028."

AQUATIC INVASIVE SPECIES PREVENTION

Pub. L. 113–121, title I, §1039(b), June 10, 2014, 128 Stat. 1237, as amended by Pub. L. 116–260, div. AA, title V, §506, Dec. 27, 2020, 134 Stat. 2749, provided that:

"(1) MULTIAGENCY EFFORT TO SLOW THE SPREAD OF ASIAN CARP IN THE MISSISSIPPI RIVER AND TRIBUTARIES, INCLUDING SUB-BASINS.

"(A) IN GENERAL.—The Director of the United States Fish and Wildlife Service, in coordination with the Secretary [of the Army], the Director of the National Park Service, and the Director of the United States Geological Survey, shall lead a multiagency effort to slow the spread of Asian carp in the Mississippi River and tributaries, including the 6 sub-basins of the River, by providing technical assistance, coordination, best practices, and support to State and local governments in carrying out activities designed to slow, and eventually eliminate, the threat posed by Asian carp.

"(B) BEST PRACTICES.—To the maximum extent practicable, the multiagency effort shall apply lessons learned and best practices such as those described in the document prepared by the Asian Carp Working Group entitled 'Management and Control Plan for Bighead, Black, Grass, and Silver Carps in the United States' and dated November 2007, the Mississippi River Basin Asian Carp Control Strategy Framework, and the Asian Carp Regional Coordinating Committee's Asian Carp Action Plan.

"(2) REPORT TO CONGRESS.—

"(A) IN GENERAL.—Not later than December 31, 2020, and biennially thereafter, the Director of the United States Fish and Wildlife Service, in coordination with the Secretary, shall submit to the

Committee on Appropriations and the Committee on Environment and Public Works of the Senate and the Committee on Appropriations, the Committee on Natural Resources, and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report describing the coordinated strategies established and progress made toward the goals of controlling and eliminating Asian carp in the Mississippi River and tributaries, including the 6 sub-basins of the River.

"(B) CONTENTS.—Each report submitted under subparagraph (A) shall include—

"(i) any observed changes in the range of Asian carp in the Mississippi River and tributaries, including the 6 sub-basins of the River, during the 2-year period preceding submission of the report;

"(ii) a summary of Federal agency efforts, including cooperative efforts with non-Federal partners, to control the spread of Asian carp in the Mississippi River and tributaries, including the 6 sub-basins of the River;

"(iii) any research that the Director determines could improve the ability to control the spread of Asian carp;

"(iv) any quantitative measures that the Director intends to use to document progress in controlling the spread of Asian carp; and

"(v) a cross-cut accounting of Federal and non-Federal expenditures to control the spread of Asian carp."

CONSTRUCTION OF 1996 AMENDMENT

Pub. L. 104–332, §3, Oct. 26, 1996, 110 Stat. 4092, provided that: "Nothing in this Act [see Short Title of 1996 Amendment note above] or the amendments made by this Act is intended to affect the authorities and responsibilities of the Great Lakes Fishery Commission established under article II of the Convention on Great Lakes Fisheries between the United States of America and Canada, signed at Washington on September 10, 1954 (hereafter in this section referred to as the 'Convention'), including the authorities and responsibilities of the Great Lakes Fishery Commission—

"(1) for developing and implementing a comprehensive program for eradicating or minimizing populations of sea lamprey in the Great Lakes watershed; and

"(2) carrying out the duties of the Commission specified in the Convention (including any amendment thereto) and the Great Lakes Fishery Act of 1956 (16 U.S.C. 931 et seq.)."

REPORT ON ESTABLISHMENT OF PROGRAM

Pub. L. 102–567, title II, §203(b), Oct. 29, 1992, 106 Stat. 4281, provided that: "Not later than one year after the date of the enactment of this Act [Oct. 29, 1992], the Secretary of Commerce shall submit a report to the Congress on progress toward establishing a nonindigenous aquatic nuisance prevention and control program within the National Oceanic and Atmospheric Administration and projected funding for such a program for the following five fiscal years."

§4702. Definitions

As used in this chapter, the term—

(1) "aquatic nuisance species" means a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural or recreational activities dependent on such waters;

(2) "Assistant Secretary" means the Assistant Secretary of the Army (Civil Works);

(3) "ballast water" means any water and associated sediments used to manipulate the trim and stability of a vessel;

(4) "Director" means the Director of the United States Fish and Wildlife Service;

(5) "exclusive economic zone" means the Exclusive Economic Zone of the United States established by Proclamation Number 5030, dated March 10, 1983, and the equivalent zone of Canada;

(6) "environmentally sound" methods, efforts, actions or programs means methods, efforts, actions or programs to prevent introductions or control infestations of aquatic nuisance species that minimize adverse impacts to the structure and function of an ecosystem and adverse effects on non-target organisms and ecosystems and emphasize integrated pest management techniques and nonchemical measures;

(7) "Great Lakes" means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border), and includes all other bodies of water within the drainage basin of such lakes and connecting channels.¹

(8) "Great Lakes region" means the 8 States that border on the Great Lakes;

(9) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(10) "interstate organization" means an entity—

- (A) established by—
 - (i) an interstate compact that is approved by Congress;
 - (ii) a Federal statute; or
 - (iii) a treaty or other international agreement with respect to which the United States is a party; and

- (B)(i) that represents 2 or more—
 - (I) States or political subdivisions thereof; or
 - (II) Indian tribes; or

- (ii) that represents—
 - (I) 1 or more States or political subdivisions thereof; and
 - (II) 1 or more Indian tribes; or

- (iii) that represents the Federal Government and 1 or more foreign governments; and
- (C) has jurisdiction over, serves as forum for coordinating, or otherwise has a role or responsibility for the management of, any land or other natural resource;

(11) "nonindigenous species" means any species or other viable biological material that enters an ecosystem beyond its historic range, including any such organism transferred from one country into another;

(12) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(13) "State" means each of the several States, the District of Columbia, American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, and the Virgin Islands of the United States;

(14) "recreational vessel" has the meaning given that term in section 1362 of title 33;

(15) "Task Force" means the Aquatic Nuisance Species Task Force established under section 4721 of this title;

(16) "territorial sea" means the belt of the sea measured from the baseline of the United States determined in accordance with international law, as set forth in Presidential Proclamation Number 5928, dated December 27, 1988;

(17) "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere;

(18) "waters of the United States" means the navigable waters and the territorial sea of the United States; and

(19) "unintentional introduction" means an introduction of nonindigenous species that occurs as the result of activities other than the purposeful or intentional introduction of the species involved, such as the transport of nonindigenous species in ballast or in water used to transport fish, mollusks or crustaceans for aquaculture or other purposes.

(Pub. L. 101–646, title I, §1003, Nov. 29, 1990, 104 Stat. 4762; Pub. L. 102–580, title III, §302(b)(2), Oct. 31, 1992, 106 Stat. 4839; Pub. L. 104–332, §2(a)(2), (h)(1), (3), Oct. 26, 1996, 110 Stat. 4074, 4091; Pub. L. 117–263, div. K, title CXIII, §11327(a), (e)(2), Dec. 23, 2022, 136 Stat. 4096, 4098.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", which, to reflect the probable intent of Congress, was translated as reading "this title" meaning title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4761, known as the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 4701 of this title and Tables.

Proclamation Number 5030, referred to in par. (5), is set out under section 1453 of this title.

The Alaska Native Claims Settlement Act, referred to in par. (9), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

Presidential Proclamation Number 5928, referred to in par. (16), is set out under section 1331 of Title 43.

AMENDMENTS

2022—Par. (7). Pub. L. 117–263, §11327(e)(2), substituted "Canadian" for "Canandian".

Pars. (13) to (19). Pub. L. 117–263, §11327(a), added pars. (13) and (14) and redesignated former pars. (13) to (17) as (15) to (19), respectively.

1996—Pub. L. 104–332, §2(h)(1), (3), made technical amendment to Pub. L. 101–646, §1003, which enacted this section.

Par. (1). Pub. L. 104–332, §2(a)(2)(A), redesignated par. (2) as (1) and struck out former par. (1) which read as follows: "'appropriate Committees' means the Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries in the House of Representatives and the Committee on Environment and Public Works and Committee on Commerce, Science, and Transportation in the Senate; and".

Par. (2). Pub. L. 104–332, §2(a)(2)(B), substituted " 'Assistant Secretary' means" for " 'assistant Secretary' means".

Pub. L. 104–332, §2(a)(2)(A), redesignated par. (3) as (2). Former par. (2) redesignated (1).

Pars. (3) to (7). Pub. L. 104–332, §2(a)(2)(A), redesignated pars. (4) to (8) as (3) to (7), respectively. Former par. (3) redesignated (2).

Par. (8). Pub. L. 104–332, §2(a)(2)(D), added par. (8).

Pub. L. 104–332, §2(a)(2)(A), redesignated par. (8) as (7).

Pars. (9), (10). Pub. L. 104–332, §2(a)(2)(D), added pars. (9) and (10).

Pub. L. 104–332, §2(a)(2)(C), redesignated pars. (9) and (10) as (11) and (12), respectively.

Pars. (11) to (17). Pub. L. 104–332, §2(a)(2)(C), redesignated pars. (9) to (15) as (11) to (17), respectively.

1992—Par. (1). Pub. L. 102–580 inserted "the Committee on Public Works and Transportation and" after "means".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

¹ So in original. The period probably should be a semicolon.

SUBCHAPTER II—PREVENTION OF UNINTENTIONAL INTRODUCTIONS OF NONINDIGENOUS AQUATIC SPECIES

§4711. Repealed. Pub. L. 115–282, title IX, §903(a)(2)(A)(i), Dec. 4, 2018, 132 Stat. 4354

Section, Pub. L. 101–646, title I, §1101, Nov. 29, 1990, 104 Stat. 4763; Pub. L. 102–580, title III, §302(b)(1), Oct. 31, 1992, 106 Stat. 4839; Pub. L. 102–587, title IV, §4002, Nov. 4, 1992, 106 Stat. 5068; Pub. L. 104–332, §2(b)(2), Oct. 26, 1996, 110 Stat. 4075, related to aquatic nuisance species in waters of United States.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 115–282, title IX, §903(a)(2)(A), Dec. 4, 2018, 132 Stat. 4354, provided that the repeal of this section by section 903(a)(2)(A) is effective beginning on Dec. 4, 2018.

§4712. National ballast water management information

(a) Studies on introduction of aquatic nuisance species by vessels

(1) Ballast exchange study

The Task Force, in cooperation with the Secretary, shall conduct a study—

(A) to assess the environmental effects of ballast water exchange on the diversity and abundance of native species in receiving estuarine, marine, and fresh waters of the United States; and

(B) to identify areas within the waters of the United States and the exclusive economic zone, if any, where the exchange of ballast water does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States.

(2) Biological study

The Task Force, in cooperation with the Secretary, shall conduct a study to determine whether aquatic nuisance species threaten the ecological characteristics and economic uses of Lake Champlain and other waters of the United States other than the Great Lakes.

(3) Shipping study

The Secretary shall conduct a study to determine the need for controls on vessels entering waters of the United States, other than the Great Lakes, to minimize the risk of unintentional introduction and dispersal of aquatic nuisance species in those waters. The study shall include an examination of—

- (A) the degree to which shipping may be a major pathway of transmission of aquatic nuisance species in those waters;
- (B) possible alternatives for controlling introduction of those species through shipping; and
- (C) the feasibility of implementing regional versus national control measures.

(b) Ecological and ballast water discharge surveys

(1) Ecological surveys

(A) In general

The Task Force, in cooperation with the Secretary, shall conduct ecological surveys of the Chesapeake Bay, San Francisco Bay, and Honolulu Harbor and, as necessary, of other estuaries of national significance and other waters that the Task Force determines—

- (i) to be highly susceptible to invasion by aquatic nuisance species resulting from ballast water operations and other operations of vessels; and
- (ii) to require further study.

(B) Requirements for surveys

In conducting the surveys under this paragraph, the Task Force shall, with respect to each such survey—

- (i) examine the attributes and patterns of invasions of aquatic nuisance species; and
- (ii) provide an estimate of the effectiveness of ballast water management and other vessel management guidelines issued and regulations promulgated under this subchapter in abating invasions of aquatic nuisance species in the waters that are the subject of the survey.

(2) Ballast water discharge surveys

(A) In general

The Secretary, in cooperation with the Task Force, shall conduct surveys of ballast water discharge rates and practices in the waters referred to in paragraph (1)(A) on the basis of the criteria under clauses (i) and (ii) of such paragraph.

(B) Requirements for surveys

In conducting the surveys under this paragraph, the Secretary shall—

- (i) examine the rate of, and trends in, ballast water discharge in the waters that are the subject of the survey; and
- (ii) assess the effectiveness of voluntary guidelines issued, and regulations promulgated, under this subchapter in altering ballast water discharge practices to reduce the probability of accidental introductions of aquatic nuisance species.

(3) Columbia River

The Secretary, in cooperation with the Task Force and academic institutions in each of the States affected, shall conduct an ecological and ballast water discharge survey of the Columbia River system consistent with the requirements of paragraphs (1) and (2).

(c) Reports

(1) Ballast exchange

Not later than 18 months after November 29, 1990, and prior to the effective date of the regulations issued under section 4711(b) of this title (as in effect on the day before December 4, 2018), the Task Force shall submit a report to the Congress that presents the results of the study required under subsection (a)(1) and makes recommendations with respect to such regulations.

(2) Biological and shipping studies

Not later than 18 months after November 29, 1990, the Secretary and the Task Force shall each submit to the Congress a report on the results of their respective studies under paragraphs (2) and (3) of subsection (a).

(d) Negotiations

The Secretary, working through the International Maritime Organization, is encouraged to enter into negotiations with the governments of foreign countries concerning the planning and implementation of measures aimed at the prevention and control of unintentional introductions of aquatic nuisance species in coastal waters.

(e) Regional research grants

Out of amounts appropriated to carry out this subsection for a fiscal year, the Under Secretary may—

- (1) make available not to exceed \$750,000 to fund research on aquatic nuisance species prevention and control in the Chesapeake Bay through grants, to be competitively awarded and subject to peer review, to universities and research institutions;
- (2) make available not to exceed \$500,000 to fund research on aquatic nuisance species prevention and control in the Gulf of Mexico through grants, to be competitively awarded and subject to peer review, to universities and research institutions;
- (3) make available not to exceed \$500,000 to fund research on aquatic nuisance species prevention and control for the Pacific Coast through grants, to be competitively awarded and subject to peer review, to universities and research institutions;
- (4) make available not to exceed \$500,000 to fund research on aquatic nuisance species prevention and control for the Atlantic Coast through grants, to be competitively awarded and subject to peer review, to universities and research institutions; and

(5) make available not to exceed \$750,000 to fund research on aquatic nuisance species prevention and control in the San Francisco Bay-Delta Estuary through grants, to be competitively awarded and subject to peer review, to universities and research institutions.

(f) National ballast information clearinghouse

(1) In general

The Secretary shall develop and maintain, in consultation and cooperation with the Task Force and the Smithsonian Institution (acting through the Smithsonian Environmental Research Center), a clearinghouse of national data concerning—

- (A) ballasting practices;
- (B) compliance with the guidelines issued pursuant to section 4711(c) of this title (as in effect on the day before December 4, 2018); and
- (C) any other information obtained by the Task Force under subsection (b).

(2) Ballast water reporting requirements

(A) In general

The owner or operator of a vessel subject to this chapter shall submit to the National Ballast Information Clearinghouse, by not later than 6 hours after the arrival of the vessel at a United States port or place of destination, the ballast water management report form approved by the Office of Management and Budget numbered OMB 1625–0069 (or a successor form), unless the vessel is operating exclusively on a voyage between ports or places within contiguous portions of a single Captain of the Port Zone.

(B) Multiple discharges

The owner or operator of a vessel subject to this chapter may submit a single report under subparagraph (A) for multiple ballast water discharges within a single port or place of destination during the same voyage.

(C) Advance report to States

A State may require the owner or operator of a vessel subject to this chapter to submit directly to the State, or to an appropriate regional forum, a ballast water management report form—

- (i) not later than 24 hours prior to arrival at a United States port or place of destination in the State, if the voyage of the vessel is anticipated to exceed 24 hours; or
- (ii) before departing the port or place of departure, if the voyage of the vessel to the United States port or place of destination is not anticipated to exceed 24 hours.

(3) Vessel reporting data

(A) Dissemination to States

On receipt of a ballast water management report under paragraph (2), the National Ballast Information Clearinghouse shall—

- (i) in the case of a form submitted electronically, immediately disseminate the report to interested States;
- or
- (ii) in the case of a form submitted by means other than electronically, disseminate the report to interested States as soon as practicable.

(B) Availability to public

Not later than 30 days after the date of receipt of a ballast water management report under paragraph (2), the National Ballast Information Clearinghouse shall make the data in the report fully and readily available to the public in a searchable and fully retrievable electronic format.

(4) Report

(A) In general

Not later than July 1, 2019, and annually thereafter, the Secretary shall prepare and submit a report in accordance with this paragraph.

(B) Contents

Each report under this paragraph shall synthesize and analyze the data described in paragraph (1) for the preceding 2-year period to evaluate nationwide status and trends relating to—

- (i) ballast water delivery and management; and
- (ii) invasions of aquatic nuisance species resulting from ballast water.

(C) Development

The Secretary shall prepare each report under this paragraph in consultation and cooperation with—

- (i) the Task Force; and
- (ii) the Smithsonian Institution (acting through the Smithsonian Environmental Research Center).

(D) Submission

The Secretary shall—

- (i) submit each report under this paragraph to—
 - (I) the Task Force;
 - (II) the Committee on Commerce, Science, and Transportation of the Senate; and
 - (III) the Committee on Transportation and Infrastructure of the House of Representatives; and

(ii) make each report available to the public.

(5) Working group

Not later than 1 year after December 4, 2018, the Secretary shall establish a working group, including members from the National Ballast Information Clearinghouse and States with ballast water management programs, to establish a process for compiling and readily sharing Federal and State commercial vessel reporting and enforcement data regarding compliance with this chapter.

(Pub. L. 101–646, title I, §1102, Nov. 29, 1990, 104 Stat. 4764; Pub. L. 104–332, §2(c), (g), (h)(1), Oct. 26, 1996, 110 Stat. 4081, 4091; Pub. L. 105–362, title XV, §1502(d), Nov. 10, 1998, 112 Stat. 3295; Pub. L. 115–282, title IX, §903(a)(2)(B), (h)(1), Dec. 4, 2018, 132 Stat. 4354, 4362.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4711 of this title (as in effect on the day before December 4, 2018), referred to in subsecs. (c) (1) and (f)(1)(B), means section 4711 of this title as in effect prior to repeal by Pub. L. 115–282, title IX, §903(a)(2)(A)(i), Dec. 4, 2018, 132 Stat. 4354.

This chapter, referred to in subsec. (f)(2), was in the original "this title", meaning title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4761, known as the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 4701 of this title and Tables.

This chapter, referred to in subsec. (f)(5), was in the original "this Act", which, to reflect the probable intent of Congress, was translated as reading "this title" meaning title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4761, known as the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 4701 of this title and Tables.

AMENDMENTS

2018—Subsec. (c)(1). Pub. L. 115–282, §903(a)(2)(B)(i), inserted "(as in effect on the day before December 4, 2018)" after "section 4711(b) of this title".

Subsec. (f)(1)(B). Pub. L. 115–282, §903(a)(2)(B)(ii), inserted "(as in effect on the day before December 4, 2018)" after "section 4711(c) of this title".

Subsec. (f)(2) to (5). Pub. L. 115–282, §903(h)(1), added pars. (2) to (5) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "In consultation and cooperation with the Task Force and the Smithsonian Institution (acting through the Smithsonian Environmental Research Center), the Secretary shall prepare and submit to the Task Force and the Congress, on a biennial basis, a report that synthesizes and analyzes the data referred to in paragraph (1) relating to—

"(A) ballast water delivery and management; and

"(B) invasions of aquatic nuisance species resulting from ballast water."

1998—Subsec. (f)(2). Pub. L. 105–362 substituted "biennial basis" for "biannual basis" in introductory provisions.

1996—Pub. L. 104–332, §2(h)(1), made technical amendment to Pub. L. 101–646, §1102, which enacted this section.

Pub. L. 104–332, §2(c)(1), substituted "management information" for "control program" in section catchline.

Subsec. (a)(1). Pub. L. 104–332, §2(c)(2)(A), inserted ", in cooperation with the Secretary," before "shall conduct" in introductory provisions.

Subsec. (a)(2). Pub. L. 104–332, §2(c)(2), inserted ", in cooperation with the Secretary," before "shall conduct" and "Lake Champlain and other" after "economic uses of".

Subsec. (b). Pub. L. 104–332, §2(c)(3), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: "The Secretary and the Task Force shall cooperate in conducting their respective studies under this section."

Subsec. (c). Pub. L. 104–332, §2(g), substituted "Congress" for "appropriate Committees" in pars. (1) and (2).

Subsecs. (e), (f). Pub. L. 104–332, §2(c)(4), added subsecs. (e) and (f).

§4713. Armed services ballast water programs

(a) Department of Defense vessels

Subject to operational conditions, the Secretary of Defense, in consultation with the Secretary, the Task Force, and the International Maritime Organization, shall implement a ballast water management program for seagoing vessels of the Department of Defense to minimize the risk of introduction of nonindigenous species from releases of ballast water.

(b) Coast Guard vessels

Subject to operational conditions, the Secretary, in consultation with the Task Force and the International Maritime Organization, shall implement a ballast water management program for seagoing vessels of the Coast Guard to minimize the risk of introduction of nonindigenous species from releases of ballast water.

(Pub. L. 101–646, title I, §1103, as added Pub. L. 104–332, §2(d), Oct. 26, 1996, 110 Stat. 4083.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4714. Ballast water management demonstration program

(a) "Technologies and practices" defined

For purposes of this section, the term "technologies and practices" means those technologies and practices that

- (1) may be retrofitted—
 - (A) on existing vessels or incorporated in new vessel designs; and
 - (B) on existing land-based ballast water treatment facilities;
- (2) may be designed into new water treatment facilities;
- (3) are operationally practical;
- (4) are safe for a vessel and crew;
- (5) are environmentally sound;
- (6) are cost-effective;
- (7) a vessel operator is capable of monitoring; and
- (8) are effective against a broad range of aquatic nuisance species.

(b) Demonstration program

(1) In general

During the 18-month period beginning on the date that funds are made available by appropriations pursuant to section 4741(e) of this title, the Secretary of the Interior and the Secretary of Commerce, with the concurrence of and in cooperation with the Secretary, shall conduct a ballast water management demonstration program to demonstrate technologies and practices to prevent aquatic nonindigenous species from being introduced into and spread through ballast water in the Great Lakes and other waters of the United States.

(2) Location

The installation and construction of the technologies and practices used in the demonstration program conducted under this subsection shall be performed in the United States.

(3) Vessel selection

In demonstrating technologies and practices on vessels under this subsection, the Secretary of the Interior and the Secretary of Commerce, shall—

- (A) use only vessels that—
 - (i) are approved by the Secretary;
 - (ii) have ballast water systems conducive to testing aboard-vessel or land-based technologies and practices applicable to a significant number of merchant vessels; and
 - (iii) are—
 - (I) publicly or privately owned; and
 - (II) in active use for trade or other cargo shipment purposes during the demonstration;
- (B) select vessels for participation in the program by giving priority consideration—
 - (i) first, to vessels documented under chapter 121 of title 46;
 - (ii) second, to vessels that are a majority owned by citizens of the United States, as determined by the Secretary; and
 - (iii) third, to any other vessels that regularly call on ports in the United States; and
- (C) seek to use a variety of vessel types, including vessels that—
 - (i) call on ports in the United States and on the Great Lakes; and
 - (ii) are operated along major coasts of the United States and inland waterways, including the San Francisco Bay and Chesapeake Bay.

(4) Selection of technologies and practices

In selecting technologies and practices for demonstration under this subsection, the Secretary of the Interior and the Secretary of Commerce shall give priority consideration to technologies and practices identified as promising by the National Research Council Marine Board of the National Academy of Sciences in its report on ships' ballast water operations issued in July 1996.

(5) Report

Not later than 3 years after October 26, 1996, the Secretary of the Interior and the Secretary of Commerce shall prepare and submit a report to the Congress on the demonstration program conducted pursuant to this section. The report shall include findings and recommendations of the Secretary of the Interior and the Secretary of Commerce concerning technologies and practices.

(c) Authorities; consultation and cooperation with International Maritime Organization and Task Force

(1) Authorities

In conducting the demonstration program under subsection (b), the Secretary of the Interior may—

- (A) enter into cooperative agreements with appropriate officials of other agencies of the Federal Government, agencies of States and political subdivisions thereof, and private entities;
- (B) accept funds, facilities, equipment, or personnel from other Federal agencies; and
- (C) accept donations of property and services.

(2) Consultation and cooperation

The Secretary of the Interior shall consult and cooperate with the International Maritime Organization and the Task Force in carrying out this section.

(Pub. L. 101–646, title I, §1104, as added Pub. L. 104–332, §2(d), Oct. 26, 1996, 110 Stat. 4083.)

SUBCHAPTER III—PREVENTION AND CONTROL OF AQUATIC NUISANCE SPECIES DISPERSAL

§4721. Establishment of Task Force

(a) Task Force

There is hereby established an "Aquatic Nuisance Species Task Force".

(b) Membership

Membership of the Task Force shall consist of—

- (1) the Director;
- (2) the Under Secretary;
- (3) the Administrator of the Environmental Protection Agency;
- (4) the Commandant of the United States Coast Guard;
- (5) the Assistant Secretary;
- (6) the Secretary of Agriculture;
- (7) the Director of the National Park Service;
- (8) the Director of the Bureau of Land Management;
- (9) the Commissioner of Reclamation; and
- (10) the head of any other Federal agency that the chairpersons designated under subsection (d) deem appropriate.

(c) Ex officio members

The chairpersons designated under subsection (d) shall invite representatives of the Great Lakes Commission, the Patrick Leahy Lake Champlain Basin Program, the Chesapeake Bay Program, the San Francisco Bay-Delta Estuary Program, and State agencies and other governmental entities to participate as ex officio members of the Task Force.

(d) Chairpersons

The Director and the Under Secretary shall serve as co-chairpersons of the Task Force and shall be jointly responsible, and are authorized to undertake such activities as may be necessary, for carrying out this subchapter in consultation and cooperation with the other members of the Task Force.

(e) Memorandum of understanding

Within six months of November 29, 1990, the Director and the Under Secretary shall develop a memorandum of understanding that describes the role of each in jointly carrying out this subchapter.

(f) Coordination

Each Task Force member shall coordinate any action to carry out this subchapter with any such action by other members of the Task Force, and regional, State and local entities.

(g) Observers

The chairpersons designated under subsection (d) may invite representatives of nongovernmental entities to participate as observers of the Task Force.

(Pub. L. 101–646, title I, §1201, Nov. 29, 1990, 104 Stat. 4765; Pub. L. 104–182, title III, §308(b), Aug. 6, 1996, 110 Stat. 1689; Pub. L. 104–332, §2(e)(2), (h)(1), Oct. 26, 1996, 110 Stat. 4085, 4091; Pub. L. 117–263, div. K, title CXIII, §11327(b), (c), Dec. 23, 2022, 136 Stat. 4097; Pub. L. 117–328, div. O, title IV, §404(b), Dec. 29, 2022, 136 Stat. 5229.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (d) to (f), was in the original "this subtitle", meaning subtitle C (§§1201–1209) of title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4765, which enacted this subchapter and amended section 42 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2022—Subsec. (b)(7) to (10). Pub. L. 117–263, §11327(c), added pars. (7) to (9) and redesignated former par. (7) as (10).

Subsec. (c). Pub. L. 117–328 inserted "Patrick Leahy" before "Lake Champlain Basin Program".

Subsec. (g). Pub. L. 117–263, §11327(b), added subsec. (g).

1996—Pub. L. 104–332, §2(h)(1), made technical amendment to Pub. L. 101–646, §1201, which enacted this section.

Subsec. (b)(5) to (7). Pub. L. 104–332, §2(e)(2)(A), struck out "and" at end of par. (5), added par. (6), and redesignated former par. (6) as (7).

Subsec. (c). Pub. L. 104–332, §2(e)(2)(B), inserted "the Chesapeake Bay Program, the San Francisco Bay-Delta Estuary Program," before "and State agencies".

Pub. L. 104–182 inserted ", the Lake Champlain Basin Program," after "Great Lakes Commission".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4722. Aquatic nuisance species program

(a) In general

The Task Force shall develop and implement a program for waters of the United States to prevent introduction and dispersal of aquatic nuisance species; to monitor, control and study such species; and to disseminate related information.

(b) Content

The program developed under subsection (a) shall—

- (1) identify the goals, priorities, and approaches for aquatic nuisance species prevention, monitoring, control, education and research to be conducted or funded by the Federal Government;
- (2) describe the specific prevention, monitoring, control, education and research activities to be conducted by each Task Force member;
- (3) coordinate aquatic nuisance species programs and activities of Task Force members and affected State agencies;
- (4) describe the role of each Task Force member in implementing the elements of the program as set forth in this subchapter;
- (5) include recommendations for funding to implement elements of the program; and
- (6) develop a demonstration program of prevention, monitoring, control, education and research for the zebra mussel, to be implemented in the Great Lakes and any other waters infested, or likely to become infested in the near future, by the zebra mussel.

(c) Prevention

(1) In general

The Task Force shall establish and implement measures, within the program developed under subsection (a), to minimize the risk of introduction of aquatic nuisance species to waters of the United States, including—

- (A) identification of pathways by which aquatic organisms are introduced to waters of the United States;
- (B) assessment of the risk that an aquatic organism carried by an identified pathway may become an aquatic nuisance species; and

(C) evaluation of whether measures to prevent introductions of aquatic nuisance species are effective and environmentally sound.

(2) Implementation

Whenever the Task Force determines that there is a substantial risk of unintentional introduction of an aquatic nuisance species by an identified pathway and that the adverse consequences of such an introduction are likely to be substantial, the Task Force shall, acting through the appropriate Federal agency, and after an opportunity for public comment, carry out cooperative, environmentally sound efforts with regional, State and local entities to minimize the risk of such an introduction.

(d) Monitoring

The Task Force shall establish and implement monitoring measures, within the program developed under subsection (a), to—

- (1) detect unintentional introductions of aquatic nuisance species;
- (2) determine the dispersal of aquatic nuisance species after introduction; and
- (3) provide for the early detection and prevention of infestations of aquatic nuisance species in unaffected drainage basins.

(e) Control

(1) In general

The Task Force may develop cooperative efforts, within the program established under subsection (a), to control established aquatic nuisance species to minimize the risk of harm to the environment and the public health and welfare. For purposes of this chapter, control efforts include eradication of infestations, reductions of populations, development of means of adapting human activities and public facilities to accommodate infestations, and prevention of the spread of aquatic nuisance species from infested areas. Such control efforts shall be developed in consultation with affected Federal agencies, States, Indian Tribes, local governments, interjurisdictional organizations, and other appropriate entities. Control actions authorized by this section shall be based on the best available scientific information and shall be conducted in an environmentally sound manner.

(2) Decisions

The Task Force or any other affected agency or entity may recommend that the Task Force initiate a control effort. In determining whether a control program is warranted, the Task Force shall evaluate the need for control (including the projected consequences of no control and less than full control); the technical and biological feasibility and cost-effectiveness of alternative control strategies and actions; whether the benefits of control, including costs avoided, exceed the costs of the program; the risk of harm to non-target organisms and ecosystems, public health and welfare; and such other considerations the Task Force determines appropriate. The Task Force shall also determine the nature and extent of control of target aquatic nuisance species that is feasible and desirable.

(3) Programs

If the Task Force determines in accordance with paragraph (2) that control of an aquatic nuisance species is warranted, the Task Force shall develop a proposed control program to achieve the target level of control. A notice summarizing the proposed action and soliciting comments shall be published in the Federal Register, in major newspapers in the region affected, and in principal trade publications of the industries affected. Within 180 days of proposing a control program, and after consultation with affected governmental and other appropriate entities and taking into consideration other comments received, the Task Force shall complete development of the proposed control program.

(4) Technical assistance and recommendations

The Task Force may provide technical assistance and recommendations for best practices to an agency or entity engaged in vessel inspections or decontaminations for the purpose of—

- (A) effectively managing and controlling the movement of aquatic nuisance species into, within, or out of water of the United States; and
- (B) inspecting recreational vessels in a manner that minimizes disruptions to public access for boating and recreation in non-contaminated vessels.

(5) Consultation and input

In carrying out paragraph (4), including the development of recommendations, the Task Force may consult with Indian Tribes and solicit input from—

- (A) State and Tribal fish and wildlife management agencies;
- (B) other State and Tribal agencies that manage fishery resources of the State or sustain fishery habitat; and
- (C) relevant nongovernmental entities.

(f) Research

(1) Priorities

The Task Force shall, within the program developed under subsection (a), conduct research concerning—

- (A) the environmental and economic risks and impacts associated with the introduction of aquatic nuisance species into the waters of the United States;
- (B) the principal pathways by which aquatic nuisance species are introduced and dispersed;
- (C) possible methods for the prevention, monitoring and control of aquatic nuisance species; and
- (D) the assessment of the effectiveness of prevention, monitoring and control methods.

(2) Protocol

Within 90 days of November 29, 1990, the Task Force shall establish and follow a protocol to ensure that research activities carried out under this subchapter do not result in the introduction of aquatic nuisance species to waters of the United States.

(3) Grants for research

The Task Force shall allocate funds authorized under this chapter for competitive research grants to study all aspects of aquatic nuisance species, which shall be administered through the National Sea Grant College Program and the Cooperative Fishery and Wildlife Research Units. Grants shall be conditioned to ensure that any recipient of funds follows the protocol established under paragraph (2) of this subsection.

(g) Technical assistance

The Task Force shall, within the program developed under subsection (a), provide technical assistance to State and local governments and persons to minimize the environmental, public health, and safety risks associated with aquatic nuisance species, including an early warning system for advance notice of possible infestations and appropriate responses.

(h) Education

The Task Force shall, with the program developed under subsection (a), establish and implement educational programs through Sea Grant Marine Advisory Services and any other available resources that it determines to be appropriate to inform the general public, State governments, governments of political subdivisions of States, and industrial and recreational users of aquatic resources in connection with matters concerning the identification of aquatic nuisance species, and control methods for such species, including the prevention of the further distribution of such species.

(i) Zebra mussel demonstration program

(1) Zebra mussel

(A) In general

The Task Force shall, within the program developed under subsection (a), undertake a program of prevention, monitoring, control, education and research for the zebra mussel to be implemented in the Great Lakes and any other waters of the United States infested or likely to become infested by the zebra mussel, including—

- (i) research and development concerning the species life history, environmental tolerances and impacts on fisheries and other ecosystem components, and the efficacy of control mechanisms and means of avoiding or minimizing impacts;
- (ii) tracking the dispersal of the species and establishment of an early warning system to alert likely areas of future infestations;
- (iii) development of control plans in coordination with regional, State and local entities; and
- (iv) provision of technical assistance to regional, State and local entities to carry out this section.

(B) Public facility research and development

The Assistant Secretary, in consultation with the Task Force, shall develop a program of research, technology development, and demonstration for the environmentally sound control of zebra mussels in and around public facilities. The Assistant Secretary shall collect and make available, through publications and other appropriate means, information pertaining to such control methods.

(C) Voluntary guidelines

Not later than 1 year after October 26, 1996, the Task Force shall develop and submit to the Secretary voluntary guidelines for controlling the spread of the zebra mussel and, if appropriate, other aquatic nuisance species through recreational activities, including boating and fishing. Not later than 4 months after the date of such submission, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines that are based on the guidelines developed by the Task Force under this subparagraph.

(2) Dispersal containment analysis

(A) Research

The Administrator of the Environmental Protection Agency, in cooperation with the National Science Foundation and the Task Force, shall provide research grants on a competitive basis for projects that—

- (i) identify environmentally sound methods for controlling the dispersal of aquatic nuisance species, such as the zebra mussel; and
- (ii) adhere to research protocols developed pursuant to subsection (f)(2).

(B) Authorization of appropriations

There are authorized to be appropriated to the Environmental Protection Agency to carry out this paragraph, \$500,000.

(3) Dispersal barrier demonstration

(A) In general

The Assistant Secretary, in consultation with the Task Force, shall investigate and identify environmentally sound methods for preventing and reducing the dispersal of aquatic nuisance species between the Great Lakes-Saint Lawrence drainage and the Mississippi River drainage through the Chicago River Ship and

Sanitary Canal, including any of those methods that could be incorporated into the operation or construction of the lock system of the Chicago River Ship and Sanitary Canal.

(B) Report

Not later than 18 months after October 26, 1996, the Assistant Secretary shall issue a report to the Congress that includes recommendations concerning—

- (i) which of the methods that are identified under the study conducted under this paragraph are most promising with respect to preventing and reducing the dispersal of aquatic nuisance species; and
- (ii) ways to incorporate those methods into ongoing operations of the United States Army Corps of Engineers that are conducted at the Chicago River Ship and Sanitary Canal.

(C) Authorization of appropriations

There are authorized to be appropriated to the Department of the Army such sums as are necessary to carry out the dispersal barrier demonstration project directed by this paragraph.

(4) Contributions

To the extent allowable by law, in carrying out the studies under paragraphs (2) and (3), the Administrator of the Environmental Protection Agency and the Secretary of the Army may enter into an agreement with an interested party under which that party provides in kind or monetary contributions for the study.

(5) Technical assistance

The Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration shall provide technical assistance to appropriate entities to assist in the research conducted pursuant to this subsection.

(j) Implementation

(1) Regulations

The Director, the Secretary, and the Under Secretary may issue such rules and regulations as may be necessary to implement this section.

(2) Participation of others

The Task Force shall provide opportunities for affected Federal agencies which are not part of the Task Force, State and local government agencies, and regional and other entities with the necessary expertise to participate in control programs. If these other agencies or entities have sufficient authority or jurisdiction and expertise and where this will be more efficient or effective, responsibility for implementing all or a portion of a control program may be delegated to such agencies or entities.

(k) Reports

(1) Not later than 12 months after November 29, 1990, the Task Force shall submit a report describing the program developed under subsection (a), including the research protocol required under subsection (f)(2), to the Congress.

(2) On an annual basis after the submission of the report under paragraph (1), the Task Force shall submit a report to the Congress detailing progress in carrying out this section.

(3) Not later than 90 days after December 23, 2022, the Task Force shall submit a report to Congress recommending legislative, programmatic, or regulatory changes to eliminate remaining gaps in authorities between members of the Task Force to effectively manage and control the movement of aquatic nuisance species.

(Pub. L. 101–646, title I, §1202, Nov. 29, 1990, 104 Stat. 4766; Pub. L. 104–332, §2(e)(3), (4), (g), (h)(1), Oct. 26, 1996, 110 Stat. 4085, 4087, 4091; Pub. L. 109–234, title II, §2309, June 15, 2006, 120 Stat. 457; Pub. L. 117–263, div. K, title CXIII, §11327(d), Dec. 23, 2022, 136 Stat. 4097.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (e)(1) and (f)(3), was in the original "this Act", which, to reflect the probable intent of Congress, was translated as reading "this title" meaning title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4761, known as the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 4701 of this title and Tables.

AMENDMENTS

2022—Subsec. (e)(4), (5). Pub. L. 117–263, §11327(d)(1), added pars. (4) and (5).

Subsec. (k)(3). Pub. L. 117–263, §11327(d)(2), added par. (3).

2006—Subsec. (i)(3)(C). Pub. L. 109–234 substituted "such sums as are necessary to carry out the dispersal barrier demonstration project directed by this paragraph" for ", to carry out this paragraph, \$750,000".

1996—Pub. L. 104–332, §2(h)(1), made technical amendment to Pub. L. 101–646, §1202, which enacted this section.

Subsec. (f)(1)(A). Pub. L. 104–332, §2(e)(3)(A), inserted "and impacts" after "economic risks".

Subsec. (i). Pub. L. 104–332, §2(e)(3)(B), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and former subpars. (A) to (D) of par. (1) as cls. (i) to (iv), respectively, of subpar. (A), inserted new par. (1) heading, substituted "The Assistant Secretary, in consultation with the Task Force, shall develop a program of research, technology development, and demonstration for the environmentally sound control of zebra mussels in and around public facilities." for "The Assistant Secretary, in consultation with the Task Force, shall develop a program of research and technology development for the environmentally sound control of zebra mussels in and around public facilities." in subpar. (B), and added subpar. (C) and pars. (2) to (5).

Subsec. (j)(1). Pub. L. 104–332, §2(e)(4), substituted "The Director, the Secretary," for "Not later than 18 months after November 29, 1990, the Director".

Subsec. (k). Pub. L. 104–332, §2(g), substituted "Congress" for "appropriate Committees" in pars. (1) and (2).

§4723. Regional coordination

(a) Great Lakes panel

(1) In general

Not later than 30 days following November 29, 1990, the Task Force shall request that the Great Lakes Commission (established under Article IV of the Great Lakes Compact to which the Congress granted consent in the Act of July 24, 1968, P.L. 90–419) convene a panel of Great Lakes region representatives from Federal, State and local agencies and from private environmental and commercial interests to—

- (A) identify priorities for the Great Lakes region with respect to aquatic nuisance species;
- (B) make recommendations to the Task Force regarding programs to carry out section 4722(i) of this title;
- (C) assist the Task Force in coordinating Federal aquatic nuisance species program activities in the Great Lakes region;
- (D) coordinate, where possible, aquatic nuisance species program activities in the Great Lakes region that are not conducted pursuant to this chapter;
- (E) provide advice to public and private individuals and entities concerning methods of controlling aquatic nuisance species; and
- (F) submit annually a report to the Task Force describing activities within the Great Lakes region related to aquatic nuisance species prevention, research, and control.

(2) Consultation

The Task Force shall request that the Great Lakes Fishery Commission provide information to the panel convened under this subsection on technical and policy matters related to the international fishery resources of the Great Lakes.

(3) Canadian participation

The panel convened under this subsection is encouraged to invite representatives from the Federal, provincial or territorial governments of Canada to participate as observers.

(b) Western regional panel

Not later than 30 days after October 26, 1996, the Task Force shall request a Western regional panel, comprised of Western region representatives from Federal, State, and local agencies and from private environmental and commercial interests, to—

- (1) identify priorities for the Western region with respect to aquatic nuisance species;
- (2) make recommendations to the Task Force regarding an education, monitoring (including inspection), prevention, and control program to prevent the spread of the zebra mussel west of the 100th Meridian pursuant to section 4722(i) of this title;
- (3) coordinate, where possible, other aquatic nuisance species program activities in the Western region that are not conducted pursuant to this chapter;
- (4) develop an emergency response strategy for Federal, State, and local entities for stemming new invasions of aquatic nuisance species in the region;
- (5) provide advice to public and private individuals and entities concerning methods of preventing and controlling aquatic nuisance species infestations; and
- (6) submit annually a report to the Task Force describing activities within the Western region related to aquatic nuisance species prevention, research, and control.

(c) Additional regional panels

The Task Force shall—

- (1) encourage the development and use of regional panels and other similar entities in regions in addition to the Great Lakes and Western regions (including providing financial assistance for the development and use of such entities) to carry out, with respect to those regions, activities that are similar to the activities described in subsections (a) and (b); and
- (2) cooperate with regional panels and similar entities that carry out the activities described in paragraph (1).

(Pub. L. 101–646, title I, §1203, Nov. 29, 1990, 104 Stat. 4769; Pub. L. 104–332, §2(e)(5), (h)(1), Oct. 26, 1996, 110 Stat. 4087, 4091; Pub. L. 117–263, div. K, title CXIII, §11327(e)(3), Dec. 23, 2022, 136 Stat. 4098.)

EDITORIAL NOTES

REFERENCES IN TEXT

Act of July 24, 1968, referred to in subsec. (a)(1), is Pub. L. 90–419, [July 24, 1968](#), 82 Stat. 414, which is not classified to the Code.

This chapter, referred to in subsecs. (a)(1)(D) and (b)(3), was in the original "this Act", which, to reflect the probable intent of Congress, was translated as reading "this title" meaning title I of Pub. L. 101–646, [Nov. 29, 1990](#), 104 Stat. 4761, known as the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 4701 of this title and Tables.

AMENDMENTS

2022—Subsec. (a)(1)(F). Pub. L. 117–263, §11327(e)(3)(A), inserted "and" after "research,".

Subsec. (a)(3). Pub. L. 117–263, §11327(e)(3)(B), substituted "encouraged" for "encourage".

1996—Pub. L. 104–332, §2(h)(1), made technical amendment to Pub. L. 101–646, §1203, which enacted this section.

Pub. L. 104–332, §2(e)(5)(A), substituted "Regional" for "Great Lakes regional" in section catchline.

Pub. L. 104–332, §2(e)(5)(B)–(F), designated existing provisions as subsec. (a) and inserted subsec. heading, redesignated former subsec. (a) as par. (1), and former pars. (1) to (6) as subpars. (A) to (F), respectively, of par. (1), in par. (1) inserted "region" before "representatives" in introductory provisions and after "Great Lakes" in subpars. (A), (C), (D), and (F), redesignated subsecs. (b) and (c) as pars. (2) and (3), respectively, of subsec. (a), substituted "this subsection" for "this section" in those pars., and added subsecs. (b) and (c).

§4724. State aquatic nuisance species management plans

(a) State or interstate invasive species management plans

(1) In general

After providing notice and opportunity for public comment, the Governor of each State may prepare and submit, or the Governors of the States and the governments of the Indian tribes involved in an interstate organization, may jointly prepare and submit—

(A) a comprehensive management plan to the Task Force for approval which identifies those areas or activities within the State or within the interstate region involved, other than those related to public facilities, for which technical, enforcement, or financial assistance (or any combination thereof) is needed to eliminate or reduce the environmental, public health, and safety risks associated with aquatic nuisance species, particularly the zebra mussel; and

(B) a public facility management plan to the Assistant Secretary for approval which is limited solely to identifying those public facilities within the State or within the interstate region involved for which technical and financial assistance is needed to reduce infestations of zebra mussels.

(2) Content

Each plan shall, to the extent possible, identify the management practices and measures that will be undertaken to reduce infestations of aquatic nuisance species. Each plan shall—

(A) identify and describe State and local programs for environmentally sound prevention and control of the target aquatic nuisance species;

(B) identify Federal activities that may be needed for environmentally sound prevention and control of aquatic nuisance species and a description of the manner in which those activities should be coordinated with State and local government activities;

(C) identify any authority that the State (or any State or Indian tribe involved in the interstate organization) does not have at the time of the development of the plan that may be necessary for the State (or any State or Indian tribe involved in the interstate organization) to protect public health, property, and the environment from harm by aquatic nuisance species; and

(D) a schedule of implementing the plan, including a schedule of annual objectives, and enabling legislation.

(3) Consultation

(A) In developing and implementing a management plan, the State or interstate organization should, to the maximum extent practicable, involve local governments and regional entities, Indian tribes, and public and private organizations that have expertise in the control of aquatic nuisance species.

(B) Upon the request of a State or the appropriate official of an interstate organization, the Task Force or the Assistant Secretary, as appropriate under paragraph (1), may provide technical assistance in developing and implementing a management plan.

(4) Plan approval

Within 90 days after the submission of a management plan, the Task Force or the Assistant Secretary in consultation with the Task Force, as appropriate under paragraph (1), shall review the proposed plan and

approve it if it meets the requirements of this subsection or return the plan to the Governor or the interstate organization with recommended modifications.

(b) Grant program

(1) State grants

The Director may, at the recommendation of the Task Force, make grants to States with management plans approved under subsection (a) for the implementation of those plans.

(2) Application

An application for a grant under this subsection shall include an identification and description of the best management practices and measures which the State proposes to utilize in implementing an approved management plan with any Federal assistance to be provided under the grant.

(3) Federal share

(A) The Federal share of the cost of each comprehensive management plan implemented with Federal assistance under this section in any fiscal year shall not exceed 75 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.

(B) The Federal share of the cost of each public facility management plan implemented with Federal assistance under this section in any fiscal year shall not exceed 50 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.

(4) Administrative costs

For the purposes of this section, administrative costs for activities and programs carried out with a grant in any fiscal year shall not exceed 5 percent of the amount of the grant in that year.

(5) In-kind contributions

In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.

(c) Enforcement assistance

Upon request of a State or Indian tribe, the Director or the Under Secretary, to the extent allowable by law and in a manner consistent with section 141 ¹ of title 14, may provide assistance to a State or Indian tribe in enforcing an approved State or interstate invasive species management plan.

(Pub. L. 101–646, title I, §1204, Nov. 29, 1990, 104 Stat. 4770; Pub. L. 104–332, §2(e)(6), (h)(1), Oct. 26, 1996, 110 Stat. 4089, 4091; Pub. L. 117–263, div. K, title CXIII, §11327(e)(4), Dec. 23, 2022, 136 Stat. 4098.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 141 of title 14, referred to in subsec. (c), was redesignated section 701 of title 14 by Pub. L. 115–282, title I, §106(b), Dec. 4, 2018, 132 Stat. 4203, and references to section 141 of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115–282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115–282 note preceding section 101 of Title 14, Coast Guard.

AMENDMENTS

2022—Subsec. (b)(4). Pub. L. 117–263 substituted "Administrative" for "Administrative" in heading.

1996—Pub. L. 104–332, §2(h)(1), made technical amendment to Pub. L. 101–646, §1204, which enacted this section.

Subsec. (a). Pub. L. 104–332, §2(e)(6)(A)(i), substituted "State or interstate invasive species management plans" for "State plan" in heading.

Subsec. (a)(1). Pub. L. 104–332, §2(e)(6)(A)(ii)(I), substituted "After providing notice and opportunity for public comment, the Governor of each State may prepare and submit, or the Governors of the States and the governments of the Indian tribes involved in an interstate organization, may jointly prepare and submit" for "The Governor of each State may, after notice and opportunity for public comment, prepare and submit" in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 104–332, §2(e)(6)(A)(ii)(II), (III), inserted "or within the interstate region involved" after "within the State" and substituted "technical, enforcement, or financial assistance (or any combination thereof)" for "technical and financial assistance".

Subsec. (a)(1)(B). Pub. L. 104–332, §2(e)(6)(A)(ii)(III), inserted "or within the interstate region involved" after "within the State".

Subsec. (a)(2)(B). Pub. L. 104–332, §2(e)(6)(A)(iii)(I), struck out "and" at end.

Subsec. (a)(2)(C). Pub. L. 104–332, §2(e)(6)(A)(iii)(III), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (a)(2)(D). Pub. L. 104–332, §2(e)(6)(A)(iii)(II), (IV), redesignated subpar. (C) as (D) and inserted ", and enabling legislation" before period.

Subsec. (a)(3)(A). Pub. L. 104–332, §2(e)(6)(A)(iv)(I), inserted "or interstate organization" after "the State" and "Indian tribes," after "local governments and regional entities,".

Subsec. (a)(3)(B). Pub. L. 104–332, §2(e)(6)(A)(iv)(II), inserted "or the appropriate official of an interstate organization" after "a State".

Subsec. (a)(4). Pub. L. 104–332, §2(e)(6)(A)(v), inserted "or the interstate organization" after "the Governor".

Subsec. (b)(1). Pub. L. 104–332, §2(e)(6)(B), struck out "or the Assistant Secretary, as appropriate under subsection (a)," after "The Director" and substituted "management plans approved under subsection (a)" for "approved management plans".

Subsec. (c). Pub. L. 104–332, §2(e)(6)(C), added subsec. (c).

¹ *See References in Text note below.*

§4725. Relationship to other laws

(a) Consistency with environmental laws

All actions taken by Federal agencies in implementing the provisions of section 4722 of this title shall be consistent with all applicable Federal, State, and local environmental laws.

(b) Effect of chapter

(1) In general

Except as provided in paragraph (2), nothing in this chapter shall affect the authority of any State or political subdivision thereof to adopt or enforce control measures for aquatic nuisance species, or diminish or affect the jurisdiction of any State over species of fish and wildlife.

(2) Exception

Any discharge incidental to the normal operation of a vessel, including any discharge of ballast water (as those terms are defined in subsections (a) and (p)(1) of section 1322 of title 33), shall be regulated in accordance with that section.

(c) Effect of compliance

Compliance with the control and eradication measures of any State or political subdivision thereof regarding aquatic nuisance species shall not relieve any person of the obligation to comply with the provisions of this subchapter.

(Pub. L. 101–646, title I, §1205, Nov. 29, 1990, 104 Stat. 4771; Pub. L. 104–332, §2(h)(1), Oct. 26, 1996, 110 Stat. 4091; Pub. L. 115–282, title IX, §903(h)(2), Dec. 4, 2018, 132 Stat. 4363.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), was in the original "this title", meaning title I of Pub. L. 101–646, Nov. 29, 1990, 104 Stat. 4761, known as the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 4701 of this title and Tables.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–282, §903(h)(2)(C), designated first sentence as subsec. (a) and inserted heading.

Subsec. (b). Pub. L. 115–282, §903(h)(2)(B), (D), designated second sentence as subsec. (b)(1), inserted subsec. (b) and par. (1) headings, substituted "Except as provided in paragraph (2), nothing" for "Nothing", and added par. (2).

Subsec. (c). Pub. L. 115–282, §903(h)(2)(A), designated third sentence as subsec. (c) and inserted heading.

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, §1205, which enacted this section.

§4726. International cooperation

(a) Advice

The Task Force shall provide timely advice to the Secretary of State concerning aquatic nuisance species that infest waters shared with other countries.

(b) Negotiations

The Secretary of State, in consultation with the Task Force, is encouraged to initiate negotiations with the governments of foreign countries concerning the planning and implementation of prevention, monitoring, research, education, and control programs related to aquatic nuisance species infesting shared water resources.

(Pub. L. 101–646, title I, §1206, Nov. 29, 1990, 104 Stat. 4771; Pub. L. 104–332, §2(h)(1), Oct. 26, 1996, 110 Stat. 4091.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, §1206, which enacted this section.

§4727. Intentional introductions policy review

Within one year of November 29, 1990, the Task Force shall, in consultation with State fish and wildlife agencies, other regional, State and local entities, potentially affected industries and other interested parties, identify and evaluate approaches for reducing the risk of adverse consequences associated with intentional introduction of aquatic organisms and submit a report of their findings, conclusions and recommendations to the Congress.

(Pub. L. 101–646, title I, §1207, Nov. 29, 1990, 104 Stat. 4771; Pub. L. 104–332, §2(g), (h)(1), Oct. 26, 1996, 110 Stat. 4091.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–332, §2(h)(1), made technical amendment to Pub. L. 101–646, §1207, which enacted this section.

Pub. L. 104–332, §2(g), substituted "Congress" for "appropriate Committees".

§4728. Brown tree snake control program

The Task Force shall, within the program developed under section 4722(a) of this title, undertake a comprehensive, environmentally sound program in coordination with regional, territorial, State and local entities to control the brown tree snake (*Boiga irregularis*) in Guam and other areas where the species is established outside of its historic range.

(Pub. L. 101–646, title I, §1209, Nov. 29, 1990, 104 Stat. 4772; Pub. L. 104–332, §2(h)(1), Oct. 26, 1996, 110 Stat. 4091; Pub. L. 117–263, div. K, title CXIII, §11327(e)(5), Dec. 23, 2022, 136 Stat. 4098.)

EDITORIAL NOTES

AMENDMENTS

2022—Pub. L. 117–263 substituted "section 4722(a) of this title" for "subsection (a)".

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, §1209, which enacted this section.

§4729. Coastal Aquatic Invasive Species Mitigation Grant Program and Mitigation Fund

(1) Definitions

In this section:

(A) Coastal zone

The term "coastal zone" has the meaning given the term in section 1453 of this title.

(B) Eligible entity

The term "eligible entity" means—

- (i) a State;
- (ii) a unit of local government;
- (iii) an Indian Tribe;
- (iv) a nongovernmental organization; and
- (v) an institution of higher education.

(C) Exclusive Economic Zone

The term "Exclusive Economic Zone" means the Exclusive Economic Zone of the United States, as established by Presidential Proclamation 5030, dated March 10, 1983 (16 U.S.C. 1453 note).

(D) Foundation

The term "Foundation" means the National Fish and Wildlife Foundation established by section 3701(a) of this title.

(E) Fund

The term "Fund" means the Coastal Aquatic Invasive Species Mitigation Fund established by paragraph (3)(A).

(F) Program

The term "Program" means the Coastal Aquatic Invasive Species Mitigation Grant Program established under paragraph (2)(A).

(G) Secretary

The term "Secretary" means the Secretary of Commerce.

(2) Grant program

(A) Establishment

The Secretary and the Foundation shall establish a program, to be known as the "Coastal Aquatic Invasive Species Mitigation Grant Program", under which the Secretary and the Foundation shall award grants to eligible entities in accordance with this paragraph.

(B) Purposes

The purposes of the Program are—

(i) to improve the understanding, prevention, and mitigation of, and response to, aquatic invasive species in—

- (I) the coastal zone; and
- (II) the Exclusive Economic Zone;

(ii) to support the prevention and mitigation of impacts from aquatic invasive species in the coastal zone; and

(iii) to support the restoration of Pacific Island habitats, marine, estuarine, and Great Lakes environments in the coastal zone and the Exclusive Economic Zone that are impacted by aquatic invasive species.

(C) Use of grants

(i) In general

A grant awarded under the Program shall be used for an activity to carry out the purposes of the Program, including an activity—

- (I) to develop and implement procedures and programs, including permissible State ballast water inspection programs, to prevent, detect, control, mitigate, and rapidly or progressively eradicate aquatic invasive species in the coastal zone or the Exclusive Economic Zone, particularly in areas with high numbers of established aquatic invasive species;
- (II) to restore habitat impacted by an aquatic invasive species;
- (III) to develop new shipboard and land-based ballast water treatment system technologies and performance standards to prevent the introduction of aquatic invasive species;
- (IV) to develop mitigation measures to protect natural and cultural living resources, including shellfish, from the impacts of aquatic invasive species; or
- (V) to develop mitigation measures to protect infrastructure, such as hydroelectric infrastructure, from aquatic invasive species.

(ii) Prohibition on funding litigation

A grant awarded under the Program may not be used to fund litigation in any matter.

(D) Administration

Not later than 90 days after December 4, 2018, the Foundation, in consultation with the Secretary, shall establish the following:

- (i) Application and review procedures for awarding grants under the Program.
- (ii) Approval procedures for awarding grants under the Program, including a requirement for consultation with—
 - (I) the Secretary of the Interior; and
 - (II) the Administrator.

(iii) Performance accountability and monitoring measures for activities funded by a grant awarded under the Program.

(iv) Procedures and methods to ensure accurate accounting and appropriate administration of grants awarded under the Program, including standards of recordkeeping.

(E) Matching requirement

Each eligible entity that receives a grant under the Program shall provide, in cash or through in-kind contributions from non-Federal sources, matching funds to carry out the activities funded by the grant in an amount equal to not less than 25 percent of the cost of the activities.

(F) Funding

The Secretary and the Foundation are authorized to use the amounts available in the Fund to award grants under the Program.

(3) Mitigation Fund

(A) Establishment

There is established in the Treasury of the United States a trust fund, to be known as the "Coastal Aquatic Invasive Species Mitigation Fund", consisting of such amounts as are appropriated or credited to the Fund in accordance with this paragraph or section 9602 of title 26.

(B) Transfers to Fund

(i) Appropriation

There is authorized to be appropriated from the Treasury to the Fund, for each fiscal year, an amount equal to the amount of penalties assessed for violations of subsection (p) of section 1322 of title 33 during the preceding fiscal year.

(ii) Additional authorization

In addition to the amounts transferred to the Fund under clause (i), there is authorized to be appropriated to the Fund \$5,000,000 for each fiscal year.

(C) Use of Fund

Subject to appropriations, the amounts in the Fund shall be available to the Secretary and the Foundation to award grants under the Program.

(Pub. L. 115–282, title IX, §903(f), Dec. 4, 2018, 132 Stat. 4357.)

EDITORIAL NOTES

REFERENCES IN TEXT

Presidential Proclamation 5030, referred to in par. (1)(C), is Proc. No. 5030, Mar. 10, 1983, 48 F.R. 10605, which is set out as a note under section 1453 of this title.

CODIFICATION

Section was enacted as part of the Vessel Incidental Discharge Act of 2018 and also as part of the Frank LoBiondo Coast Guard Authorization Act of 2018, and not as part of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 which comprises this chapter.

Section is comprised of subsec. (f) of section 903 of Pub. L. 115–282. For classification to the Code of other provisions of section 903, see Tables.

§4730. Great Lakes and Lake Champlain Invasive Species Program

(1) Definitions

In this section:

(A) Administrator

The term "Administrator" means the Administrator of the Environmental Protection Agency.

(B) Aquatic nuisance species

The term "aquatic nuisance species" has the meaning given that term in subsection (p)(1) of section 1322 of title 33.

(C) Director

The term "Director" means the Director of the Great Lakes National Program Office established by section 1268(b) of title 33.

(D) Great Lakes and Lake Champlain Systems

The term "Great Lakes and Lake Champlain Systems" includes—

(i) Lake Champlain; and

(ii) all bodies of water (including wetlands) within—

(I) the Great Lakes System (as defined in section 1268(a)(3) of title 33); or

(II) the Lake Champlain drainage basin (as defined in section 1270(g) of title 33).

(E) Program

The term "Program" means the Great Lakes and Lake Champlain Invasive Species Program established under paragraph (2)(A).

(2) Establishment of program

(A) In general

The Administrator shall establish within the Great Lakes National Program Office a program, to be known as the "Great Lakes and Lake Champlain Invasive Species Program"—

(i) in collaboration with—

- (I) the Director of the United States Fish and Wildlife Service;
- (II) the Administrator of the National Oceanic and Atmospheric Administration;
- (III) the Director of the United States Geological Survey; and
- (IV) the Secretary of the department in which the Coast Guard is operating; and

(ii) in consultation with—

- (I) the head of Great Lakes Aquatic Nonindigenous Species Information System of the National Oceanic and Atmospheric Administration; and
- (II) the head of Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration.

(B) Purposes

The purposes of the Program shall be—

- (i) to monitor for the introduction and spread of aquatic nuisance species into or within the Great Lakes and Lake Champlain Systems;
- (ii) to detect newly introduced aquatic nuisance species prior to the establishment of the aquatic nuisance species in the Great Lakes and Lake Champlain Systems;
- (iii) to inform, and assist with, management and response actions to prevent or stop the establishment or spread of an aquatic nuisance species;
- (iv) to establish a watch list of candidate aquatic nuisance species that may be introduced or spread, and that may survive and establish, within the Great Lakes and Lake Champlain Systems;
- (v) to monitor vectors likely to be contributing to the introduction or spread of aquatic nuisance species, including ballast water operations;
- (vi) to work collaboratively with the Federal, State, local, and Tribal agencies to develop criteria for prioritizing and distributing monitoring efforts;
- (vii) to develop, achieve type approval for, and pilot shipboard or land-based ballast water management systems installed on, or available for use by, commercial vessels operating solely within the Great Lakes and Lake Champlain Systems to prevent the spread of aquatic nuisance species populations within the Great Lakes and Lake Champlain Systems; and
- (viii) to facilitate meaningful Federal and State implementation of the regulatory framework in this section, including monitoring, shipboard education, inspection, and compliance conducted by States.

(3) Methodology

The Program shall seek—

(A) to build on—

- (i) existing aquatic nuisance species monitoring efforts; and
- (ii) efforts to develop criteria for prioritizing and distributing monitoring efforts, geographically and among taxa, in the Great Lakes and Lake Champlain Systems;

(B) to advance early detection and monitoring, and capacity to control the establishment and spread, of aquatic nuisance species within the Great Lakes and Lake Champlain Systems;

(C) to identify opportunities to interdict the introduction and spread of aquatic nuisance species through sound science and technological advancements;

(D) to assess the risk of aquatic nuisance species introduction and spread via the range of vectors active within the Great Lakes and Lake Champlain Systems;

(E) to advance the development of type-approved ballast water management system (as defined in subsection (p)(1) of section 1322 of title 33 ¹ equipment for commercial, non-seagoing vessels that operate solely within the Great Lakes System (as defined in section 1268(a)(3) of title 33);

(F) to immediately make available to the public information regarding—

- (i) the detection of new aquatic nuisance species within the Great Lakes and Lake Champlain Systems; or
- (ii) the spread of aquatic nuisance species within the Great Lakes and Lake Champlain Systems;

(G) to annually submit to appropriate individuals and entities in each affected region a report describing the findings and activities of the Program;

(H) to identify roles and responsibilities of Federal agencies in aquatic nuisance species monitoring and response; and

(I) to provide resource assistance to States implementing State-level programs to enter into partnerships with Federal agencies in enforcing the requirements under subsection (p) of section 1322 of title 33.

(4) Collaboration

In carrying out and developing the Program, the Director shall collaborate with—

- (A) applicable Federal, State, local, and Tribal agencies; and
- (B) such other research entities or stakeholders as the Director determines to be appropriate.

(5) Data availability

The Director shall—

(A) make the data collected under the Program available on a publicly accessible internet website, including in an annual summary report; and

(B) in coordination with the entities identified under paragraph (4), develop communication and notification protocols for the purpose of communicating the range of aquatic nuisance species and any identification of a new aquatic nuisance species introduced to the Great Lakes and Lake Champlain Systems.

(6) Report to Congress

(A) In general

Not later than December 31, 2019, the Director shall submit to Congress a report summarizing the outcomes of activities carried out under the Program.

(B) Contents

The report under subparagraph (A) shall include—

(i) a description of activities carried out under the Program, including an explanation of how those activities help to achieve the purposes described in paragraph (2)(B);

(ii) an analysis of Federal, State, and local efforts to enhance multidisciplinary approaches to achieve the purposes described in paragraph (2)(B);

(iii) recommendations relating to activities that would contribute to achievement of the purposes described in paragraph (2)(B); and

(iv) recommendations to improve the efficiency and effectiveness of the Program.

(7) Authorization of appropriations

There is authorized to be appropriated to carry out the Program \$50,000,000 for each of fiscal years 2019 through 2023.

(Pub. L. 115–282, title IX, §903(g), Dec. 4, 2018, 132 Stat. 4359.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Vessel Incidental Discharge Act of 2018 and also as part of the Frank LoBiondo Coast Guard Authorization Act of 2018, and not as part of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 which comprises this chapter.

Section is comprised of subsec. (g) of section 903 of Pub. L. 115–282. For classification to the Code of other provisions of section 903, see Tables.

¹ So in original. Probably should be followed by a closing parenthesis.

SUBCHAPTER IV—AUTHORIZATION OF APPROPRIATIONS

§4741. Authorization of appropriations

(a) Prevention of unintentional introductions

There are authorized to be appropriated to develop and implement the provisions of subchapter II—

(1) \$500,000 until the end of fiscal year 1992 to the Secretary to carry out sections 4711 ¹ and 4712(a)(3) of this title;

(2) \$2,000,000 until the end of fiscal year 1992 to the Director and Under Secretary to carry out the studies under sections 4712(a)(1) and 4712(a)(2) ² of this title;

(3) to the Secretary to carry out section 4711 ¹ of this title—

(A) \$2,000,000 for each of fiscal years 1997 and 1998; and

(B) \$3,000,000 for each of fiscal years 1999 through 2002;

(4) for each of fiscal years 1997 through 2002, to carry out paragraphs (1) and (2) of section 4712(b) of this title—

(A) \$1,000,000 to the Department of the Interior, to be used by the Director; and

(B) \$1,000,000 to the Secretary; and

(5) for each of fiscal years 1997 through 2002—

(A) \$3,000,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to the Under Secretary to carry out section 4712(e) of this title; and

(B) \$500,000 to the Secretary to carry out section 4712(f) of this title.

(b) Task Force and aquatic nuisance species program

There are authorized to be appropriated for each of fiscal years 1997 through 2002 to develop and implement the provisions of subchapter III—

- (1) \$6,000,000 to the Department of the Interior, to be used by the Director to carry out sections 4722 and 4728 of this title;
- (2) \$1,000,000 to the Department of Commerce, to be used by the Under Secretary to carry out section 4722 of this title;
- (3) \$1,625,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to fund aquatic nuisance species prevention and control research under section 4722(i) of this title at the Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration, of which \$500,000 shall be made available for grants, to be competitively awarded and subject to peer review, for research relating to Lake Champlain;
- (4) \$5,000,000 for competitive grants for university research on aquatic nuisance species under section 4722(f)(3) of this title as follows:
 - (A) \$2,800,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to fund grants under section 1124 of title 33;
 - (B) \$1,200,000 to fund grants to colleges for the benefit of agriculture and the mechanic arts referred to in section 322 of title 7; and
 - (C) \$1,000,000 to fund grants through the Cooperative Fisheries and Wildlife Research Unit Program of the United States Fish and Wildlife Service;
- (5) \$3,000,000 to the Department of the Army, to be used by the Assistant Secretary to carry out section 4722(i)(1)(B) of this title; and
- (6) \$300,000 to the Department of the Interior, to be used by the Director to fund regional panels and similar entities under section 4723 of this title, of which \$100,000 shall be used to fund activities of the Great Lakes Commission.

(c) Grants for State management programs

There are authorized to be appropriated for each of fiscal years 1997 through 2002 \$4,000,000 to the Department of the Interior, to be used by the Director for making grants under section 4724 of this title, of which \$1,500,000 shall be used by the Director, in consultation with the Assistant Secretary, for management of aquatic nuisance vegetation species.

(d) Intentional introductions policy review

There are authorized to be appropriated for fiscal year 1991, \$500,000 to the Director and the Under Secretary to conduct the intentional introduction policy review under section 4727 of this title.

(e) Ballast water management demonstration program

There are authorized to be appropriated \$2,500,000 to carry out section 4714 of this title.

(f) Research

There are authorized to be appropriated to the Director \$1,000,000 to carry out research on the prevention, monitoring, and control of aquatic nuisance species in Narragansett Bay, Rhode Island. The funds shall be made available for use by the Department of Environmental Management of the State of Rhode Island.

(Pub. L. 101–646, title I, §1301, Nov. 29, 1990, 104 Stat. 4772; Pub. L. 102–186, §4(b)(2), Dec. 4, 1991, 105 Stat. 1283; Pub. L. 104–332, §2(f), (h)(1), Oct. 26, 1996, 110 Stat. 4090, 4091.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4711 of this title, referred to in subsec. (a)(1), (3), was repealed by Pub. L. 115–282, title IX, §903(a)(2)(A)(i), Dec. 4, 2018, 132 Stat. 4354.

CODIFICATION

"Section 322 of title 7" substituted in subsec. (b)(4)(B) for "the first section of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322)". Section 1 of the act of Aug. 30, 1890, is classified to sections 322 and 323 of Title 7, Agriculture, but only section 322 refers to agriculture and the mechanic arts.

AMENDMENTS

1996—Pub. L. 104–332, §2(h)(1), made technical amendment to Pub. L. 101–646, §1301, which enacted this section.

Subsec. (a)(3). Pub. L. 104–332, §2(f)(1)(B), added par. (3) and struck out former par. (3) which read as follows: "\$1,000,000 for each of fiscal years 1993, 1994, and 1995 to the Secretary for implementation and enforcement of the regulations promulgated under section 4711 of this title."

Subsec. (a)(4), (5). Pub. L. 104–332, §2(f)(1)(A), (C), added pars. (4) and (5).

Subsec. (b). Pub. L. 104–332, §2(f)(2)(A), substituted "1997 through 2002" for "1991, 1992, 1993, 1994, and 1995" in introductory provisions.

Subsec. (b)(1) to (7). Pub. L. 104–332, §2(f)(2)(B), added pars. (1) to (6) and struck out former pars. (1) to (7) which read as follows:

"(1) \$7,000,000 to the Director to carry out sections 4722 and 4728 of this title;

"(2) \$5,000,000 to the Under Secretary to carry out section 4722 of this title;

"(3) \$1,125,000 to fund aquatic nuisance species prevention and control research under section 4722(i) of this title at the Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration;

"(4) \$5,000,000 for competitive grants for university research on aquatic nuisance species under section 4722(f)(3) of this title as follows:

"(A) \$3,375,000 to fund grants under the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.), and of this amount, \$2,500,000 to fund grants in the Great Lakes region; and

"(B) \$1,675,000 to fund grants through the Cooperative Fisheries and Wildlife Research Unit Program of the United States Fish and Wildlife Service;

"(5) \$500,000 to fund Sea Grant Marine Advisory Services education and technical assistance related to infestations of zebra mussels under sections 4722(g) and (h) of this title;

"(6) \$200,000 to fund aquatic nuisance species prevention and control activities of the Great Lakes Commission; and

"(7) \$2,000,000 to the Assistant Secretary to carry out section 4722(i)(2) of this title."

Subsec. (c). Pub. L. 104–332, §2(f)(3), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: "There are authorized to be appropriated for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to make grants under section 4724 of this title—

"(1) \$2,500,000 to the Director; and

"(2) \$5,000,000 to the Assistant Secretary."

Subsecs. (e), (f). Pub. L. 104–332, §2(f)(4), added subsecs. (e) and (f).

1991—Subsec. (b)(4)(A). Pub. L. 102–186 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "\$3,375,000 to fund grants under section 1125 of title 33, and of this amount, \$2,500,000 to fund grants in the Great Lakes region; and".

¹ See References in Text note below.

² So in original. Probably should be followed by a closing parenthesis.

SUBCHAPTER V—COOPERATIVE ENVIRONMENTAL ANALYSES

§4751. Environmental impact analyses

The Secretary of State, in consultation with the Council on Environmental Quality, is encouraged to enter into negotiations with the governments of Canada and Mexico to provide for reciprocal cooperative environmental impact analysis of major Federal actions which have significant transboundary effects on the quality of the human environment in the United States, Canada, and Mexico.

(Pub. L. 101–646, title I, §1401, Nov. 29, 1990, 104 Stat. 4773; Pub. L. 104–332, §2(h)(1), Oct. 26, 1996, 110 Stat. 4091.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–332 made technical amendment to Pub. L. 101–646, §1401, which enacted this section.