

bodies of water within the drainage basin of such lakes and connecting channels.

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

(14) “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;

(15) “Under Secretary” means the Under Secretary of Commerce for Oceans and Atmosphere;

(16) “waters of the United States” means the navigable waters and the territorial sea of the United States; and

(17) “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.)

#### 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, as amended, 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. (14), is set out under section 1331 of Title 43.

#### AMENDMENTS

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”.

#### 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.

#### SUBCHAPTER II—PREVENTION OF UNINTENTIONAL INTRODUCTIONS OF NON-INDIGENOUS AQUATIC SPECIES

##### §4711. Aquatic nuisance species in waters of United States

###### (a) Great Lakes guidelines

###### (1) In general

Not later than 6 months after November 29, 1990, the Secretary shall issue voluntary

guidelines to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the exchange of ballast water of vessels prior to entering those waters.

**(2) Content of guidelines**

The guidelines issued under this subsection shall—

(A) ensure to the maximum extent practicable that ballast water containing aquatic nuisance species is not discharged into the Great Lakes;

(B) protect the safety of—

- (i) each vessel; and
- (ii) the crew and passengers of each vessel;

(C) take into consideration different vessel operating conditions; and

(D) be based on the best scientific information available.

**(b) Regulations**

**(1) In general**

Not later than 2 years after November 29, 1990, the Secretary, in consultation with the Task Force, shall issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the ballast water of vessels.

**(2) Content of regulations**

The regulations issued under this subsection shall—

(A) apply to all vessels equipped with ballast water tanks that enter a United States port on the Great Lakes after operating on the waters beyond the exclusive economic zone;

(B) require a vessel to—

(i) carry out exchange of ballast water on the waters beyond the exclusive economic zone prior to entry into any port within the Great Lakes;

(ii) carry out an exchange of ballast water in other waters where the exchange does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States, as recommended by the Task Force under section 4712(a)(1) of this title; or

(iii) use environmentally sound alternative ballast water management methods if the Secretary determines that such alternative methods are as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

(C) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(D) provide for sampling procedures to monitor compliance with the requirements of the regulations;

(E) prohibit the operation of a vessel in the Great Lakes if the master of the vessel has not certified to the Secretary or the Secretary's designee by not later than the departure of that vessel from the first lock in

the St. Lawrence Seaway that the vessel has complied with the requirements of the regulations;

(F) protect the safety of—

- (i) each vessel; and
- (ii) the crew and passengers of each vessel;

(G) take into consideration different operating conditions; and

(H) be based on the best scientific information available.

**(3) Additional regulations**

In addition to promulgating regulations under paragraph (1), the Secretary, in consultation with the Task Force, shall, not later than November 4, 1994, issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through ballast water carried on vessels that enter a United States port on the Hudson River north of the George Washington Bridge.

**(4) Education and technical assistance programs**

The Secretary may carry out education and technical assistance programs and other measures to promote compliance with the regulations issued under this subsection.

**(c) Voluntary national guidelines**

**(1) In general**

Not later than 1 year after October 26, 1996, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of nonindigenous species in waters of the United States by ballast water operations and other operations of vessels equipped with ballast water tanks.

**(2) Content of guidelines**

The voluntary guidelines issued under this subsection shall—

(A) ensure to the maximum extent practicable that aquatic nuisance species are not discharged into waters of the United States from vessels;

(B) apply to all vessels equipped with ballast water tanks that operate in waters of the United States;

(C) protect the safety of—

- (i) each vessel; and
- (ii) the crew and passengers of each vessel;

(D) direct a vessel that is carrying ballast water into waters of the United States after operating beyond the exclusive economic zone to—

(i) carry out the exchange of ballast water of the vessel in waters beyond the exclusive economic zone;

(ii) exchange the ballast water of the vessel in other waters where the exchange does not pose a threat of infestation or spread of nonindigenous species in waters of the United States, as recommended by the Task Force under section 4712(a)(1) of this title; or

(iii) use environmentally sound alternative ballast water management meth-

ods, including modification of the vessel ballast water tanks and intake systems, if the Secretary determines that such alternative methods are at least as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

(E) direct vessels to carry out management practices that the Secretary determines to be necessary to reduce the probability of unintentional nonindigenous species transfer resulting from—

(i) ship operations other than ballast water discharge; and

(ii) ballasting practices of vessels that enter waters of the United States with no ballast water on board;

(F) provide for the keeping of records that shall be submitted to the Secretary, as prescribed by the guidelines, and that shall be maintained on board each vessel and made available for inspection, upon request of the Secretary and in a manner consistent with subsection (i) of this section, in order to enable the Secretary to determine compliance with the guidelines, including—

(i) with respect to each ballast water exchange referred to in clause (ii), reporting on the precise location and thoroughness of the exchange; and

(ii) any other information that the Secretary considers necessary to assess the rate of effective compliance with the guidelines;

(G) provide for sampling procedures to monitor compliance with the guidelines;

(H) take into consideration—

- (i) vessel types;
- (ii) variations in the characteristics of point of origin and receiving water bodies;
- (iii) variations in the ecological conditions of waters and coastal areas of the United States; and
- (iv) different operating conditions;

(I) be based on the best scientific information available;

(J) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(K) provide an exemption from ballast water exchange requirements to passenger vessels with operating ballast water systems that are equipped with treatment systems designed to kill aquatic organisms in ballast water, unless the Secretary determines that such treatment systems are less effective than ballast water exchange at reducing the risk of transfers of invasive species in the ballast water of passenger vessels; and

(L) not apply to crude oil tankers engaged in the coastwise trade.

### (3) Education and technical assistance programs

Not later than 1 year after October 26, 1996, the Secretary shall carry out education and technical assistance programs and other meas-

ures to encourage compliance with the guidelines issued under this subsection.

### (d) Report to Congress

Not sooner than 24 months after the date of issuance of guidelines pursuant to subsection (c) of this section and not later than 30 months after such date, and after consultation with interested and affected persons, the Secretary shall prepare and submit to Congress a report containing the information required pursuant to paragraphs (1) and (2) of subsection (e) of this section.

### (e) Periodic review and revision

#### (1) In general

Not later than 3 years after the date of issuance of guidelines pursuant to subsection (c) of this section, and not less frequently than every 3 years thereafter, the Secretary shall, in accordance with criteria developed by the Task Force under paragraph (3)—

(A) assess the compliance by vessels with the voluntary guidelines issued under subsection (c) of this section and the regulations promulgated under this chapter;

(B) establish the rate of compliance that is based on the assessment under subparagraph (A);

(C) assess the effectiveness of the voluntary guidelines and regulations referred to in subparagraph (A) in reducing the introduction and spread of aquatic nuisance species by vessels; and

(D) as necessary, on the basis of the best scientific information available—

(i) revise the guidelines and regulations referred to in subparagraph (A);

(ii) promulgate additional regulations pursuant to subsection (f)(1) of this section; or

(iii) carry out each of clauses (i) and (ii).

#### (2) Special review and revision

Not later than 90 days after the Task Force makes a request to the Secretary for a special review and revision for coastal and inland waterways designated by the Task Force, the Secretary shall—

(A) conduct a special review of guidelines and regulations applicable to those waterways in accordance with the review procedures under paragraph (1); and

(B) as necessary, in the same manner as provided under paragraph (1)(D)—

(i) revise those guidelines;

(ii) promulgate additional regulations pursuant to subsection (f)(1) of this section; or

(iii) carry out each of clauses (i) and (ii).

#### (3) Criteria for effectiveness

Not later than 18 months after October 26, 1996, the Task Force shall submit to the Secretary criteria for determining the adequacy and effectiveness of the voluntary guidelines issued under subsection (c) of this section.

### (f) Authority of Secretary

#### (1) General regulations

If, on the basis of a periodic review conducted under subsection (e)(1) of this section

or a special review conducted under subsection (e)(2) of this section, the Secretary determines that—

(A) the rate of effective compliance (as determined by the Secretary) with the guidelines issued pursuant to subsection (c) of this section is inadequate; or

(B) the reporting by vessels pursuant to those guidelines is not adequate for the Secretary to assess the compliance with those guidelines and provide a rate of compliance of vessels, including the assessment of the rate of compliance of vessels under subsection (e)(2) of this section,

the Secretary shall promptly promulgate regulations that meet the requirements of paragraph (2).

**(2) Requirements for regulations**

The regulations promulgated by the Secretary under paragraph (1)—

(A) shall—

(i) not be promulgated sooner than 180 days following the issuance of the report to Congress submitted pursuant to subsection (d) of this section;

(ii) make mandatory the requirements included in the voluntary guidelines issued under subsection (c) of this section; and

(iii) provide for the enforcement of the regulations; and

(B) may be regional in scope.

**(3) International regulations**

The Secretary shall revise regulations promulgated under this subsection to the extent required to make such regulations consistent with the treatment of a particular matter in any international agreement, agreed to by the United States, governing management of the transfer of nonindigenous aquatic species by vessel.

**(g) Sanctions**

**(1) Civil penalties**

Any person who violates a regulation promulgated under subsection (b) or (f) of this section shall be liable for a civil penalty in an amount not to exceed \$25,000. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

**(2) Criminal penalties**

Any person who knowingly violates the regulations promulgated under subsection (b) or (f) of this section is guilty of a class C felony.

**(3) Revocation of clearance**

Upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance of a vessel required by section 60105 of title 46, if the owner or operator of that vessel is in violation of the regulations issued under subsection (b) or (f) of this section.

**(4) Exception to sanctions**

This subsection does not apply to a failure to exchange ballast water if—

(A) the master of a vessel, acting in good faith, decides that the exchange of ballast

water will threaten the safety or stability of the vessel, its crew, or its passengers; and

(B) the recordkeeping and reporting requirements of this chapter are complied with.

**(h) Coordination with other agencies**

In carrying out the programs under this section, the Secretary is encouraged to use, to the maximum extent practicable, the expertise, facilities, members, or personnel of established agencies and organizations that have routine contact with vessels, including the Animal and Plant Health Inspection Service of the Department of Agriculture, the National Cargo Bureau, port administrations, and ship pilots' associations.

**(i) Consultation with Canada, Mexico, and other foreign governments**

In developing the guidelines issued and regulations promulgated under this section, the Secretary is encouraged to consult with the Government of Canada, the Government of Mexico, and any other government of a foreign country that the Secretary, in consultation with the Task Force, determines to be necessary to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species.

**(j) International cooperation**

The Secretary, in cooperation with the International Maritime Organization of the United Nations and the Commission on Environmental Cooperation established pursuant to the North American Free Trade Agreement, is encouraged to enter into negotiations with the governments of foreign countries to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species.

**(k) Safety exemption**

**(1) Master discretion**

The master of a vessel is not required to conduct a ballast water exchange if the master decides that the exchange would threaten the safety or stability of the vessel, its crew, or its passengers because of adverse weather, vessel architectural design, equipment failure, or any other extraordinary conditions.

**(2) Other requirements**

**(A) In general**

Except as provided in subparagraph (B), a vessel that does not exchange ballast water on the high seas under paragraph (1) shall not be restricted from discharging ballast water in any harbor.

**(B) Great Lakes**

Subparagraph (A) shall not apply in a case in which a vessel is subject to the regulations issued by the Secretary under subsection (b) of this section.

**(3) Crude oil tanker ballast facility study**

(A) Within 60 days of October 26, 1996,<sup>1</sup> the Secretary of the department in which the Coast Guard is operating, in consultation with

<sup>1</sup> See Codification note below.

the Under Secretary of Commerce for Oceans and Atmosphere, affected shoreside ballast water facility operators, affected crude oil tanker operators, and interested parties, shall initiate a study of the effectiveness of existing shoreside ballast water facilities used by crude oil tankers in the coastwise trade off Alaska in preventing the introduction of nonindigenous aquatic species into the waters off Alaska, as well as the cost and feasibility of modifying such facilities to improve such effectiveness.

(B) The study required under subparagraph (A) shall be submitted to the Congress by no later than October 1, 1997.

**(I) Non-discrimination**

The Secretary shall ensure that vessels registered outside of the United States do not receive more favorable treatment than vessels registered in the United States when the Secretary performs studies, reviews compliance, determines effectiveness, establishes requirements, or performs any other responsibilities under this chapter.

(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.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsecs. (b)(2)(C) and (c)(2)(J), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

This chapter, referred to in subsecs. (e)(1)(A), (g)(4)(B), and (I), was in the original “this Act” or “the 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.

CODIFICATION

In subsec. (g)(3), “section 60105 of title 46” substituted for “section 4197 of the Revised Statutes (46 U.S.C. App. 91)” on authority of Pub. L. 109-304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

October 26, 1996, referred to in subsec. (k)(3), was in the original “the date of enactment of this Act”, which was translated as meaning the date of enactment of Pub. L. 104-332, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

1996—Pub. L. 104-332 amended section generally, substituting subsecs. (a) to (I) relating to aquatic nuisance species in waters of the United States for former subsecs. (a) to (e) relating to aquatic nuisance species in the Great Lakes.

1992—Subsec. (b)(3). Pub. L. 102-580 and Pub. L. 102-587 made substantively identical amendments, adding par. (3). Par. (3) is based on text of Pub. L. 102-587.

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.

**§ 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, the Task Force shall submit a report to the Congress that presents the results of the study required under subsection (a)(1) of this section 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) of this section.

**(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; and

(C) any other information obtained by the Task Force under subsection (b) of this section.

**(2) Report**

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.

(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.)

AMENDMENTS

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.)

#### 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 Sec-

retary 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) of this section, 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; and

(7) the head of any other Federal agency that the chairpersons designated under subsection (d) of this section deem appropriate.

**(c) Ex officio members**

The chairpersons designated under subsection (d) of this section shall invite representatives of the Great Lakes Commission, the 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.

(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.)

**REFERENCES IN TEXT**

This subchapter, referred to in subssecs. (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**

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”.

**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) of this section 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;