

(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 Mari-

time 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) deem appropriate.

(c) Ex officio members

The chairpersons designated under subsection (d) 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 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

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) 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.

(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 avail-

able 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.

(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.)

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

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,¹ 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 encourage² 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 stem-

ming 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.)

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

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

¹ So in original. Probably should be followed by “and”.

² So in original. Probably should be “encouraged”.

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) Administrative¹ 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 141² 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.)

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.

¹ So in original. Probably should be "Administrative".

² See References in Text note below.

AMENDMENTS

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).

§ 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.)

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.)

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.)

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 subsection (a),¹ 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.)

AMENDMENTS

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.

¹So in original. Probably should be “subsection (a) of section 4722 of this title.”

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

(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.)

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 33¹ 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.)

CODIFICATION

Section was enacted as part of the Vessel Incidental Discharge Act of 2018 and also as part of the Frank

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

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.

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 4711¹ 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 4711¹ 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.)

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.

¹ See References in Text note below.

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