

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

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

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

Par. (2). Pub. L. 104–332, § 2(a)(2)(B), substituted “‘Assistant Secretary’ means” for “‘assistant Secretary’ means”.

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

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

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

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

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

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

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

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

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

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

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

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 Repealed.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

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

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

§ 4712. National ballast water management information

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

(1) Ballast exchange study

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

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

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

(2) Biological study

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

(3) Shipping study

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

(A) the degree to which shipping may be a major pathway of transmission of aquatic nuisance species in those waters;

(B) possible alternatives for controlling introduction of those species through shipping; and

(C) the feasibility of implementing regional versus national control measures.

(b) Ecological and ballast water discharge surveys

(1) Ecological surveys

(A) In general

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

(i) to be highly susceptible to invasion by aquatic nuisance species resulting from ballast water operations and other operations of vessels; and

(ii) to require further study.

(B) Requirements for surveys

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

(i) examine the attributes and patterns of invasions of aquatic nuisance species; and

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

(2) Ballast water discharge surveys

(A) In general

The Secretary, in cooperation with the Task Force, shall conduct surveys of ballast

water discharge rates and practices in the waters referred to in paragraph (1)(A) on the basis of the criteria under clauses (i) and (ii) of such paragraph.

(B) Requirements for surveys

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

(i) examine the rate of, and trends in, ballast water discharge in the waters that are the subject of the survey; and

(ii) assess the effectiveness of voluntary guidelines issued, and regulations promulgated, under this subchapter in altering ballast water discharge practices to reduce the probability of accidental introductions of aquatic nuisance species.

(3) Columbia River

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

(c) Reports

(1) Ballast exchange

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

(2) Biological and shipping studies

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

(d) Negotiations

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

(e) Regional research grants

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

(1) make available not to exceed \$750,000 to fund research on aquatic nuisance species prevention and control in the Chesapeake Bay through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

(2) make available not to exceed \$500,000 to fund research on aquatic nuisance species prevention and control in the Gulf of Mexico through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

(3) make available not to exceed \$500,000 to fund research on aquatic nuisance species pre-

vention and control for the Pacific Coast through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

(4) make available not to exceed \$500,000 to fund research on aquatic nuisance species prevention and control for the Atlantic Coast through grants, to be competitively awarded and subject to peer review, to universities and research institutions; and

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

(f) National ballast information clearinghouse

(1) In general

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

(A) ballasting practices;

(B) compliance with the guidelines issued pursuant to section 4711(c) of this title (as in effect on the day before December 4, 2018); and

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

(2) Ballast water reporting requirements

(A) In general

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

(B) Multiple discharges

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

(C) Advance report to States

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

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

(ii) before departing the port or place of departure, if the voyage of the vessel to the United States port or place of destination is not anticipated to exceed 24 hours.

(3) Vessel reporting data**(A) Dissemination to States**

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

(i) in the case of a form submitted electronically, immediately disseminate the report to interested States; or

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

(B) Availability to public

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

(4) Report**(A) In general**

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

(B) Contents

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

(i) ballast water delivery and management; and

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

(C) Development

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

(i) the Task Force; and

(ii) the Smithsonian Institution (acting through the Smithsonian Environmental Research Center).

(D) Submission

The Secretary shall—

(i) submit each report under this paragraph to—

(I) the Task Force;

(II) the Committee on Commerce, Science, and Transportation of the Senate; and

(III) the Committee on Transportation and Infrastructure of the House of Representatives; and

(ii) make each report available to the public.

(5) Working group

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

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

Editorial Notes

REFERENCES IN TEXT

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

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

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

AMENDMENTS

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

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

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

“(A) ballast water delivery and management; and

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

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

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

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

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

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

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

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

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

§ 4713. Armed services ballast water programs**(a) Department of Defense vessels**

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

(b) Coast Guard vessels

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

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

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

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

§ 4714. Ballast water management demonstration program**(a) “Technologies and practices” defined**

For purposes of this section, the term “technologies and practices” means those technologies and practices that—

(1) may be retrofitted—

(A) on existing vessels or incorporated in new vessel designs; and

(B) on existing land-based ballast water treatment facilities;

(2) may be designed into new water treatment facilities;

(3) are operationally practical;

(4) are safe for a vessel and crew;

(5) are environmentally sound;

(6) are cost-effective;

(7) a vessel operator is capable of monitoring; and

(8) are effective against a broad range of aquatic nuisance species.

(b) Demonstration program**(1) In general**

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

(2) Location

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

(3) Vessel selection

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

(A) use only vessels that—

(i) are approved by the Secretary;

(ii) have ballast water systems conducive to testing aboard-vessel or land-based technologies and practices applicable to a significant number of merchant vessels; and

(iii) are—

(I) publicly or privately owned; and

(II) in active use for trade or other cargo shipment purposes during the demonstration;

(B) select vessels for participation in the program by giving priority consideration—

(i) first, to vessels documented under chapter 121 of title 46;

(ii) second, to vessels that are a majority owned by citizens of the United States, as determined by the Secretary; and

(iii) third, to any other vessels that regularly call on ports in the United States; and

(C) seek to use a variety of vessel types, including vessels that—

(i) call on ports in the United States and on the Great Lakes; and

(ii) are operated along major coasts of the United States and inland waterways, including the San Francisco Bay and Chesapeake Bay.

(4) Selection of technologies and practices

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

(5) Report

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

(c) Authorities; consultation and cooperation with International Maritime Organization and Task Force**(1) Authorities**

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