

§ 4724. State aquatic nuisance species management plans

(a) State or interstate invasive species management plans

(1) In general

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

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

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

(2) Content

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

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

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

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

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

(3) Consultation

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

(B) Upon the request of a State or the appropriate official of an interstate organization, the Task Force or the Assistant Secretary, as appropriate under paragraph (1), may provide

technical assistance in developing and implementing a management plan.

(4) Plan approval

Within 90 days after the submission of a management plan, the Task Force or the Assistant Secretary in consultation with the Task Force, as appropriate under paragraph (1), shall review the proposed plan and approve it if it meets the requirements of this subsection or return the plan to the Governor or the interstate organization with recommended modifications.

(b) Grant program

(1) State grants

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

(2) Application

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

(3) Federal share

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

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

(4) Administrative costs

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

(5) In-kind contributions

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

(c) Enforcement assistance

Upon request of a State or Indian tribe, the Director or the Under Secretary, to the extent allowable by law and in a manner consistent with section 141¹ 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,

¹ See References in Text note below.

1996, 110 Stat. 4089, 4091; Pub. L. 117–263, div. K, title CXIII, §11327(e)(4), Dec. 23, 2022, 136 Stat. 4098.)

Editorial Notes

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

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

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

Subsec. (a)(1)(B). Pub. L. 104–332, §2(e)(6)(A)(iii)(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.)

Editorial Notes

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

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

§ 4726. International cooperation

(a) Advice

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

(b) Negotiations

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

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

Editorial Notes

AMENDMENTS

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