

(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 non-indigenous species from being introduced into and spread through ballast water in the Great Lakes and other waters of the United States.

(2) Location

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

(3) Vessel selection

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

(A) use only vessels that—

(i) are approved by the Secretary;

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

(iii) are—

(I) publicly or privately owned; and

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

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

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

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

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

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

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

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

(4) Selection of technologies and practices

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

(5) Report

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

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

(1) Authorities

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

(A) enter into cooperative agreements with appropriate officials of other agencies of the Federal Government, agencies of States and political subdivisions thereof, and private entities;

(B) accept funds, facilities, equipment, or personnel from other Federal agencies; and

(C) accept donations of property and services.

(2) Consultation and cooperation

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

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

SUBCHAPTER III—PREVENTION AND CONTROL OF AQUATIC NUISANCE SPECIES DISPERSAL

§ 4721. Establishment of Task Force

(a) Task Force

There is hereby established an “Aquatic Nuisance Species Task Force”.

(b) Membership

Membership of the Task Force shall consist of—

- (1) the Director;
- (2) the Under Secretary;
- (3) the Administrator of the Environmental Protection Agency;
- (4) the Commandant of the United States Coast Guard;
- (5) the Assistant Secretary;
- (6) the Secretary of Agriculture; 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”.

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§ 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 in-