

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 Repealed.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 unin-

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

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

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

(f) National ballast information clearinghouse**(1) In general**

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

(A) ballasting practices;

(B) compliance with the guidelines issued pursuant to section 4711(c) of this title (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.)