

SUBCHAPTER I—GENERAL PROVISIONS

§ 4701. Findings and purposes

(a) Findings

The Congress finds that—

(1) the discharge of untreated water in the ballast tanks of vessels and through other means results in unintentional introductions of nonindigenous species to fresh, brackish, and saltwater environments;

(2) when environmental conditions are favorable, nonindigenous species become established, may compete with or prey upon native species of plants, fish, and wildlife, may carry diseases or parasites that affect native species, and may disrupt the aquatic environment and economy of affected nearshore areas;

(3) the zebra mussel was unintentionally introduced into the Great Lakes and has infested—

(A) waters south of the Great Lakes, into a good portion of the Mississippi River drainage;

(B) waters west of the Great Lakes, into the Arkansas River in Oklahoma; and

(C) waters east of the Great Lakes, into the Hudson River and Lake Champlain;

(4) the potential economic disruption to communities affected by the zebra mussel due to its colonization of water pipes, boat hulls and other hard surfaces has been estimated at \$5,000,000,000 by the year 2000, and the potential disruption to the diversity and abundance of native fish and other species by the zebra mussel and ruffe, round goby, and other nonindigenous species could be severe;

(5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate;

(6) in 1992, the zebra mussel was discovered at the northernmost reaches of the Chesapeake Bay watershed;

(7) the zebra mussel poses an imminent risk of invasion in the main waters of the Chesapeake Bay;

(8) since the Chesapeake Bay is the largest recipient of foreign ballast water on the East Coast, there is a risk of further invasions of other nonindigenous species;

(9) the zebra mussel is only one example of thousands of nonindigenous species that have become established in waters of the United States and may be causing economic and ecological degradation with respect to the natural resources of waters of the United States;

(10) since their introduction in the early 1980's in ballast water discharges, ruffe—

(A) have caused severe declines in populations of other species of fish in Duluth Harbor (in Minnesota and Wisconsin);

(B) have spread to Lake Huron; and

(C) are likely to spread quickly to most other waters in North America if action is not taken promptly to control their spread;

(11) examples of nonindigenous species that, as of October 26, 1996, infest coastal waters of the United States and that have the potential

for causing adverse economic and ecological effects include—

(A) the mitten crab (*Eriocheir sinensis*) that has become established on the Pacific Coast;

(B) the green crab (*Carcinus maenas*) that has become established in the coastal waters of the Atlantic Ocean;

(C) the brown mussel (*Perna perna*) that has become established along the Gulf of Mexico; and

(D) certain shellfish pathogens;

(12) many aquatic nuisance vegetation species, such as Eurasian watermilfoil, hydrilla, water hyacinth, and water chestnut, have been introduced to waters of the United States from other parts of the world causing or having a potential to cause adverse environmental, ecological, and economic effects;

(13) if preventive management measures are not taken nationwide to prevent and control unintentionally introduced nonindigenous aquatic species in a timely manner, further introductions and infestations of species that are as destructive as, or more destructive than, the zebra mussel or the ruffe infestations may occur;

(14) once introduced into waters of the United States, aquatic nuisance species are unintentionally transported and introduced into inland lakes and rivers by recreational boaters, commercial barge traffic, and a variety of other pathways; and

(15) resolving the problems associated with aquatic nuisance species will require the participation and cooperation of the Federal Government and State governments, and investment in the development of prevention technologies.

(b) Purposes

The purposes of this chapter are—

(1) to prevent unintentional introduction and dispersal of nonindigenous species into waters of the United States through ballast water management and other requirements;

(2) to coordinate federally conducted, funded or authorized research, prevention¹ control, information dissemination and other activities regarding the zebra mussel and other aquatic nuisance species;

(3) to develop and carry out environmentally sound control methods to prevent, monitor and control unintentional introductions of nonindigenous species from pathways other than ballast water exchange;

(4) to understand and minimize economic and ecological impacts of nonindigenous aquatic nuisance species that become established, including the zebra mussel; and

(5) to establish a program of research and technology development and assistance to States in the management and removal of zebra mussels.

(Pub. L. 101-646, title I, § 1002, Nov. 29, 1990, 104 Stat. 4761; Pub. L. 104-182, title III, § 308(a), Aug. 6, 1996, 110 Stat. 1689; Pub. L. 104-332, § 2(a)(1), (h)(1), Oct. 26, 1996, 110 Stat. 4073, 4091.)

¹ So in original. Probably should be followed by a comma.

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), 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 below and Tables.

AMENDMENTS

1996—Pub. L. 104-332, §2(h)(1), made technical amendment to Pub. L. 101-646, §1002, which enacted this section.

Subsec. (a)(2), (3). Pub. L. 104-332, §2(a)(1)(A), added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

“(2) when environmental conditions are favorable, nonindigenous species, such as the zebra mussel (*Dreissena polymorpha*), become established and may disrupt the aquatic environment and economy of affected coastal areas;

“(3) the zebra mussel was unintentionally introduced into the Great Lakes and, if left uncontrolled, is expected to infest over two-thirds of the continental United States through the unintentional transportation of larvae and adults by vessels operating in inland waters;”

Subsec. (a)(4). Pub. L. 104-332, §2(a)(1)(B)(i), inserted “by the zebra mussel and ruffe, round goby, and other nonindigenous species” after “other species”.

Subsec. (a)(5). Pub. L. 104-182 added par. (5).

Subsec. (a)(6) to (15). Pub. L. 104-332, §2(a)(1)(B)(ii), (C), (D), added pars. (6) to (15).

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-332, §1(a), Oct. 26, 1996, 110 Stat. 4073, provided that: “This Act [enacting sections 4713 and 4714 of this title, amending sections 941 to 941g, 4701, 4702, 4711, 4712, 4721 to 4728, 4741 and 4751 of this title, section 42 of Title 18, Crimes and Criminal Procedure, and section 2761 of Title 33, Navigation and Navigable Waters, enacting provisions set out as a note under this section, and amending provisions set out as notes under this section, section 941 of this title, and section 2701 of Title 33] may be cited as the ‘National Invasive Species Act of 1996’.”

SHORT TITLE

Pub. L. 101-646, title I, §1001, Nov. 29, 1990, 104 Stat. 4761, as amended by Pub. L. 104-332, §2(h)(1), Oct. 26, 1996, 110 Stat. 4091, provided that: “This title [enacting this chapter and amending section 42 of Title 18, Crimes and Criminal Procedure] may be cited as the ‘Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990’.”

AQUATIC INVASIVE SPECIES PREVENTION

Pub. L. 113-121, title I, §1039(b), June 10, 2014, 128 Stat. 1237, provided that:

“(1) MULTIAGENCY EFFORT TO SLOW THE SPREAD OF ASIAN CARP IN THE UPPER MISSISSIPPI AND OHIO RIVER BASINS AND TRIBUTARIES.—

“(A) IN GENERAL.—The Director of the United States Fish and Wildlife Service, in coordination with the Secretary [of the Army], the Director of the National Park Service, and the Director of the United States Geological Survey, shall lead a multiagency effort to slow the spread of Asian carp in the Upper Mississippi and Ohio River basins and tributaries by providing technical assistance, coordination, best practices, and support to State and local governments in carrying out activities designed to slow, and eventually eliminate, the threat posed by Asian carp.

“(B) BEST PRACTICES.—To the maximum extent practicable, the multiagency effort shall apply lessons learned and best practices such as those de-

scribed in the document prepared by the Asian Carp Working Group entitled ‘Management and Control Plan for Bighead, Black, Grass, and Silver Carps in the United States’ and dated November 2007, and the document prepared by the Asian Carp Regional Coordinating Committee entitled ‘FY 2012 Asian Carp Control Strategy Framework’ and dated February 2012.

“(2) REPORT TO CONGRESS.—

“(A) IN GENERAL.—Not later than December 31 of each year, the Director of the United States Fish and Wildlife Service, in coordination with the Secretary, shall submit to the Committee on Appropriations and the Committee on Environment and Public Works of the Senate and the Committee on Appropriations, the Committee on Natural Resources, and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report describing the coordinated strategies established and progress made toward the goals of controlling and eliminating Asian carp in the Upper Mississippi and Ohio River basins and tributaries.

“(B) CONTENTS.—Each report submitted under subparagraph (A) shall include—

“(i) any observed changes in the range of Asian carp in the Upper Mississippi and Ohio River basins and tributaries during the 2-year period preceding submission of the report;

“(ii) a summary of Federal agency efforts, including cooperative efforts with non-Federal partners, to control the spread of Asian carp in the Upper Mississippi and Ohio River basins and tributaries;

“(iii) any research that the Director determines could improve the ability to control the spread of Asian carp;

“(iv) any quantitative measures that the Director intends to use to document progress in controlling the spread of Asian carp; and

“(v) a cross-cut accounting of Federal and non-Federal expenditures to control the spread of Asian carp.”

CONSTRUCTION OF 1996 AMENDMENT

Pub. L. 104-332, §3, Oct. 26, 1996, 110 Stat. 4092, provided that: “Nothing in this Act [see Short Title of 1996 Amendment note above] or the amendments made by this Act is intended to affect the authorities and responsibilities of the Great Lakes Fishery Commission established under article II of the Convention on Great Lakes Fisheries between the United States of America and Canada, signed at Washington on September 10, 1954 (hereafter in this section referred to as the ‘Convention’), including the authorities and responsibilities of the Great Lakes Fishery Commission—

“(1) for developing and implementing a comprehensive program for eradicating or minimizing populations of sea lamprey in the Great Lakes watershed; and

“(2) carrying out the duties of the Commission specified in the Convention (including any amendment thereto) and the Great Lakes Fishery Act of 1956 (16 U.S.C. 931 et seq.).”

REPORT ON ESTABLISHMENT OF PROGRAM

Pub. L. 102-567, title II, §203(b), Oct. 29, 1992, 106 Stat. 4281, provided that: “Not later than one year after the date of the enactment of this Act [Oct. 29, 1992], the Secretary of Commerce shall submit a report to the Congress on progress toward establishing a nonindigenous aquatic nuisance prevention and control program within the National Oceanic and Atmospheric Administration and projected funding for such a program for the following five fiscal years.”

§ 4702. Definitions

As used in this chapter, the term—

(1) “aquatic nuisance species” means a nonindigenous species that threatens the diver-