

struck out heading and text of former subsec. (d). Text read as follows: “The Secretary shall submit a report annually to the Administrator and to the Governor of each State in which a home port for the Navy is monitored under subsection (b) of this section detailing the results of such monitoring in the State. Such reports shall be included in the annual report required to be submitted under subsection (a) of this section.”

NAVY PROGRAM TO MONITOR ECOLOGICAL EFFECTS OF ORGANOTIN

Pub. L. 104-201, div. A, title III, § 333, Sept. 23, 1996, 110 Stat. 2485, as amended by Pub. L. 106-65, div. A, title X, § 1067(5), Oct. 5, 1999, 113 Stat. 774, provided that:

“(a) MONITORING REQUIREMENT.—The Secretary of the Navy shall, in consultation with the Administrator of the Environmental Protection Agency, develop and implement a program to monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States, as described in section 7(a) of the Organotin Antifouling Paint Control Act of 1988 (33 U.S.C. 2406(a)). The program shall be designed to produce high-quality data to enable the Environmental Protection Agency to develop water quality criteria concerning organotin compounds.

“(b) FUNDING.—The Administrator of the Environmental Protection Agency shall provide, in advance, such sums as are necessary to the Secretary of the Navy for the costs of developing and implementing the program under subsection (a).

“(c) WRITTEN AGREEMENT.—The Secretary of the Navy and the Administrator of the Environmental Protection Agency shall enter into a written agreement setting forth the actions that the Secretary plans to take under subsection (a) and the funding that the Administrator agrees to provide under subsection (b). If the Secretary determines that the Administrator will not enter into such an agreement, the Secretary shall notify the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate not later than 30 days after such determination.

“(d) NONIMPAIRMENT OF MISSION.—Compliance with subsection (a) shall be conducted in such a manner so as not to impair the ability of the Department of the Navy to meet its operational requirements.

“(e) REPORT.—Not later than June 1, 1997, the Secretary of the Navy shall submit to Congress a report containing the following:

“(1) A description of the monitoring program developed pursuant to subsection (a).

“(2) An analysis of the results of the monitoring program as of the date of the submission of the report.

“(3) Information about the progress of Navy programs, referred to in section 7(c) of the Organotin Antifouling Paint Control Act of 1988 (33 U.S.C. 2406(c)), for evaluating the laboratory toxicity and environmental risks associated with the use of antifouling paints containing organotin.

“(4) An assessment, developed in consultation with the Administrator of the Environmental Protection Agency, of the effectiveness of existing laws and rules concerning organotin compounds in ensuring protection of human health and the environment.

“(f) SENSE OF CONGRESS.—(1) It is the sense of Congress that the Administrator of the Environmental Protection Agency, in consultation with the Secretary of the Navy, should develop, for purposes of the national pollutant discharge elimination system, a model permit for the discharge of organotin compounds at shipbuilding and ship repair facilities.

“(2) For purposes of this subsection, the term ‘organotin’ has the meaning provided in section 3 of the Organotin Antifouling Paint Control Act of 1988 (33 U.S.C. 2402).

“(g) TERMINATION.—The program required by subsection (a) shall terminate five years after the date of the enactment of this Act [Sept. 23, 1996].”

§ 2407. Alternative antifouling research

(a) Research

The Secretary and the Administrator shall conduct research into chemical and nonchemical alternatives to antifouling paints containing organotin.

(b) Report

At the end of the 4-year period beginning on June 16, 1988, the Administrator, in consultation with the Secretary, shall submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of the research conducted pursuant to subsection (a) of this section.

(Pub. L. 100-333, § 8, June 16, 1988, 102 Stat. 608.)

§ 2408. Water quality criteria document

Not later than March 30, 1989, the Administrator shall issue a final water quality criteria document concerning organotin compounds pursuant to section 1314(a) of this title.

(Pub. L. 100-333, § 9, June 16, 1988, 102 Stat. 608.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2406 of this title.

§ 2409. Penalties

(a) Civil penalties

(1) Any person violating section 2403 or 2404 of this title shall be assessed a civil penalty of not more than \$5,000 for each offense.

(2) After notice and an opportunity for a hearing, a person found by the Administrator to have violated section 2403 or 2404 of this title is liable to the United States Government for the civil penalty assessed under subsection (a) of this section. The amount of the civil penalty shall be assessed by the Administrator by written notice. In determining the amount of the penalty, the Administrator shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(3) The Administrator may compromise, modify, or remit, with or without consideration, a civil penalty assessed under this section until the assessment is referred to the Attorney General.

(4) If a person fails to pay an assessment of a civil penalty after it has become final, the Administrator may refer the matter to the Attorney General for collection in the appropriate United States district court.

(b) Criminal penalties

Any person knowingly violating section 2403 or 2404 of this title shall be fined not more than \$25,000, or imprisoned for not more than one year, or both.

(Pub. L. 100-333, § 10, June 16, 1988, 102 Stat. 608.)

§ 2410. Other authorities; State laws

(a) Other authorities of Administrator

Nothing in this chapter shall limit or prevent the Administrator from establishing a lower