

- Sec.
2405. Certification.
 (a) Initial certification.
 (b) Subsequent certification.
2406. Monitoring and research of ecological effects.
 (a) Estuarine monitoring.
 (b) Navy home port monitoring.
 (c) Navy research of ecological effects.
 (d) Assistance to States.
 (e) Five-year report.
2407. Alternative antifouling research.
 (a) Research.
 (b) Report.
2408. Water quality criteria document.
2409. Penalties.
 (a) Civil penalties.
 (b) Criminal penalties.
2410. Other authorities; State laws.
 (a) Other authorities of Administrator.
 (b) State laws.

§ 2401. Findings; purpose

(a) Findings

The Congress finds the following:

(1) Antifouling paints containing organotin biocides are used to prevent the build-up of barnacles and other encrusting organisms on vessels.

(2) Laboratory and field studies show that organotin is very toxic to marine and fresh-water organisms at very low levels.

(3) Vessels that are less than 25 meters in length and are coated with organotin antifouling paint account for a large amount of the organotin released into the aquatic environment.

(4) The Environmental Protection Agency has determined that concentrations of organotin currently in the waters of the United States may pose unreasonable risks to oysters, clams, fish, and other aquatic life.

(b) Purpose

The purpose of this chapter is to protect the aquatic environment by reducing immediately the quantities of organotin entering the waters of the United States.

(Pub. L. 100-333, § 2, June 16, 1988, 102 Stat. 605.)

EFFECTIVE DATE; USE OF EXISTING STOCKS

Section 12 of Pub. L. 100-333 provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), this Act [enacting this chapter] shall take effect on the date of its enactment [June 16, 1988].

“(b) TERMINATION OF INTERIM PROHIBITION.—Section 5(a) [section 2404(a) of this title] shall remain in effect until a final decision regarding the release of organotin into the aquatic environment by antifouling paints, pursuant to the process initiated by the Administrator’s Position Document 1 dated January 8, 1986—

 “(1) is issued by the Administrator; and

 “(2) takes effect.

“(c) FINAL DECISION DEFINED.—For purposes of subsection (b), a final decision shall be considered to have taken effect upon the date of the expiration of the time for making any appeal with respect to such decision or, in the case of any such appeal, the resolution of such appeal.

“(d) USE OF EXISTING STOCKS.—Notwithstanding the prohibitions contained in sections 4 and 5 [sections 2403 and 2404 of this title], the Administrator, not later than 90 days after the date of the enactment of this Act [June 16, 1988], shall provide reasonable times—

 “(1) not to exceed 180 days after the date of the enactment of this Act, for the continued sale, delivery,

purchase, and receipt of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act; and

 “(2) not to exceed one year after the date of the enactment of this Act, for the application of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act.”

SHORT TITLE

Section 1 of Pub. L. 100-333 provided that: “This Act [enacting this chapter] may be cited as the ‘Organotin Antifouling Paint Control Act of 1988’.”

§ 2402. Definitions

For purposes of this chapter:

(1) The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) The term “antifouling paint” means a coating, paint, or treatment that is applied to a vessel to control fresh water or marine fouling organisms.

(3) The term “estuary” means a body of water having an unimpaired connection with open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and such term includes the Chesapeake Bay and estuary-type areas of the Great Lakes.

(4) The term “organotin” means any compound of tin used as a biocide in an antifouling paint.

(5) The term “person” means any individual, and partnership, association, corporation, or organized group of persons whether incorporated or not, or any government entity, including the military.

(6) The term “qualified antifouling paint containing organotin” means an antifouling paint containing organotin that—

(A) is allowed to be used under the terms of the final decision referred to in section 12(c); or

(B) until such final decision takes effect, is certified by the Administrator under section 2405 of this title as having a release rate of not more than 4.0 micrograms per square centimeter per day.

(7) The term “release rate” means the rate at which organotin is released from an antifouling paint over the long term, as determined by the Administrator, using—

(A) the American Society for Testing Materials (ASTM) standard test method which the Environmental Protection Agency required in its July 29, 1986, data call-in notice on tributyltin compounds used in antifouling paints; or

(B) any similar test method specified by the Administrator.

(8) The term “retail” means the transfer of title to tangible personal property other than for resale, after manufacturing or processing.

(9) The term “Secretary” means the Secretary of the Navy.

(10) The term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States.