

SUBCHAPTER II—IMPLEMENTATION OF
THE CONVENTION

§ 3821. Certificates

(a) Certificate required

On entry into force of the Convention for the United States, any vessel of at least 400 gross tons that engages in one or more international voyages (except fixed or floating platforms, FSUs, and FPSOs) shall carry an International Antifouling System Certificate.

(b) Issuance of Certificate

On entry into force of the Convention, on a finding that a successful survey required by the Convention has been completed, a vessel of at least 400 gross tons that engages in at least one international voyage (except fixed or floating platforms, FSUs, and FPSOs) shall be issued an International Antifouling System Certificate. The Secretary may issue the Certificate required by this section. The Secretary may delegate this authority to an organization that the Secretary determines is qualified to undertake that responsibility.

(c) Maintenance of Certificate

The Certificate required by this section shall be maintained as required by the Secretary.

(d) Certificates issued by other party countries

A Certificate issued by any country that is a party to the Convention has the same validity as a Certificate issued by the Secretary under this section.

(e) Vessels of nonparty countries

Notwithstanding subsection (a), a vessel of at least 400 gross tons, having the nationality of or entitled to fly the flag of a country that is not a party to the Convention, may demonstrate compliance with this chapter through other appropriate documentation considered acceptable by the Secretary.

(Pub. L. 111–281, title X, §1021, Oct. 15, 2010, 124 Stat. 3025.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e), was in the original “this title”, meaning title X of Pub. L. 111–281, Oct. 15, 2010, 124 Stat. 3023, which enacted this chapter and repealed chapter 37 (§2401 et seq.) of this title. For complete classification of title X to the Code, see Tables.

§ 3822. Declaration

(a) Requirements

On entry into force of the Convention for the United States, a vessel of at least 24 meters in length, but less than 400 gross tons engaged on an international voyage (except fixed or floating platforms, FSUs, and FPSOs) must carry a declaration described in subsection (b) that is signed by the owner or owner’s authorized agent. That declaration shall be accompanied by appropriate documentation, such as a paint receipt or a contractor invoice, or contain an appropriate endorsement.

(b) Content of declaration

The declaration must contain a clear statement that the antifouling system on the vessel

complies with the Convention. The Secretary may prescribe the form and other requirements of the declaration.

(Pub. L. 111–281, title X, §1022, Oct. 15, 2010, 124 Stat. 3026.)

§ 3823. Other compliance documentation

In addition to the requirements under sections 3821 and 3822 of this title, the Secretary may require vessels to hold other documentation considered necessary to verify compliance with this chapter.

(Pub. L. 111–281, title X, §1023, Oct. 15, 2010, 124 Stat. 3026.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title X of Pub. L. 111–281, Oct. 15, 2010, 124 Stat. 3023, which enacted this chapter and repealed chapter 37 (§2401 et seq.) of this title. For complete classification of title X to the Code, see Tables.

§ 3824. Process for considering additional controls

(a) Actions by Administrator

The Administrator may—

(1) participate in the technical group described in Article 7 of the Convention, and in any other body convened pursuant to the Convention for the consideration of new or additional controls on antifouling systems;

(2) evaluate any risks of adverse effects on nontarget organisms or human health presented by a given antifouling system such that the amendment of annex 1 of the Convention may be warranted;

(3) undertake an assessment of relevant environmental, technical, and economic considerations necessary to evaluate any proposals for new or additional controls of antifouling systems under the Convention, including benefits in the United States and elsewhere associated with the production and use in the United States and elsewhere, of the subject antifouling system; and

(4) develop recommendations based on that assessment.

(b) Referrals to technical group

(1) Convening of Shipping Coordinating Committee

On referral of any antifouling system to the technical group described in article 7 of the Convention for consideration of new or additional controls, the Secretary of State shall convene a public meeting of the Shipping Coordinating Committee for the purpose of receiving information and comments regarding controls on such antifouling system. The Secretary of State shall publish advance notice of such meeting in the Federal Register and on the State Department’s Web site. The Administrator shall assemble and maintain a public docket containing notices pertaining to that meeting, any comments responding to those notices, the minutes of that meeting, and materials presented at that meeting.

(2) Report by technical group

The Administrator shall promptly make any report by the technical group described in the

Convention available to the public through the docket established pursuant to subsection (b) and announce the availability of that report in the Federal Register. The Administrator shall provide an opportunity for public comment on the report for a period of not less than 30 days from the time the availability of the report is announced in the Federal Register.

(3) Consideration of comments

To the extent practicable, the Administrator shall take any comments into consideration in developing recommendations under subsection (a).

(Pub. L. 111–281, title X, §1024, Oct. 15, 2010, 124 Stat. 3026.)

§ 3825. Scientific and technical research and monitoring; communication and information

The Secretary, the Administrator, and the Administrator of the National Oceanic and Atmospheric Administration may each undertake scientific and technical research and monitoring pursuant to article 8 of the Convention and to promote the availability of relevant information concerning—

- (1) scientific and technical activities undertaken in accordance with the Convention;
- (2) marine scientific and technological programs and their objectives; and
- (3) the effects observed from any monitoring and assessment programs relating to antifouling systems.

(Pub. L. 111–281, title X, §1025, Oct. 15, 2010, 124 Stat. 3027.)

§ 3826. Communication and exchange of information

(a) In general

Except as provided in subsection (b), with respect to those antifouling systems regulated by the Administrator, the Administrator shall provide to any party to the Convention that requests it, relevant information on which the decision to regulate was based, including information provided for in annex 3 to the Convention, or other information suitable for making an appropriate evaluation of the antifouling system.

(b) Limitation

This section shall not be construed to authorize the provision of information the disclosure of which is otherwise prohibited by law.

(Pub. L. 111–281, title X, §1026, Oct. 15, 2010, 124 Stat. 3027.)

SUBCHAPTER III—PROHIBITIONS AND ENFORCEMENT AUTHORITY

§ 3841. Prohibitions

(a) In general

Notwithstanding any other provision of law, it is unlawful for any person—

- (1) to act in violation of this chapter, or any regulation prescribed under this chapter;
- (2) to sell or distribute in domestic or international commerce organotin or an antifouling system containing organotin;

(3) to manufacture, process, or use organotin to formulate an antifouling system;

(4) to apply an antifouling system containing organotin on any vessel to which this chapter applies; or

(5) after the Convention enters into force for the United States, to apply or otherwise use in a manner inconsistent with the Convention, an antifouling system on any vessel that is subject to this chapter.

(b) Vessel hulls

Except as provided in subsection (c), no vessel shall bear on its hull or outer surface any antifouling system containing organotin, regardless of when such system was applied, unless that vessel bears an overcoating which forms a barrier to organotin leaching from the underlying antifouling system.

(c) Limitations

(1) Excepted vessel

Subsection (b) does not apply to fixed or floating platforms, FSUs, or FPSOs that were constructed prior to January 1, 2003, and that have not been in dry dock on or after that date.

(2) Sale, manufacture, etc.

This section does not apply to—

(A) the sale, distribution, or use pursuant to any agreement between the Administrator and any person that results in an earlier prohibition or cancellation date than specified in this chapter; or

(B) the manufacture, processing, formulation, sale, distribution, or use of organotin or antifouling systems containing organotin used or intended for use only for sonar domes or in conductivity sensors in oceanographic instruments.

(Pub. L. 111–281, title X, §1031, Oct. 15, 2010, 124 Stat. 3027.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (4), (5) and (c)(2)(A), was in the original “this title”, meaning title X of Pub. L. 111–281, Oct. 15, 2010, 124 Stat. 3023, which enacted this chapter and repealed chapter 37 (§2401 et seq.) of this title. For complete classification of title X to the Code, see Tables.

§ 3842. Investigations and inspections by Secretary

(a) In general

The Secretary may conduct investigations and inspections regarding a vessel’s compliance with this chapter or the Convention.

(b) Violations; subpoenas

(1) In general

In any investigation under this section, the Secretary may issue a subpoena to require the attendance of a witness or the production of documents or other evidence if—

- (A) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General of the United States as to whether the subpoena will interfere with a criminal investigation; and
- (B) the Attorney General—