

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—

(i) determines that the subpoena will not interfere with a criminal investigation; or

(ii) fails to make a determination under clause (i) before the date that is 30 days after the date on which the Secretary makes a request under subparagraph (A).

(2) Enforcement

In the case of refusal to obey a subpoena issued to any person under this subsection, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance.

(c) Further action

On completion of an investigation, the Secretary may take whatever further action the Secretary considers appropriate under the Convention or this chapter.

(d) Cooperation

The Secretary may cooperate with other parties to the Convention in the detection of violations and in enforcement of the Convention. Nothing in this section affects or alters requirements under any other laws.

(Pub. L. 111-281, title X, §1032, Oct. 15, 2010, 124 Stat. 3028.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), 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.

§ 3843. EPA enforcement

(a) Inspections, subpoenas

(1) In general

For purposes of enforcing this chapter or any regulation prescribed under this chapter, officers or employees of the Environmental Protection Agency or of any State designated by the Administrator may enter at reasonable times any location where there is being held or may be held organotin or any other substance or antifouling system regulated under the Convention, for the purpose of inspecting and obtaining samples of any containers or labeling for organotin or other substance or system regulated under the Convention.

(2) Subpoenas

(A) In general

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

(i) before the issuance of the subpoena, the Administrator requests a determination by the Attorney General of the United States as to whether the subpoena will interfere with a criminal investigation; and

(ii) the Attorney General—

(I) determines that the subpoena will not interfere with a criminal investigation; or

(II) fails to make a determination under subclause (I) before the date that is 30 days after the date on which the Administrator makes a request under clause (i).

(B) Enforcement

In the case of refusal to obey a subpoena issued to any person under this paragraph, the Administrator may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance.

(b) Stop manufacture, sale, use, or removal orders

Consistent with section 3803 of this title, whenever any organotin or other substance or system regulated under the Convention is found by the Administrator and there is reason to believe that a manufacturer, seller, distributor, or user has violated or is in violation of any provision of this chapter, or that such organotin or other substance or system regulated under the Convention has been or is intended to be manufactured, distributed, sold, or used in violation of this chapter, the Administrator may issue a stop manufacture, sale, use, or removal order to any person that owns, controls, or has custody of such organotin or other substance or system regulated under the Convention. After receipt of that order the person may not manufacture, sell, distribute, use, or remove the organotin or other substance or system regulated under the Convention described in the order except in accordance with the order.

(Pub. L. 111-281, title X, §1033, Oct. 15, 2010, 124 Stat. 3028.)