

resources at civil works projects under the Secretary's jurisdiction where such facilities and resources are being maintained at complete Federal expense.

**(c) Contributions**

For purposes of carrying out this section the Secretary may accept contributions of funds, materials, and services from non-Federal public and private entities. Any funds received by the Secretary under this section shall be deposited into the account in the Treasury of the United States entitled "Contributions and Advances, Rivers and Harbors, Corps of Engineers (8662)" and shall be available until expended to carry out the purposes of this section.

(Pub. L. 102-580, title II, §225, Oct. 31, 1992, 106 Stat. 4838.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1992, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

"SECRETARY" DEFINED

Secretary means the Secretary of the Army, see section 3 of Pub. L. 102-580, set out as a note under section 2201 of this title.

**§ 2329. International outreach program**

**(a) In general**

The Secretary is authorized to engage in activities to inform the United States maritime industry and port authorities of technological innovations abroad that could significantly improve waterborne transportation in the United States, both inland and deep draft. Such activities may include—

(1) development, monitoring, assessment, and dissemination of information about foreign water transportation and port facilities that could significantly improve water transportation in the United States;

(2) research, development, training, and other forms of technology transfer and exchange; and

(3) offering technical services which cannot be readily obtained in the private sector to be incorporated in the proposals of port authorities or other water transportation developers if the costs for assistance will be recovered under the terms of each project.

**(b) Cooperation**

The Secretary may carry out the provisions of this section in cooperation with Federal departments and agencies, State and local agencies, authorities, institutions, corporations (profit or nonprofit), foreign governments, or other organizations.

**(c) Funding**

The funds to carry out the provisions of this section shall include funds deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating entity or organization according to cost-sharing agreements proscribed by the Secretary. Reimbursement for services provided under this section shall be credited to the appropriation concerned.

(Pub. L. 102-580, title IV, §401, Oct. 31, 1992, 106 Stat. 4862.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1992, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

"SECRETARY" DEFINED

Secretary means the Secretary of the Army, see section 3 of Pub. L. 102-580, set out as a note under section 2201 of this title.

**CHAPTER 37—ORGANOTIN ANTIFOULING PAINT CONTROL**

Sec.	
2401.	Findings; purpose. (a) Findings. (b) Purpose.
2402.	Definitions.
2403.	Prohibition on application of organotin antifouling paints on certain vessels. (a) Prohibition. (b) Exceptions.
2404.	Prohibition of certain organotin antifouling paints and organotin additives used to make such paints. (a) Interim prohibition of certain organotin antifouling paints. (b) Prohibition of certain organotin additives.
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) Report. (e) Assistance to States. (f) 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 freshwater 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.

(11) The term “vessel” includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

(Pub. L. 100-333, §3, June 16, 1988, 102 Stat. 605.)

REFERENCES IN TEXT

Section 12(c), referred to in par. (6)(A), is section 12(c) of Pub. L. 100-333, which is set out as a note under section 2401 of this title.

**§ 2403. Prohibition on application of organotin antifouling paints on certain vessels**

**(a) Prohibition**

Subject to section 12(d), and except as provided in subsection (b) of this section, no person in any State may apply to a vessel that is less than 25 meters in length an antifouling paint containing organotin.

**(b) Exceptions**

Subsection (a) of this section shall not prohibit the application of a qualified antifouling paint containing organotin on—

(1) the aluminum hull of a vessel that is less than 25 meters in length; or

(2) the outboard motor or lower drive unit of a vessel that is less than 25 meters in length.

(Pub. L. 100-333, §4, June 16, 1988, 102 Stat. 606.)

REFERENCES IN TEXT

Section 12(d), referred to in subsec. (a), is section 12(d) of Pub. L. 100-333, which is set out as a note under section 2401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2409 of this title.

**§ 2404. Prohibition of certain organotin antifouling paints and organotin additives used to make such paints**

**(a) Interim prohibition of certain organotin antifouling paints**

Subject to section 12(d), no person in any State may—

(1) sell or deliver to, or purchase or receive from, another person an antifouling paint containing organotin; or

(2) apply to a vessel an antifouling paint containing organotin;

unless the antifouling paint is certified by the Administrator as being a qualified antifouling paint containing organotin.

**(b) Prohibition of certain organotin additives**

Subject to section 12(d), no person in any State may sell or deliver to, or purchase or receive from, another person at retail any substance containing organotin for the purpose of adding such substance to paint to create an antifouling paint.

(Pub. L. 100-333, § 5, June 16, 1988, 102 Stat. 606.)

REFERENCES IN TEXT

Section 12(d), referred to in text, is section 12(d) of Pub. L. 100-333, which is set out as a note under section 2401 of this title.

EFFECTIVE DATE

Section effective June 16, 1988, with subsec. (a) to remain in effect until a final decision, as defined in section 12(c) of Pub. L. 100-333, regarding release of organotin into the aquatic environment by antifouling paints, is issued and takes effect, see section 12(a) to (c) of Pub. L. 100-333, set out as an Effective Date; Use of Existing Stocks note under section 2401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2409 of this title.

**§ 2405. Certification**

**(a) Initial certification**

Not later than 90 days after June 16, 1988, the Administrator shall certify each antifouling paint containing organotin that the Administrator determines has a release rate of not more than 4.0 micrograms per square centimeter per day on the basis of the information submitted to the Environmental Protection Agency before June 16, 1988, in response to its July 29, 1986, data call-in notice on tributyltin or any other data call-in notice.

**(b) Subsequent certification**

After the initial period of certification required by subsection (a) of this section, and not later than 90 days after the receipt of information with regard to an antifouling paint containing organotin submitted—

- (1) in response to a data call-in referred to in subsection (a) of this section; or
- (2) under any provision of law;

the Administrator shall certify such paint if, on the basis of such information, the Administrator determines that such paint has a release rate of not more than 4.0 micrograms per square centimeter per day.

(Pub. L. 100-333, § 6, June 16, 1988, 102 Stat. 607.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2402 of this title.

**§ 2406. Monitoring and research of ecological effects**

**(a) Estuarine monitoring**

The Administrator, in consultation with the Under Secretary of Commerce for Oceans and

Atmosphere, shall monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States. This monitoring program shall remain in effect until 10 years after June 16, 1988. The Administrator shall submit a report annually to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of such monitoring program for the preceding year.

**(b) Navy home port monitoring**

The Secretary shall provide for periodic monitoring, not less than quarterly, of waters serving as the home port for any Navy vessel coated with an antifouling paint containing organotin to determine the concentration of organotin in the water column, sediments, and aquatic organisms of such waters.

**(c) Navy research of ecological effects**

The Secretary shall continue existing Navy programs evaluating the laboratory toxicity and environmental risks associated with the use of antifouling paints containing organotin.

**(d) Report**

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.

**(e) Assistance to States**

To the extent practicable, the Administrator shall assist States in monitoring waters in such States for the presence of organotin and in analyzing samples taken during such monitoring.

**(f) Five-year report**

At the end of the 5-year period beginning on June 16, 1988, the Administrator shall submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate providing an assessment of—

- (1) the effectiveness of existing laws and rules concerning organotin compounds in ensuring protection of human health and the environment;
- (2) compliance with water quality criteria established pursuant to section 2408 of this title and any applicable water quality standards; and
- (3) recommendations for additional measures to protect human health and the environment.

(Pub. L. 100-333, § 7, June 16, 1988, 102 Stat. 607.)

**§ 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 permissible release rate for organotin under authorities other than this chapter.

##### (b) State laws

Nothing in this chapter shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement regarding antifouling paint or any other substance containing organotin. Compliance with the requirements of any State or political subdivision thereof respecting antifouling paint or any other substance containing organotin shall not

relieve any person of the obligation to comply with the provisions of this chapter.

(Pub. L. 100-333, § 11, June 16, 1988, 102 Stat. 608.)

### CHAPTER 38—DUMPING OF MEDICAL WASTE BY PUBLIC VESSELS

Sec.	
2501.	Findings.
2502.	Definitions.
2503.	Prohibition.
2504.	Guidance.

#### § 2501. Findings

The Congress finds the following:

(1) The washing ashore of potentially infectious medical wastes from public vessels of the United States may pose serious and widespread risks to public health and to the welfare of coastal communities.

(2) Current Federal law provides inadequate protections against the disposal of such wastes from such vessels into ocean waters.

(3) Operators of such vessels must take immediate action to stop disposing of such wastes into ocean waters.

(Pub. L. 100-688, title III, § 3102, Nov. 18, 1988, 102 Stat. 4152.)

##### SHORT TITLE

Section 3101 of subtitle A [§§ 3101-3105] of title III of Pub. L. 100-688 provided that: "This subtitle [enacting this chapter] may be cited as the 'United States Public Vessel Medical Waste Anti-Dumping Act of 1988'."

#### § 2502. Definitions

For the purposes of this chapter:

##### (1) Potentially infectious medical waste

The term "potentially infectious medical waste" includes isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes; and other disposable medical equipment and material that may pose a risk to the public health, welfare or the marine environment.

##### (2) Public vessel

The term "public vessel" means a vessel of any type whatsoever (including hydrofoils, air-cushion vehicles, submersibles, floating craft whether propelled or not, and fixed or floating platforms) that is owned, or demise chartered, and operated by the United States Government, and is not engaged in commercial service.

(Pub. L. 100-688, title III, § 3103, Nov. 18, 1988, 102 Stat. 4152.)

#### § 2503. Prohibition

After 6 months after November 18, 1988, no public vessel shall dispose of potentially infectious medical waste into ocean waters unless—

(1)(A) the health or safety of individuals on board the vessel is threatened; or

(B) during time of war or a declared national emergency;

(2) the waste is disposed of beyond 50 nautical miles from the nearest land; and

(3)(A) in the case of a public vessel which is not a submersible, the waste is sterilized,