

to be applied and administered on and after Nov. 27, 2002, as if amendments made by section 501(a)–(d) of Pub. L. 105-362 had not been enacted, see section 302(b) of Pub. L. 107-303, set out as a note under section 1254 of this title.

§ 1330. National estuary program

(a) Management conference

(1) Nomination of estuaries

The Governor of any State may nominate to the Administrator an estuary lying in whole or in part within the State as an estuary of national significance and request a management conference to develop a comprehensive management plan for the estuary. The nomination shall document the need for the conference, the likelihood of success, and information relating to the factors in paragraph (2).

(2) Convening of conference

(A) In general

In any case where the Administrator determines, on his own initiative or upon nomination of a State under paragraph (1), that the attainment or maintenance of that water quality in an estuary which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water, requires the control of point and nonpoint sources of pollution to supplement existing controls of pollution in more than one State, the Administrator shall select such estuary and convene a management conference.

(B) Priority consideration

The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor); Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; Santa Monica Bay, California; Galveston Bay, Texas; Barataria-Terrebonne Bay estuary complex, Louisiana; Indian River Lagoon, Florida; Lake Pontchartrain Basin, Louisiana and Mississippi; Peconic Bay, New York; Casco Bay, Maine; Tampa Bay, Florida; Coastal Bend, Texas; San Juan Bay, Puerto Rico; Tillamook Bay, Oregon; Piscataqua Region, New Hampshire; Barnegat Bay, New Jersey; Maryland Coastal Bays, Maryland; Charlotte Harbor, Florida; Mobile Bay, Alabama; Morro Bay, California; Lower Columbia River, Oregon and Washington; and Pensacola and Perdido Bays, Florida.

(3) Boundary dispute exception

In any case in which a boundary between two States passes through an estuary and such boundary is disputed and is the subject of an

action in any court, the Administrator shall not convene a management conference with respect to such estuary before a final adjudication has been made of such dispute.

(b) Purposes of conference

The purposes of any management conference convened with respect to an estuary under this subsection shall be to—

(1) assess trends in water quality, natural resources, and uses of the estuary;

(2) collect, characterize, and assess data on toxics, nutrients, and natural resources within the estuarine zone to identify the causes of environmental problems;

(3) develop the relationship between the in-place loads and point and nonpoint loadings of pollutants to the estuarine zone and the potential uses of the zone, water quality, and natural resources;

(4) develop a comprehensive conservation and management plan that—

(A) recommends priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the estuary, including restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish and wildlife, and recreational activities in the estuary, and assure that the designated uses of the estuary are protected;

(B) addresses the effects of recurring extreme weather events on the estuary, including the identification and assessment of vulnerabilities in the estuary and the development and implementation of adaptation strategies; and

(C) increases public education and awareness of the ecological health and water quality conditions of the estuary;

(5) develop plans for the coordinated implementation of the plan by the States as well as Federal and local agencies participating in the conference;

(6) monitor the effectiveness of actions taken pursuant to the plan; and

(7) review all Federal financial assistance programs and Federal development projects in accordance with the requirements of Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance program or project would be consistent with and further the purposes and objectives of the plan prepared under this section.

For purposes of paragraph (7), such programs and projects shall not be limited to the assistance programs and development projects subject to Executive Order 12372, but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the plan developed under this section.

(c) Members of conference

The members of a management conference convened under this section shall include, at a minimum, the Administrator and representatives of—

(1) each State and foreign nation located in whole or in part in the estuarine zone of the estuary for which the conference is convened;

(2) international, interstate, or regional agencies or entities having jurisdiction over all or a significant part of the estuary;

(3) each interested Federal agency, as determined appropriate by the Administrator;

(4) local governments having jurisdiction over any land or water within the estuarine zone, as determined appropriate by the Administrator; and

(5) affected industries, public and private educational institutions, nonprofit organizations, and the general public, as determined appropriate by the Administrator.

(d) Utilization of existing data

In developing a conservation and management plan under this section, the management conference shall survey and utilize existing reports, data, and studies relating to the estuary that have been developed by or made available to Federal, interstate, State, and local agencies.

(e) Period of conference

A management conference convened under this section shall be convened for a period not to exceed 5 years. Such conference may be extended by the Administrator, and if terminated after the initial period, may be reconvened by the Administrator at any time thereafter, as may be necessary to meet the requirements of this section.

(f) Approval and implementation of plans

(1) Approval

Not later than 120 days after the completion of a conservation and management plan and after providing for public review and comment, the Administrator shall approve such plan if the plan meets the requirements of this section and the affected Governor or Governors concur.

(2) Implementation

Upon approval of a conservation and management plan under this section, such plan shall be implemented. Funds authorized to be appropriated under subchapters II and VI of this chapter and section 1329 of this title may be used in accordance with the applicable requirements of this chapter to assist States with the implementation of such plan.

(g) Grants

(1) Recipients

The Administrator is authorized to make grants to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

(2) Purposes

Grants under this subsection shall be made to pay for activities necessary for the development and implementation of a comprehensive conservation and management plan under this section.

(3) Federal share

The Federal share of a grant to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year—

(A) shall not exceed—

(i) 75 percent of the annual aggregate costs of the development of a comprehensive conservation and management plan; and

(ii) 50 percent of the annual aggregate costs of the implementation of the plan; and

(B) shall be made on condition that the non-Federal share of the costs are provided from non-Federal sources.

(4) Competitive awards

(A) In general

Using the amounts made available under subsection (i)(2)(B), the Administrator shall make competitive awards under this paragraph.

(B) Application for awards

The Administrator shall solicit applications for awards under this paragraph from State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

(C) Selection of recipients

In selecting award recipients under this paragraph, the Administrator shall select recipients that are best able to address urgent, emerging, and challenging issues that threaten the ecological and economic well-being of the estuaries selected by the Administrator under subsection (a)(2), or that relate to the coastal resiliency of such estuaries. Such issues shall include—

(i) extensive seagrass habitat losses resulting in significant impacts on fisheries and water quality;

(ii) recurring harmful algae blooms;

(iii) unusual marine mammal mortalities;

(iv) invasive exotic species that may threaten wastewater systems and cause other damage;

(v) jellyfish proliferation limiting community access to water during peak tourism seasons;

(vi) stormwater runoff;

(vii) accelerated land loss;

(viii) flooding that may be related to sea level rise, extreme weather, or wetland degradation or loss; and

(ix) low dissolved oxygen conditions in estuarine waters and related nutrient management.

(h) Grant reporting

Any person (including a State, interstate, or regional agency or entity) that receives a grant under subsection (g) shall report to the Administrator not later than 18 months after receipt of such grant and biennially thereafter on the progress being made under this section.

(i) Authorization of appropriations

(1) In general

There is authorized to be appropriated to the Administrator \$26,500,000 for each of fiscal

years 2017 through 2021, and \$50,000,000 for each of fiscal years 2022 through 2026, for—

(A) expenses relating to the administration of grants or awards by the Administrator under this section, including the award and oversight of grants and awards, except that such expenses may not exceed 5 percent of the amount appropriated under this subsection for a fiscal year; and

(B) making grants and awards under subsection (g).

(2) Allocations

(A) Conservation and management plans

Not less than 80 percent of the amount made available under this subsection for a fiscal year shall be used by the Administrator to provide grant assistance for the development, implementation, and monitoring of each of the conservation and management plans eligible for grant assistance under subsection (g)(2).

(B) Competitive awards

Not less than 15 percent of the amount made available under this subsection for a fiscal year shall be used by the Administrator for making competitive awards described in subsection (g)(4).

(j) Research

(1) Programs

In order to determine the need to convene a management conference under this section or at the request of such a management conference, the Administrator shall coordinate and implement, through the National Marine Pollution Program Office and the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, as appropriate, for one or more estuarine zones—

(A) a long-term program of trend assessment monitoring measuring variations in pollutant concentrations, marine ecology, and other physical or biological environmental parameters which may affect estuarine zones, to provide the Administrator the capacity to determine the potential and actual effects of alternative management strategies and measures;

(B) a program of ecosystem assessment assisting in the development of (i) baseline studies which determine the state of estuarine zones and the effects of natural and anthropogenic changes, and (ii) predictive models capable of translating information on specific discharges or general pollutant loadings within estuarine zones into a set of probable effects on such zones;

(C) a comprehensive water quality sampling program for the continuous monitoring of nutrients, chlorine, acid precipitation dissolved oxygen, and potentially toxic pollutants (including organic chemicals and metals) in estuarine zones, after consultation with interested State, local, interstate, or international agencies and review and analysis of all environmental sampling data presently collected from estuarine zones; and

(D) a program of research to identify the movements of nutrients, sediments and pol-

lutants through estuarine zones and the impact of nutrients, sediments, and pollutants on water quality, the ecosystem, and designated or potential uses of the estuarine zones.

(2) Reports

The Administrator, in cooperation with the Administrator of the National Oceanic and Atmospheric Administration, shall submit to the Congress no less often than biennially a comprehensive report on the activities authorized under this subsection including—

(A) a listing of priority monitoring and research needs;

(B) an assessment of the state and health of the Nation's estuarine zones, to the extent evaluated under this subsection;

(C) a discussion of pollution problems and trends in pollutant concentrations with a direct or indirect effect on water quality, the ecosystem, and designated or potential uses of each estuarine zone, to the extent evaluated under this subsection; and

(D) an evaluation of pollution abatement activities and management measures so far implemented to determine the degree of improvement toward the objectives expressed in subsection (b)(4) of this section.

(k) Definitions

For purposes of this section, the terms “estuary” and “estuarine zone” have the meanings such terms have in section 1254(n)(4) of this title, except that the term “estuarine zone” shall also include associated aquatic ecosystems and those portions of tributaries draining into the estuary up to the historic height of migration of anadromous fish or the historic head of tidal influence, whichever is higher.

(June 30, 1948, ch. 758, title III, §320, as added Pub. L. 100-4, title III, §317(b), Feb. 4, 1987, 101 Stat. 61; amended Pub. L. 100-202, §101(f) [title II, 201], Dec. 22, 1987, 101 Stat. 1329-187, 1329-197; Pub. L. 100-653, title X, §1004, Nov. 14, 1988, 102 Stat. 3836; Pub. L. 100-688, title II, §2001, Nov. 18, 1988, 102 Stat. 4151; Pub. L. 105-362, title V, §501(a)(2), Nov. 10, 1998, 112 Stat. 3283; Pub. L. 106-457, title III, §§301-303, Nov. 7, 2000, 114 Stat. 1972; Pub. L. 107-303, title III, §302(b)(1), Nov. 27, 2002, 116 Stat. 2361; Pub. L. 108-399, §1, Oct. 30, 2004, 118 Stat. 2253; Pub. L. 114-162, §§1, 2, May 20, 2016, 130 Stat. 409; Pub. L. 116-337, §§2-6, Jan. 13, 2021, 134 Stat. 5120, 5121; Pub. L. 118-152, §2, Dec. 17, 2024, 138 Stat. 1686.)

Editorial Notes

REFERENCES IN TEXT

Executive Order 12372, referred to in subsec. (b), is Ex. Ord. No. 12372, July 14, 1982, 47 F.R. 30959, as amended, which is set out under section 6506 of Title 31, Money and Finance.

AMENDMENTS

2024—Subsec. (a)(2)(B). Pub. L. 118-152 substituted “Lower Columbia River, Oregon and Washington; and Pensacola and Perdido Bays, Florida” for “and Lower Columbia River, Oregon and Washington”.

2021—Subsec. (a)(2)(B). Pub. L. 116-337, §2, substituted “Peconic Bay, New York; Casco Bay, Maine; Tampa Bay, Florida; Coastal Bend, Texas; San Juan Bay, Puer-

to Rico; Tillamook Bay, Oregon; Piscataqua Region, New Hampshire; Barnegat Bay, New Jersey; Maryland Coastal Bays, Maryland; Charlotte Harbor, Florida; Mobile Bay, Alabama; Morro Bay, California; and Lower Columbia River, Oregon and Washington" for "and Peconic Bay, New York".

Subsec. (b)(4). Pub. L. 116-337, §3, inserted dash after "management plan that" and subparagraph. (A) designation before "recommends" and added subparagraphs. (B) and (C).

Subsec. (c)(5). Pub. L. 116-337, §4, inserted "nonprofit organizations," after "educational institutions."

Subsec. (g)(4)(C). Pub. L. 116-337, §5(1), in introductory provisions, inserted "emerging," after "urgent" and substituted "the estuaries selected by the Administrator under subsection (a)(2), or that relate to the coastal resiliency of such estuaries" for "coastal areas".

Subsec. (g)(4)(C)(vi), (vii). Pub. L. 116-337, §5(2), added cl. (vi) and (vii). Former cl. (vi) and (vii) redesignated (viii) and (ix), respectively.

Subsec. (g)(4)(C)(viii). Pub. L. 116-337, §5(2), (3), redesignated cl. (vi) as (viii) and inserted "extreme weather," after "sea level rise".

Subsec. (g)(4)(C)(ix). Pub. L. 116-337, §5(2), redesignated cl. (vii) as (ix).

Subsec. (i)(1). Pub. L. 116-337, §6, inserted "and \$50,000,000 for each of fiscal years 2022 through 2026," after "2021".

2016—Subsec. (g)(4). Pub. L. 114-162, §1, added par. (4).

Subsec. (i). Pub. L. 114-162, §2, added subsec. (i) and struck out former subsec. (i) which related to authorization of appropriations for fiscal years 2001 through 2010.

2004—Subsec. (i). Pub. L. 108-399 substituted "2010" for "2005" in introductory provisions.

2002—Subsec. (k). Pub. L. 107-303 repealed Pub. L. 105-362, §501(a)(2). See 1998 Amendment note below.

2000—Subsec. (a)(2)(B). Pub. L. 106-457, §301, inserted "Lake Pontchartrain Basin, Louisiana and Mississippi;" before "and Peconic Bay, New York."

Subsec. (g)(2), (3). Pub. L. 106-457, §302, added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

"(2) PURPOSES.—Grants under this subsection shall be made to pay for assisting research, surveys, studies, and modeling and other technical work necessary for the development of a conservation and management plan under this section.

"(3) FEDERAL SHARE.—The amount of grants to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year shall not exceed 75 percent of the costs of such research, survey, studies, and work and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources."

Subsec. (i). Pub. L. 106-457, §303, substituted "\$35,000,000 for each of fiscal years 2001 through 2005" for "\$12,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991".

1998—Subsec. (k). Pub. L. 105-362, §501(a)(2), which directed the substitution of "section 1254(n)(3)" for "section 1254(n)(4)", was repealed by Pub. L. 107-303. See Effective Date of 2002 Amendment note below.

1988—Subsec. (a)(2)(B). Pub. L. 100-653, §1004, and Pub. L. 100-688, §2001(1), made identical amendments, inserting "Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor); after "Buzzards Bay, Massachusetts;".

Pub. L. 100-688, §2001(2), substituted "California; Galveston" for "California; and Galveston".

Pub. L. 100-688, §2001(3), which directed insertion of "Barataria-Terrebonne Bay estuary complex, Louisiana; Indian River Lagoon, Florida; and Peconic Bay, New York" after "Galveston Bay, Texas;" was executed by making insertion after "Galveston Bay, Texas" as probable intent of Congress.

1987—Subsec. (a)(2)(B). Pub. L. 100-202 inserted "Santa Monica Bay, California;".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-303 effective Nov. 10, 1998, and Federal Water Pollution Act (33 U.S.C. 1251 et seq.) to be applied and administered on and after Nov. 27, 2002, as if amendments made by section 501(a)-(d) of Pub. L. 105-362 had not been enacted, see section 302(b) of Pub. L. 107-303, set out as a note under section 1254 of this title.

MASSACHUSETTS BAY PROTECTION; DEFINITION; FINDINGS AND PURPOSE; FUNDING SOURCES

Pub. L. 100-653, title X, §§1002, 1003, 1005, Nov. 14, 1988, 102 Stat. 3835, 3836, provided that:

"SEC. 1002. DEFINITION.

"For purposes of this title [amending section 1330 of this title and enacting provisions set out as notes under sections 1251 and 1330 of this title], the term 'Massachusetts Bay' includes Massachusetts Bay, Cape Cod Bay, and Boston Harbor, consisting of an area extending from Cape Ann, Massachusetts south to the northern reach of Cape Cod, Massachusetts.

"SEC. 1003. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds and declares that—

"(1) Massachusetts Bay comprises a single major estuarine and oceanographic system extending from Cape Ann, Massachusetts south to the northern reaches of Cape Cod, encompassing Boston Harbor, Massachusetts Bay, and Cape Cod Bay;

"(2) several major riverine systems, including the Charles, Neponset, and Mystic Rivers, drain the watersheds of eastern Massachusetts into the Bay;

"(3) the shorelines of Massachusetts Bay, first occupied in the middle 1600's, are home to over 4 million people and support a thriving industrial and recreational economy;

"(4) Massachusetts Bay supports important commercial fisheries, including lobsters, finfish, and shellfisheries, and is home to or frequented by several endangered species and marine mammals;

"(5) Massachusetts Bay also constitutes an important recreational resource, providing fishing, swimming, and boating opportunities to the region;

"(6) rapidly expanding coastal populations and pollution pose increasing threats to the long-term health and integrity of Massachusetts Bay;

"(7) while the cleanup of Boston Harbor will contribute significantly to improving the overall environmental quality of Massachusetts Bay, expanded efforts encompassing the entire ecosystem will be necessary to ensure its long-term health;

"(8) the concerted efforts of all levels of Government, the private sector, and the public at large will be necessary to protect and enhance the environmental integrity of Massachusetts Bay; and

"(9) the designation of Massachusetts Bay as an Estuary of National Significance and the development of a comprehensive plan for protecting and restoring the Bay may contribute significantly to its long-term health and environmental integrity.

"(b) PURPOSE.—The purpose of this title is to protect and enhance the environmental quality of Massachusetts Bay by providing for its designation as an Estuary of National Significance and by providing for the preparation of a comprehensive restoration plan for the Bay.

"SEC. 1005. FUNDING SOURCES.

"Within one year of enactment [Nov. 14, 1988], the Administrator of the United States Environmental Protection Agency and the Governor of Massachusetts shall undertake to identify and make available sources of funding to support activities pertaining to Massachusetts Bay undertaken pursuant to or authorized by section 320 of the Clean Water Act [33 U.S.C. 1330], and shall make every effort to coordinate existing research, monitoring or control efforts with such activities."

PURPOSES AND POLICIES OF NATIONAL ESTUARY PROGRAM

Pub. L. 100-4, title III, §317(a), Feb. 4, 1987, 101 Stat. 61, provided that:

“(1) FINDINGS.—Congress finds and declares that—

“(A) the Nation's estuaries are of great importance for fish and wildlife resources and recreation and economic opportunity;

“(B) maintaining the health and ecological integrity of these estuaries is in the national interest;

“(C) increasing coastal population, development, and other direct and indirect uses of these estuaries threaten their health and ecological integrity;

“(D) long-term planning and management will contribute to the continued productivity of these areas, and will maximize their utility to the Nation; and

“(E) better coordination among Federal and State programs affecting estuaries will increase the effectiveness and efficiency of the national effort to protect, preserve, and restore these areas.

“(2) PURPOSES.—The purposes of this section [enacting this section] are to—

“(A) identify nationally significant estuaries that are threatened by pollution, development, or overuse;

“(B) promote comprehensive planning for, and conservation and management of, nationally significant estuaries;

“(C) encourage the preparation of management plans for estuaries of national significance; and

“(D) enhance the coordination of estuarine research.”

SUBCHAPTER IV—PERMITS AND LICENSES

§ 1341. Certification**(a) Compliance with applicable requirements; application; procedures; license suspension**

(1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 1311, 1312, 1313, 1316, and 1317 of this title. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 1311(b) and 1312 of this title, and there is not an applicable standard under sections 1316 and 1317 of this title, the State shall so certify, except that any such certification shall not be deemed to satisfy section 1371(c) of this title. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted

until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.

(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Administrator of such application and certification. Whenever such a discharge may affect, as determined by the Administrator, the quality of the waters of any other State, the Administrator within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate any water quality requirements in such State, and within such sixty-day period notifies the Administrator and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Administrator shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Administrator, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with the applicable provisions of sections 1311, 1312, 1313, 1316, and 1317 of this title because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed changes in the construction or operation of the facility with respect to which a construc-