

(2) The Administrator shall, upon request of a State, designate such State as an "adjacent coastal State" if he determines (A) that there is a risk of damage to the coastal environment of such State equal to or greater than the risk posed to a State required to be designated as an "adjacent coastal State" by paragraph (1) of this subsection or (B) that the thermal plume of the proposed ocean thermal energy conversion facility or plantship is likely to impinge on so as to degrade the thermal gradient at possible locations for ocean thermal energy conversion facilities which could reasonably be expected to be directly connected by electric transmission cable or pipeline to such State. This paragraph shall apply only with respect to requests made by a State not later than the 14th day after the date of publication of notice of application for a proposed ocean thermal energy conversion facility in the Federal Register in accordance with section 9112(d) of this title. The Administrator shall make any designation required by this paragraph not later than the 45th day after the date he receives such a request from a State.

**(b) State coastal zone management program**

(1) Not later than 5 days after the designation of an adjacent coastal State pursuant to this section, the Administrator shall transmit a complete copy of the application to the Governor of such State. The Administrator shall not issue a license without consultation with the Governor of each adjacent coastal State which has an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.). If the Governor of such a State has not transmitted his approval or disapproval to the Administrator by the 45th day after public hearings on the application are concluded pursuant to section 9112(g) of this title, such approval shall be conclusively presumed. If the Governor of such a State notifies the Administrator that an application which the Governor would otherwise approve pursuant to this paragraph is inconsistent in some respect with the State's coastal zone management program, the Administrator shall condition the license granted so as to make it consistent with such State program.

(2) Any adjacent coastal State which does not have an approved coastal zone management program in good standing, and any other interested State, shall have the opportunity to make its views known to, and to have them given full consideration by, the Administrator regarding the location, construction, and operation of an ocean thermal energy conversion facility or plantship.

**(c) Agreements and compacts between States**

The consent of Congress is given to 2 or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, (1) to apply for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship or for the transfer of such a license, and (2) to establish such agencies, joint or otherwise, as are deemed necessary or appropriate for implementing and carrying out the provisions of any such agreement or compact. Such agreement or compact shall be binding and

obligatory upon any State or other party thereto without further approval by the Congress.

(Pub. L. 96-320, title I, §105, Aug. 3, 1980, 94 Stat. 983; Pub. L. 98-623, title VI, §602(e)(12)-(14), Nov. 8, 1984, 98 Stat. 3412.)

**Editorial Notes**

REFERENCES IN TEXT

The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), referred to in subsec. (b)(1), is title III of Pub. L. 89-454 as added by Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, which is classified generally to chapter 33 (§1451 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of Title 16 and Tables.

AMENDMENTS

1984—Subsec. (a)(2). Pub. L. 98-623, §602(e)(12), substituted "(A) that" for "that (A)".

Subsec. (b)(1). Pub. L. 98-623, §602(e)(13), (14), substituted "of an adjacent coastal State" for "of adjacent coastal State" and "application are concluded" for "application is concluded".

**§ 9116. Diligence requirements**

**(a) Rules and regulations**

The Administrator shall promulgate regulations requiring each licensee to pursue diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies.

**(b) Termination of license**

If the Administrator determines that a licensee is not pursuing diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies, or that the project has apparently been abandoned, the Administrator shall cause proceedings to be instituted under section 9121 of this title to terminate the license.

(Pub. L. 96-320, title I, §106, Aug. 3, 1980, 94 Stat. 984.)

**§ 9117. Protection of the environment**

**(a) Environmental assessment program**

The Administrator shall initiate a program to assess the effects on the environment of ocean thermal energy conversion facilities and plantships. The program shall include baseline studies of locations where ocean thermal energy conversion facilities or plantships are likely to be sited or operated; and research; and monitoring of the effects of ocean thermal energy conversion facilities and plantships in actual operation. The purpose of the program shall be to assess the environmental effects of individual ocean thermal energy facilities and plantships, and to assess the magnitude of any cumulative environmental effects of large numbers of ocean thermal energy facilities and plantships.

**(b) Program purposes**

The program shall be designed to determine, among other things—

(1) any short-term and long-term effects on the environment which may occur as a result of the operation of ocean thermal energy conversion facilities and plantships;

(2) the nature and magnitude of any oceanographic, atmospheric, weather, climatic, or bi-

ological changes in the environment which may occur as a result of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships;

(3) the nature and magnitude of any oceanographic, biological or other changes in the environment which may occur as a result of the operation of electric transmission cables and equipment located in the water column or on or in the seabed, including the hazards of accidentally severed transmission cables; and

(4) whether the magnitude of one or more of the cumulative environmental effects of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships requires that an upper limit be placed on the number or total capacity of such facilities or plantships to be licensed under this chapter for simultaneous operation, either overall or within specific geographic areas.

**(c) Plan submittal to Congress**

Within 180 days after August 3, 1980, the Administrator shall prepare a plan to carry out the program described in subsections (a) and (b) of this section, including necessary funding levels for the next 5 fiscal years, and submit the plan to the Congress.

**(d) Reduction of program to minimum necessary level**

The program established by subsections (a) and (b) of this section shall be reduced to the minimum necessary to perform baseline studies and to analyze monitoring data, when the Administrator determines that the program has resulted in sufficient knowledge to make the determinations enumerated in subsection (b) of this section with an acceptable level of confidence.

**(e) Environmental impact statement**

The issuance of any license for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 4332(2)(C) of this title. For all timely applications covering proposed facilities in a single application area, and for each application relating to a proposed plantship, the Administrator shall, pursuant to such section 4332(2)(C) of this title and in cooperation with other involved Federal agencies and departments, prepare a single environmental impact statement, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this chapter to prepare an environmental impact statement. Each such draft environmental impact statement relating to proposed facilities shall be prepared and published within 180 days after notice of the initial application has been published pursuant to section 9112(d) of this title. Each such draft environmental impact statement relating to a proposed plantship shall be prepared and published within 180 days after notice of the application has been published pursuant to section 9112(d) of this title. Each final environmental impact statement shall be published not later than 90 days following the date on which

public hearings are concluded pursuant to section 9112(g) of this title. The Administrator may extend the deadline for publication of a specific draft or final environmental impact statement to a later specified time for good cause shown in writing.

**(f) Discharge of pollutants**

An ocean thermal energy conversion facility or plantship licensed under this subchapter shall be deemed not to be a "vessel or other floating craft" for the purposes of section 1362(12)(B) of title 33.

(Pub. L. 96-320, title I, §107, Aug. 3, 1980, 94 Stat. 984.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(4) and (e), was in the original "this Act", meaning Pub. L. 96-320, Aug. 3, 1980, 94 Stat. 974, known as the Ocean Thermal Energy Conversion Act of 1980, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9101 of this title and Tables.

**§9118. Marine environmental protection and safety of life and property at sea**

**(a) Coast Guard operations**

The Secretary of the department in which the Coast Guard is operating shall, subject to recognized principles of international law, prescribe by regulation and enforce procedures with respect to any ocean thermal energy conversion facility or plantship licensed under this chapter, including, but not limited to, rules governing vessel movement, procedures for transfer of materials between such a facility or plantship and transport vessels, designation and marking of anchorage areas, maintenance, law enforcement, and the equipment, training, and maintenance required (1) to promote the safety of life and property at sea, (2) to prevent pollution of the marine environment, (3) to clean up any pollutants which may be discharged, and (4) to otherwise prevent or minimize any adverse impact from the construction and operation of such ocean thermal energy conversion facility or plantship.

**(b) Promotion of safety of life and property**

The Secretary of the department in which the Coast Guard is operating shall issue and enforce regulations, subject to recognized principles of international law, with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on any ocean thermal energy conversion facility or plantship licensed under this chapter.

**(c) Marking components for protection of navigation**

Whenever a licensee fails to mark any component of such an ocean thermal energy conversion facility or plantship in accordance with applicable regulations, the Secretary of the department in which the Coast Guard is operating shall mark such components for the protection of navigation, and the licensee shall pay the cost of such marking.