

§ 1415. License and permit terms, conditions, and restrictions; issuance and transfer of licenses and permits

(a) Eligibility for issuance or transfer of license or permit

Before issuing or transferring a license for exploration or permit for commercial recovery, the Administrator must find in writing, after consultation with interested departments and agencies pursuant to section 1413(e) of this title, and upon considering public comments received with respect to the license or permit, that the exploration or commercial recovery proposed in the application—

(1) will not unreasonably interfere with the exercise of the freedoms of the high seas by other states, as recognized under general principles of international law;

(2) will not conflict with any international obligation of the United States established by any treaty or international convention in force with respect to the United States;

(3) will not create a situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict;

(4) cannot reasonably be expected to result in a significant adverse effect on the quality of the environment, taking into account the analyses and information in any applicable environmental impact statement prepared pursuant to section 1419(c) or 1419(d) of this title; and

(5) will not pose an inordinate threat to the safety of life and property at sea.

(b) Issuance and transfer of licenses and permits with terms, conditions, and restrictions

(1) Within 180 days after certification of any application for the issuance or transfer of a license or permit under section 1413(g) of this title, the Administrator shall propose terms and conditions for, and restrictions on, the exploration or commercial recovery proposed in the application which are consistent with the provisions of this chapter and regulations issued under this chapter. If additional time is needed, the Administrator shall notify the applicant in writing of the reasons for the delay and indicate the approximate date on which the proposed terms, conditions, and restrictions will be completed. The Administrator shall provide to each applicant a written statement of the proposed terms, conditions, and restrictions. Such terms, conditions, and restrictions shall be generally specified in regulations with general criteria and standards to be used in establishing such terms, conditions, and restrictions for a license or permit and shall be uniform in all licenses or permits, except to the extent that differing physical and environmental conditions require the establishment of special terms, conditions, and restrictions for the conservation of natural resources, protection of the environment, or the safety of life and property at sea.

(2) After preparation and consideration of the final environmental impact statement pursuant to section 1419(d) of this title on the proposed issuance of a license or permit and subject to the other provisions of this chapter, the Adminis-

trator shall issue to the applicant the license or permit with the terms, conditions, and restrictions incorporated therein.

(3) The licensee or permittee to whom a license or permit is issued or transferred shall be deemed to have accepted the terms, conditions, and restrictions in the license or permit if the licensee or permittee does not notify the Administrator within 60 days after receipt of the license or permit of each term, condition, or restriction with which the licensee or permittee takes exception. The licensee or permittee may, in addition to such objections as may be raised under applicable provisions of law, object to any term, condition, or restriction on the ground that the term, condition, or restriction is inconsistent with this chapter or the regulations promulgated thereunder. If, after the Administrator takes final action on these objections, the licensee or permittee demonstrates that a dispute remains on a material issue of fact, the licensee or permittee is entitled to a decision on the record after the opportunity for an agency hearing pursuant to sections 556 and 557 of title 5. Any such decision made by the Administrator shall be subject to judicial review as provided in chapter 7 of title 5.

(c) Modification and revision of terms, conditions, and restrictions

(1) After the issuance or transfer of any license or permit under subsection (b), the Administrator, after consultation with interested agencies and the licensee or permittee, may modify any term, condition, or restriction in such license or permit—

(A) to avoid unreasonable interference with the interests of other states in their exercise of the freedoms of the high seas, as recognized under general principles of international law;

(B) if relevant data and other information (including, but not limited to, data resulting from exploration or commercial recovery activities under the license or permit) indicate that modification is required to protect the quality of the environment or to promote the safety of life and property at sea and if such modification is consistent with the regulations issued to carry out section 1419(b) of this title;

(C) to avoid a conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States, as determined in writing by the President; or

(D) to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict, as determined in writing by the President.

(2) During the term of a license or a permit, the licensee or permittee may submit to the Administrator an application for a revision of the license or permit or the exploration plan or recovery plan associated with the license or permit. The Administrator shall approve such application upon a finding in writing that the revision will comply with the requirements of this chapter and the regulations issued under this chapter.

(3) The Administrator shall establish, by regulation, guidelines for a determination of the

scale or extent of a proposed modification or revision for which any or all license or permit application requirements and procedures, including a public hearing, shall apply. Any increase in the size of the area, or any change in the location of an area, to which an exploration plan or a recovery plan applies, except an incidental increase or change, must be made by application for another license or permit.

(4) The procedures set forth in subsection (b)(3) of this section shall apply with respect to any modification under this subsection in the same manner, and to the same extent, as if such modification were an initial term, condition, or restriction proposed by the Administrator.

(d) Prior consultations

Prior to making a determination to issue, transfer, modify, or renew a license or permit under this section, the Administrator shall consult with any affected Regional Fishery Management Council established pursuant to section 1852 of title 16, if the activities undertaken pursuant to such license or permit could adversely affect any fishery within the Fishery Conservation Zone, or any anadromous species or Continental Shelf fishery resource subject to the exclusive management authority of the United States beyond such zone.

(Pub. L. 96-283, title I, §105, June 28, 1980, 94 Stat. 563; Pub. L. 96-561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41.)

REFERENCES IN TEXT

The Fishery Conservation Zone, referred to in subsec. (d), probably means the fishery conservation zone established by section 1811 of Title 16, Conservation, which as amended generally by Pub. L. 99-659, title I, §101(b), Nov. 14, 1986, 100 Stat. 3706, relates to United States sovereign rights and fishery management authority over fish within the exclusive economic zone as defined in section 1802 of Title 16.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104-208 made technical amendment to reference in original act which appears in text as reference to section 1852 of title 16.

1980—Subsec. (d). Pub. L. 96-561 made technical amendment to reference in original act which appears in text as reference to section 1852 of title 16.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009-41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300, provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

§ 1416. Denial of certification of applications and of issuance, transfer, suspension, and revocation of licenses and permits; suspension and modification of activities

(a) Denial, suspension, modification, and revocation

(1) The Administrator may deny certification of an application for the issuance or transfer of, and may deny the issuance or transfer of, a li-

cence for exploration or permit for commercial recovery if the Administrator finds that the applicant, or the activities proposed to be undertaken by the applicant, do not meet the requirements set forth in section 1413(c) of this title, section 1415(a) of this title, or in any other provision of this chapter, or any regulation issued under this chapter, for the issuance or transfer of a license or permit.

(2) The Administrator may—

(A) in addition to, or in lieu of, the imposition of any civil penalty under section 1462(a) of this title, or in addition to the imposition of any fine under section 1463 of this title, suspend or revoke any license or permit issued under this chapter, or suspend or modify any particular activities under such a license or permit, if the licensee or permittee, as the case may be, substantially fails to comply with any provision of this chapter, any regulation issued under this chapter, or any term, condition, or restriction of the license or permit; and

(B) suspend or modify particular activities under any license or permit, if the President determines that such suspension or modification is necessary (i) to avoid any conflict with any international obligation of the United States established by any treaty or convention in force with respect to the United States, or (ii) to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict.

(3) No action may be taken by the Administrator to deny issuance or transfer of or to revoke any license or permit or, except as provided in subsection (c), to suspend any license or permit or suspend or modify particular activities under a license or permit, unless the Administrator—

(A) publishes in the Federal Register and gives the applicant, licensee, or permittee, as the case may be, written notice of the intention of the Administrator to deny the issuance or transfer of or to suspend, modify, or revoke the license or permit and the reason therefor; and

(B) if the reason for the proposed denial, suspension, modification, or revocation is a deficiency which the applicant, licensee, or permittee can correct, affords the applicant, licensee, or permittee a reasonable time, but not more than 180 days from the date of the notice or such longer period as the Administrator may establish for good cause shown, to correct such deficiency.

(4) The Administrator shall deny issuance or transfer of, or suspend or revoke, any license or permit or order the suspension or modification of particular activities under a license or permit—

(A) on the thirtieth day after the date of the notice given to the applicant, licensee, or permittee under paragraph (3)(A) unless before such day the applicant, licensee, or permittee requests a review of the proposed denial, suspension, modification, or revocation; or

(B) on the last day of the period established under paragraph (3)(B) in which the applicant,