

riety, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 9119. Prevention of interference with other uses of high seas

(a) License conditions

Each license shall include such conditions as may be necessary and appropriate to ensure that construction and operation of the ocean thermal energy conversion facility or plantship are conducted with reasonable regard for navigation, fishing, energy production, scientific research, or other uses of the high seas, either by citizens of the United States or by other nations in their exercise of the freedoms of the high seas as recognized under the Convention of the High Seas and the general principles of international law.

(b) Rules and regulations

The Administrator shall promulgate regulations specifying under what conditions and in what circumstances the thermal plume of an ocean thermal energy conversion facility or plantship licensed under this chapter will be deemed—

- (1) to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility or plantship, or
- (2) to impinge on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation.

Such regulations shall also provide for the Administrator to mediate or arbitrate any disputes among licensees regarding the extent to which the thermal plume of one licensee's facility or plantship impinges on the operation of another licensee's facility or plantship.

(c) Coast Guard operations

The Secretary of the department in which the Coast Guard is operating shall promulgate, after consultation with the Administrator, and shall enforce, regulations governing the movement and navigation of ocean thermal energy conversion plantships licensed under this chapter to ensure that the thermal plume of such an ocean thermal energy conversion plantship does not unreasonably impinge on so as to degrade the thermal gradient used by the operation of any other ocean thermal energy conversion plantship or facility except in case of force majeure or with the consent of owner of the other such plantship or facility, and to ensure that the thermal plume of such an ocean thermal energy conversion plantship does not impinge on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State has approved such impingement after consultation with such nation.

(Pub. L. 96-320, title I, § 109, Aug. 3, 1980, 94 Stat. 987; Pub. L. 98-623, title VI, § 602(e)(2), (15), (16), Nov. 8, 1984, 98 Stat. 3412.)

REFERENCES IN TEXT

This chapter, referred to in subssecs. (b) and (c), 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 prin-

cipally 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.

AMENDMENTS

1984—Subsec. (b)(2). Pub. L. 98-623, § 602(e)(2), substituted "national resource jurisdiction" for "natural resource jurisdiction".

Subsec. (b)(3). Pub. L. 98-623, § 602(e)(15), struck out par. (3) which prohibited a licensee of an ocean thermal energy conversion facility or plantship under this chapter, except in the case of force majeure, from permitting foreign vessels to call at, or load or unload cargo at, or otherwise use such facility or plantship unless the foreign state involved had specifically agreed to recognize the jurisdiction of the United States over the vessel and its personnel while such vessel was located in the safety zone and the vessel owner or operator had designated an agent in the United States for receipt of service of process for legal claims or proceedings arising from activities of the vessel or its personnel while located in such zone. See section 9118(d)(3) of this title.

Subsec. (c). Pub. L. 98-623, § 602(e)(16), substituted "the thermal plume of such" for "the thermal plume such of" in second place appearing, and substituted "impingement" for "impingment".

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 9120. Monitoring of licensees' activities

Each license shall require the licensee—

(1) to allow the Administrator to place appropriate Federal officers or employees in or aboard the ocean thermal energy conversion facility or plantship to which the license applies, at such times and to such extent as the Administrator deems reasonable and necessary to assess compliance with any condition or regulation applicable to the license, and to report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply;

(2) to cooperate with such officers and employees in the performance of monitoring functions; and

(3) to monitor the environmental effects, if any, of the operation of the ocean thermal energy conversion facility or plantship in accordance with regulations issued by the Administrator, and to submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate mitigation methods and possibilities.

(Pub. L. 96-320, title I, § 110, Aug. 3, 1980, 94 Stat. 988; Pub. L. 98-623, title VI, § 602(a)(8), Nov. 8, 1984, 98 Stat. 3411.)

AMENDMENTS

1984—Par. (1). Pub. L. 98-623 substituted "in or aboard" for "aboard".

§ 9121. Suspension, revocation, and termination of licenses

(a) Filing of action by Attorney General; automatic suspension

Whenever a licensee fails to comply with any applicable provision of this chapter or any applicable rule, regulation, restriction, or condition issued or imposed by the Administrator under the authority of this chapter, the Attorney General, at the request of the Administrator, shall file an action in the appropriate United States district court to—

- (1) suspend the license; or
- (2) if such failure is knowing and continues for a period of 30 days after the Administrator mails notification of such failure by registered letter to the licensee at his record post office address, revoke such license.

No proceeding under this section is necessary if the license, by its terms, provides for automatic suspension or termination upon the occurrence of a fixed or agreed upon condition, event, or time.

(b) Immediate suspension of construction or operation pending completion of proceedings

If the Administrator determines that immediate suspension of the construction or operation of an ocean thermal energy conversion facility or plantship or any component thereof is necessary to protect public health and safety or to eliminate imminent and substantial danger to the environment the Administrator may order the licensee to cease or alter such construction or operation pending the completion of a judicial proceeding pursuant to subsection (a) of this section.

(Pub. L. 96-320, title I, §111, Aug. 3, 1980, 94 Stat. 988; Pub. L. 98-623, title VI, §602(e)(17), Nov. 8, 1984, 98 Stat. 3412.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), 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.

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-623 substituted “environment” for “environment established by any treaty or convention.”

§ 9122. Recordkeeping and public access to information

(a) Records and reports

Each licensee shall establish and maintain such records, make such reports, and provide such information as the Administrator, after consultation with other interested Federal departments and agencies, shall by regulation prescribe to carry out the provisions of this chapter. Each licensee shall submit such reports and shall make available such records and information as the Administrator may request.

(b) Confidential information

Any information reported to or collected by the Administrator under this chapter which is

exempt from disclosure pursuant to section 552(b)(4) of title 5 (relating to trade secrets and commercial or financial information which is privileged or confidential) shall not—

(1) be publicly disclosed by the Administrator or by any other officer or employee of the United States, unless the Administrator has—

(A) determined that the disclosure is necessary to protect the public health or safety or the environment against an unreasonable risk of injury, and

(B) notified the person who submitted the information 10 days before the disclosure is to be made, unless the delay resulting from such notice would be detrimental to the public health or safety or the environment, or

(2) be otherwise disclosed except—

(A)(i) to other Federal and adjacent coastal State government departments and agencies for official use,

(ii) to any committee of the Congress of appropriate jurisdiction, or

(iii) pursuant to court order, and

(B) when the Administrator has taken appropriate steps to inform the recipient of the confidential nature of the information.

(Pub. L. 96-320, title I, §112, Aug. 3, 1980, 94 Stat. 989; Pub. L. 98-623, title VI, §602(e)(3), (18), Nov. 8, 1984, 98 Stat. 3412.)

REFERENCES IN TEXT

This chapter, referred to in text, 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.

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-623, §602(e)(3), substituted “(relating to trade secrets and commercial or financial information which is privileged or confidential)” for “(relating to trade secrets and confidential commercial and financial information)”.

Subsec. (b)(2)(B). Pub. L. 98-623, §602(e)(18), substituted “Administrator” for “administrator”.

§ 9123. Relinquishment or surrender of license

(a) Relinquishment or surrender authority; continuation of liability

Any licensee may at any time, without penalty, surrender to the Administrator a license issued to him, or relinquish to the Administrator, in whole or in part, any right to conduct construction or operation of an ocean thermal energy conversion facility or plantship, including part or all of any right of way which may have been granted in conjunction with such license: *Provided*, That such surrender or relinquishment shall not relieve the licensee of any obligation or liability established by this chapter, or any other Act, or of any obligation or liability for actions taken by him prior to such surrender or relinquishment, or during disposal or removal of any components required to be disposed of or removed pursuant to this chapter.

(b) Transfer of right of way

If part or all of a right of way which is relinquished, or for which the license is surrendered,