

§ 971.302 Denial of certification.

(a) The Administrator may deny certification of an application if the Administrator finds that the requirements of this subpart, or the requirements for issuance or transfer under § 971.403 through § 971.408, have not been met.

(b) When the Administrator proposes to deny certification the Administrator will send to the applicant, via certified mail, return receipt requested, and publish in the FEDERAL REGISTER, written notice of intention to deny certification. The notice will include:

(1) The basis upon which the Administrator proposes to deny certification; and

(2) If the basis for the proposed denial is a deficiency which the Administrator believes the applicant can correct:

(i) The action believed necessary to correct the deficiency; and

(ii) The time within which any correctable deficiency must be corrected (not to exceed 180 days except as specified by the Administrator for good cause).

(c) The Administrator will deny certification:

(1) On the 30th day after the date the notice is received by the applicant, under paragraph (b) of the section, unless before the 30th day the applicant files with the Administrator a written request for an administrative review of the proposed denial; or

(2) On the last day of the period established under paragraph (b)(2)(ii) in which the applicant must correct a deficiency, if that deficiency has not been corrected before that day and an administrative review requested pursuant to paragraph (c)(1) is not pending or in progress.

(d) If a timely request for administrative review of the proposed denial is made by the applicant under paragraph (c)(1) of this section, the Administrator will promptly begin a formal hearing. If the proposed denial is the result of a correctable deficiency, the administrative review will proceed concurrently with any attempts to correct the deficiency, unless the parties agree otherwise or the administrative law judge orders differently.

(e) If the Administrator denies certification, he will send to the applicant written notice of the denial, including the reasons therefor.

(f) Any final determination by the Administrator granting or denying certification is subject to judicial review as provided in chapter 7 of title 5, United States Code.

§ 971.303 Notice of certification.

Upon making a final determination to certify an application for a commercial recovery permit, the Administrator will promptly send written notice of the determination to the applicant.

Subpart D—Issuance/Transfer: Terms, Conditions and Restrictions

§ 971.400 General.

(a) *Proposal.* After certification of an application pursuant to subpart C of this part, the Administrator will proceed with a proposal to issue or transfer a permit for the commercial recovery activities described in the application.

(b) *Terms conditions and restrictions.*
 (1) Within 180 days after certification (or such longer period as the Administrator may establish for good cause shown in writing), the Administrator will propose terms and conditions for, and restrictions on, the proposed commercial recovery which are consistent with the provisions of the Act and this part as set forth in §§ 971.418 through 971.430. Proposed and final TCRs will be uniform in all permits, except to the extent that differing physical and environmental conditions and/or mining methods require the establishment of special TCRs for the conservation of natural resources, protection of the environment, or the safety of life and property at sea. The Administrator will propose TCRs in writing to the applicant, and public notice thereof will be provided pursuant to § 971.401. The proposed TCRs will be included with the draft of the EIS on permit issuance.

(2) If the Administrator does not propose TCRs within 180 days after certification, the Administrator will notify the applicant in writing of the reasons for delay and of the approximate date