

### Subpart A—General

SOURCE: 46 FR 45896, Sept. 15, 1981, unless otherwise noted.

#### § 970.100 Purpose.

(a) *General.* The purpose of this part is to implement those responsibilities and authorities of the National Oceanic and Atmospheric Administration (NOAA), pursuant to Public Law 96-283, the Deep Seabed Hard Mineral Resources Act (the Act), to issue to eligible United States citizens licenses for the exploration for deep seabed hard minerals.

(b) *Purposes of the Act.* In preparing these regulations NOAA has been mindful of the purposes of the Act, as set forth in section 2(b) thereof. These include:

(1) Encouraging the successful conclusion of a comprehensive Law of the Sea Treaty, which will give legal definition to the principle that the hard mineral resources of the deep seabed are the common heritage of mankind and which will assure, among other things, nondiscriminatory access to such resources for all nations;

(2) Establishing, pending the ratification by, and entering into force with respect to, the United States of such a treaty, an interim program to regulate the exploration for and commercial recovery of hard mineral resources of the deep seabed by United States citizens;

(3) Accelerating the program of environmental assessment of exploration for and commercial recovery of hard mineral resources of the deep seabed and assuring that such exploration and recovery activities are conducted in a manner which will encourage the conservation of such resources, protect the quality of the environment, and promote the safety of life and property at sea;

(4) Encouraging the continued development of technology necessary to recover the hard mineral resources of the deep seabed; and

(5) Pending the ratification by, and entry into force with respect to, the United States of a Law of the Sea Treaty, providing for the establishment of an international revenue-sharing fund the proceeds of which will be used for

sharing with the international community pursuant to such treaty.

(c) *Regulatory approach.* (1) These regulations incorporate NOAA's recognition that the deep seabed mining industry is still evolving and that more information must be developed to form the basis for future decisions by industry and by NOAA in its implementation of the Act. They also recognize the need for flexibility in order to promote the development of deep seabed mining technology, and the usefulness of allowing initiative by miners to develop mining techniques and systems in a manner compatible with the requirements of the Act and regulations. In this regard, the regulations reflect an approach, pursuant to the Act, whereby their provisions ultimately will be addressed and evaluated on the basis of exploration plans submitted by applicants.

(2) In addition, these regulations reflect NOAA's recognition that the difference in scale and effects between exploration for and commercial recovery of hard mineral resources normally requires that they be distinguished and addressed separately. This distinction is also based upon the evolutionary stage of the seabed mining industry referenced above. Thus, NOAA will issue separate regulations pertaining to commercial recovery, in part 971 of this chapter.

[46 FR 45896, Sept. 15, 1981; 47 FR 5966, Feb. 9, 1982]

#### § 970.101 Definitions.

For purposes of this part, the term:

(a) *Act* means the Deep Seabed Hard Mineral Resources Act (Pub. L. 96-283; 94 Stat. 553; 30 U.S.C. 1401 *et seq.*);

(b) *Administrator* means the Administrator of the National Oceanic and Atmospheric Administration, or a designee;

(c) *Applicant* means an applicant for an exploration license pursuant to the Act and this part;

(d) *Affiliate* means any person:

(1) In which the applicant or licensee owns or controls more than 5% interest;

(2) Which owns or controls more than 5% interest in the applicant or licensee; or

(3) Which is under common ownership or control with the applicant or licensee.

(e) *Commercial recovery* means:

(1) Any activity engaged in at sea to recover any hard mineral resource at a substantial rate for the primary purpose of marketing or commercially using such resource to earn a net profit, whether or not such net profit is actually earned;

(2) If such recovered hard mineral resource will be processed at sea, such processing; and

(3) If the waste of such activity to recover any hard mineral resource, or of such processing at sea, will be disposed of at sea, such disposal;

(f) *Continental Shelf* means:

(1) The seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such submarine area; and

(2) The seabed and subsoil of similar submarine areas adjacent to the coast of islands;

(g) *Controlling interest*, for purposes of paragraph (t)(3) of this section, means a direct or indirect legal or beneficial interest in or influence over another person arising through ownership of capital stock, interlocking directorates or officers, contractual relations, or other similar means, which substantially affect the independent business behavior of such person;

(h) *Deep seabed* means the seabed, and the subsoil thereof to a depth of ten meters, lying seaward of and outside:

(1) The Continental Shelf of any nation; and

(2) Any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States;

(i) *Exploration* means:

(1) Any at-sea observation and evaluation activity which has, as its objective, the establishment and documentation of:

(i) The nature, shape, concentration, location, and tenor of a hard mineral resource; and

(ii) The environmental, technical, and other appropriate factors which must be taken into account to achieve commercial recovery; and

(2) The taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design, fabrication and testing of equipment which is intended to be used in the commercial recovery and processing of such resource;

(j) *Hard mineral resource* means any deposit or accretion on, or just below, the surface of the deep seabed of nodules which include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper;

(k) *International agreement* means a comprehensive agreement concluded through negotiations at the Third United Nations Conference on the Law of the Sea, relating to (among other matters) the exploration for and commercial recovery of hard mineral resources and the establishment of an international regime for the regulation thereof;

(l) *Licensee* means the holder of a license issued under this part to engage in exploration;

(m) *New entrant* means any applicant, with respect to:

(1) Any application which has not been accorded a pre-enactment explorer priority of right under § 970.301; or

(2) Any amendment which has not been accorded a pre-enactment explorer priority of right under § 970.302.

(n) *NOAA* means the National Oceanic and Atmospheric Administration;

(o) *Permittee* means the holder of permit issued under NOAA regulations to engage in commercial recovery;

(p) *Person* means any United States citizen, any individual, and any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any nation;

(q) *Pre-enactment explorer* means a person who was engaged in exploration prior to the date of enactment of the Act (June 28, 1980);

(r) *Reciprocating state* means any foreign nation designated as such by the Administrator under section 118 of the Act;

(s) *United States* means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States; and

(t) *United States citizen* means

(1) Any individual who is a citizen of the United States;

(2) Any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any of the United States; and

(3) Any corporation, partnership, joint venture, association, or other entity (whether organized or existing under the laws of any of the United States or a foreign nation) if the controlling interest in such entity is held by an individual or entity described in paragraph (t)(1) or (t)(2) of this section.

[46 FR 45896, Sept. 15, 1981, as amended at 47 FR 5967, Feb. 9, 1982]

#### § 970.102 Nature of licenses.

(a) A license issued under this part will authorize the holder thereof to engage in exploration within a specific portion of the sea floor consistent with the provisions of the Act, this part, and the specific terms, conditions and restrictions applied to the license by the Administrator.

(b) Any license issued under this part will be exclusive with respect to the holder thereof as against any other United States citizen or any citizen, national or governmental agency of, or any legal entity organized or existing under the laws of, any reciprocating state.

(c) A valid existing license will entitle the holder, if otherwise eligible under the provisions of the Act and implementing regulations, to a permit for commercial recovery from an area selected within the same area of the sea floor. Such a permit will recognize the right of the holder to recover hard mineral resources, and to own, transport, use, and sell hard mineral resources recovered, under the permit and in accordance with the requirements of the Act.

#### § 970.103 Prohibited activities and restrictions.

(a) *Prohibited activities and exceptions.*

(1) Except as authorized under subpart C of this part, no United States citizen may engage in any exploration or commercial recovery unless authorized to do so under:

(i) A license or a permit issued pursuant to the Act and implementing regulations;

(ii) A license, permit, or equivalent authorization issued by a reciprocating state; or

(iii) An international agreement which is in force with respect to the United States.

(2) The prohibitions of paragraph (a)(1) of this section will not apply to any of the following activities:

(i) Scientific research, including that concerning hard mineral resources;

(ii) Mapping, or the taking of any geophysical, geochemical, oceanographic, or atmospheric measurements or random bottom samplings of the deep seabed, if such taking does not significantly alter the surface or subsurface of the deep seabed or significantly affect the environment;

(iii) The design, construction, or testing of equipment and facilities which will or may be used for exploration or commercial recovery, if such design, construction or testing is conducted on shore, or does not involve the recovery of any but incidental hard mineral resources;

(iv) The furnishing of machinery, products, supplies, services, or materials for any exploration or commercial recovery conducted under a license or permit issued under the Act and implementing regulations, a license or permit or equivalent authorization issued by a reciprocating state, or under an international agreement; and

(v) Activities, other than exploration or commercial recovery activities, of the Federal Government.

(3) No United States citizen may interfere or participate in interference with any activity conducted by any licensee or permittee which is authorized to be undertaken under a license or permit issued by the Administrator to a licensee or permittee under the Act or with any activity conducted by