

Sea Treaty which, among other things, provides assured and nondiscriminatory access to the hard mineral resources of the deep seabed for all nations, gives legal definition to the principle that the resources of the deep seabed are the common heritage of mankind, and provides for the establishment of requirements for the protection of the quality of the environment as stringent as those promulgated pursuant to this chapter.

(2) Until such a Treaty is concluded, the Secretary of State is encouraged to promote any international actions necessary to adequately protect the environment from adverse impacts which may result from any exploration for and commercial recovery of hard mineral resources of the deep seabed carried out by persons not subject to this chapter.

(Pub. L. 96-283, §3, June 28, 1980, 94 Stat. 555.)

§ 1403. Definitions

For purposes of this chapter, the term—

(1) “commercial recovery” means—

(A) 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;

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

(C) 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;

(2) “Continental Shelf” means—

(A) 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

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

(3) “controlling interest”, for purposes of paragraph 14(C) 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;

(4) “deep seabed” means the seabed, and the subsoil thereof to a depth of ten meters, lying seaward of and outside—

(A) the Continental Shelf of any nation; and

(B) 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;

(5) “exploration” means—

(A) 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

(B) 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;

(6) “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;

(7) “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;

(8) “licensee” means the holder of a license issued under subchapter I of this chapter to engage in exploration;

(9) “permittee” means the holder of a permit issued under subchapter I of this chapter to engage in commercial recovery;

(10) “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;

(11) “reciprocating state” means any foreign nation designated as such by the Administrator under section 1428 of this title;

(12) “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration;

(13) “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

(14) “United States citizen” means—

(A) any individual who is a citizen of the United States;

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

(C) 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 subparagraph (A) or (B).

(Pub. L. 96-283, §4, June 28, 1980, 94 Stat. 555.)

SUBCHAPTER I—REGULATION OF EXPLORATION AND COMMERCIAL RECOVERY BY UNITED STATES CITIZENS

§ 1411. Prohibited activities by United States citizens

(a) Prohibited activities and exceptions

(1) No United States citizen may engage in any exploration or commercial recovery unless authorized to do so under—

(A) a license or a permit issued under this subchapter;

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

(C) an international agreement which is in force with respect to the United States.

(2) The prohibitions of this subsection shall not apply to any of the following activities:

(A) Scientific research, including that concerning hard mineral resources.

(B) 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.

(C) 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.

(D) The furnishing of machinery, products, supplies, services, or materials for any exploration or commercial recovery conducted under a license or permit issued under this subchapter, a license or permit or equivalent authorization issued by a reciprocating state, or under an international agreement.

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

(b) Existing exploration

(1) Subsection (a)(1)(A) shall not be deemed to prohibit any United States citizen who is engaged in exploration before June 28, 1980, from continuing to engage in such exploration—

(A) if such citizen applies for a license under section 1413(a) of this title with respect to such exploration within such reasonable period of time, after the date on which initial regulations to implement section 1413(a) of this title are issued, as the Administrator shall prescribe; and

(B) until such license is issued to such citizen or a final administrative or judicial determination is made affirming the denial of certification of the application for, or issuance of, such license.

(2) Notwithstanding paragraph (1), if the President by Executive order determines that immediate suspension of exploration activities is necessary for the reasons set forth in section 1416(a)(2)(B) of this title or the Administrator determines that immediate suspension of activities is necessary to prevent a significant adverse effect on the environment or to preserve the

safety of life and property at sea, the Administrator is authorized, notwithstanding any other requirement of this chapter, to issue an emergency order requiring any United States citizen who is engaged in exploration before June 28, 1980, to immediately suspend exploration activities. The issuance of such emergency order is subject to judicial review as provided in chapter 7 of title 5.

(3) The timely filing of any application for a license under paragraph (1)(A) shall entitle the applicant to priority of right for the issuance of such license under section 1413(b) of this title. In any case in which more than one application referred to in paragraph (1) is filed based on exploration plans required by section 1413(a)(2) of this title which refer to all or part of the same deep seabed area, the Administrator shall, in taking action on such applications, apply principles of equity which take into consideration, among other things, the date on which the applicants or predecessors in interest, or component organizations thereof, commenced exploration activities and the continuity and extent of such exploration and amount of funds expended with respect to such exploration.

(c) Interference

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 United States to the licensee or permittee under this chapter or with any activity conducted by the holder of, and authorized to be undertaken under, a license or permit or equivalent authorization issued by a reciprocating state for the exploration or commercial recovery of hard mineral resources. United States citizens shall exercise their rights on the high seas with reasonable regard for the interests of other states in their exercise of the freedoms of the high seas.

(Pub. L. 96-283, title I, §101, June 28, 1980, 94 Stat. 557.)

§ 1412. Licenses for exploration and permits for commercial recovery

(a) Authority to issue

Subject to the provisions of this chapter, the Administrator shall issue to applicants who are eligible therefor licenses for exploration and permits for commercial recovery.

(b) Nature of licenses and permits

(1) A license or permit issued under this subchapter shall authorize the holder thereof to engage in exploration or commercial recovery, as the case may be, consistent with the provisions of this chapter, the regulations issued by the Administrator to implement the provisions of this chapter, and the specific terms, conditions, and restrictions applied to the license or permit by the Administrator.

(2) Any license or permit issued under this subchapter shall 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.