

THE PEW CHARITABLE TRUST'S COMMENTARY

***ON THE REVISED CONSOLIDATED TEXT: DRAFT REGULATIONS ON
EXPLOITATION OF MINERAL RESOURCES IN THE AREA,
DATED 29 NOVEMBER 2024 (ISBA/30/C/CRP.1)***

Key

Black font, **red font**, and grey text-boxes are replicated from the Draft Regulations text.

Blue font represents commentary or edits proposed by The Pew Charitable Trusts.

Annex VII

Environmental Management and Monitoring Plan

1. The Environmental Management and Monitoring Plan prepared under these Regulations and this Annex VII shall be:

(a) Prepared in clear language and in an official language of the Authority, together with, where applicable, an official English-language version;

(a) bis. Prepared in accordance with the relevant Regulations, [and Standard and Regional Environmental Management Plan.] taking into consideration~~account~~ applicable Guidelines [and Regional Environmental Management Plan.], on the basis of Best Environmental Practice, Best Available Scientific Information, [and Best Available Information]; and

(b) ~~Verified by the report of [independent] competent [independent experts persons] appointed by the Authority.~~

2. An Environmental Management and Monitoring Plan shall contain:

(a) A non-technical summary of the main conclusions and information provided to facilitate understanding by members of the Authority and Stakeholders;

(a) bis Outline the guiding principles which apply to the monitoring approaches;

(b) A description of the project and the area likely to be affected by the proposed activities and by any suspension plumes they generate. Include detailed location maps showing proposed Impact Reference Zones and Preservation Reference Zones as well as locations of other nearby Contract Areas or known seabed infrastructure, the Preservation Reference Zones, the Impact Reference Zones and the surrounding area with reference to the Regional Environmental Management Plan including any buffer zones to prevent damage to these areas;

(b) ter A description as to how the Environmental Management and Monitoring Plan has been prepared;

(c) The project-specific environmental objectives, indicators and thresholds based on baseline environmental data and applicable~~relevant~~ Standards;

(c) bis A description of the environmental baseline data, measured baseline values for parameters at the site, a characterization of the area proposed to be mined, adjacent areas that could be affected by mining, and areas that will be avoided due to their environmental value;

(d) A description, [prepared in accordance with the applicable Standard and taking into consideration the Guidelines] of how the monitoring data will be transmitted during operations, how the data will be labelled and monitored by qualified personnel, and how the data will be stored;

(e) The qualifications and proposed location of the personnel monitoring the [environmental data];

(f) A description of the procedures for providing the Authority and the Sponsoring State or States access to or receipt of the monitoring data for the purposes of monitoring compliance with the terms of an Exploitation Contract and collection of data.

(g) Details of or cross-references to the Contractor's Environmental Management System documentation;

(i) implementing the measures reflected in the Environmental Management and Monitoring Plan,

(ii) monitoring, recording and reporting fulfilment of the Environmental Management and Monitoring Plan, and

(iii) regularly reviewing and updating the Environmental Management and Monitoring Plan to ensure that it complies with rules, regulations, and procedures of the Authority;

(h) An assessment of the predicted Environmental Effects of the proposed activities on the Marine Environment, and any significant changes likely to result, consistent with the Environmental Impact Assessment and the Environmental Impact Statement;

(h) bis. A description of uncertainties identified from the Environmental Impact Assessment and the plan to reduce or manage these;

(i) An assessment of the significance of the potential Environmental Effects to receptors identified in the Environmental Impact Statement, their key uncertainties, proposed monitoring approach and objectives, and proposed Mitigation measures and management control procedures and responses to minimize, prevent, reduce and control the harm from Environmental Effects, consistent with the Environmental Impact Assessment and the Environmental Impact Statement;

(j) A description of the planned monitoring programme, with reference to the applicable Standard on Monitoring, and the overall approach, standards, protocols, methodologies, procedures and performance assessment of the Environmental Management and Monitoring Plan, including the necessary risk assessment and techniques for managing these risks, including the use of monitoring data to validate predictive models and reduce uncertainties, and adaptive management techniques, if appropriate, needed to achieve the desired outcomes. Each component should be described separately in a manner consistent with sections 7-10 of Annex IV. Monitoring methodology/results should provide a sufficient degree of confidence that conclusions in the Environmental Impact Statement can be validated and that agreed performance standards are being met (monitoring should have the statistical power to detect changes in environmental state). The components of the monitoring programme should, at a minimum, include those applicable to the Contractor during its Exploration phase to allow for comparison of monitoring data.

(k) Details of the proposed monitoring stations across the Contract Area, including the frequency of monitoring and data collection, the spatial and temporal arrangements for such monitoring and the justification for such arrangements, including how *in situ* validation of modelled results will be carried out. [Where Test Mining was conducted,] proposed monitoring stations should, at a minimum, include the monitoring stations used during [test] mining ~~[tests carried out in the Exploration phase]~~;

(l) The location and planned monitoring and management of Preservation Reference Zones and Impact Reference Zones designed in accordance with the criteria contained in Annex X bis, as well as other spatial management planning tools if any;

(l) bis The location and boundaries of planned or established long-term protected areas within the Contract Area as determined in the applicable Regional Environment Management Plan as well as of declared PRZs of neighbouring Contract Areas, if known;

(l) ter Details of any plans outside of the Contract Area to increase scientific knowledge and other knowledge/information in the relevant region, including in collaboration with other Contractors or via international cooperation efforts, as well as in collaboration with Indigenous Peoples and local communities;

(m) A description, with threshold levels, of the applicable environmental performance Standards and indicators (trigger and threshold points) to be monitored, including decision rules based on the results of the monitoring of these indicators;

(n) A description of a system for ensuring that the plan shall adhere to ~~[Good Industry Practice,]~~ ~~[Best Available Techniques,]~~ Best Environmental Practices and Best Available Scientific Information, and a description of how such practices are reflected in the proposed Exploitation activities;

(o) Details of the quality control and management standards, and how the effectiveness of management measures will be monitored, assessed and reviewed, including list of reporting deliverables to the Authority and time schedule, plans for real-time reporting of environmental data to the Authority, internal and external auditing and reporting of environmental performance, and including the frequency of the review of the performance of the Environmental Management and Monitoring Plan for the purposes of Regulation 51;

[(o) bis: A description of a statistically sound comparison of the monitoring results collected within the Contractor's IRZs and PRZs which compare the monitoring results with the baseline as well as between IRZs and PRZs to determine and quantify impacts and recovery of impacted areas.]

(p) A description of the monitoring technology and system to be implemented, including the types of data to be collected and monitored, and frequency of monitoring, in accordance with Good Industry Practice and Best Available Techniques, reflecting the types of data and formats to be collected and monitored, the use of remote monitoring technology and the types of data available in real time together with a description of the procedures for providing the Authority and the Sponsoring State or States access to the monitoring system and data for the purposes of monitoring compliance with the Environmental Management and Monitoring Plan and collection of data;

(q) Details of ~~[all the]~~ training programme for all persons engaged or to be engaged in activities in the project ~~[or its]~~ area;

(r) Details of ~~[Mining]~~ ~~d~~Discharges, including those defined and regulated by relevant rules and regulations issued by the International Maritime Organization, within the ~~Mining Area~~~~project area~~;

(s) Details of ongoing consultation with other users of the Marine Environment;

(s) bis. Details of arrangements made or planned with other marine users, with the aim to ensure due regard to each other's rights and activities.

(t) Details of any practicable Restoration and ~~R~~ehabilitation of the ~~Mining Area~~~~project area~~ and the monitoring of their success;

(u) A plan for further research and studies;

(u) bis Detail of the process and measures to be taken in case of non – compliance with the Environmental Monitoring and Management Plan.

(u) ter A description of the measures that will be taken to address non-compliance with the Environmental Monitoring and Management Plan, including reporting, recording and response action protocols;

(u) quat A description of the document control system that will be used for environmental management documentation;

(v) Details of reporting requirements and timing (<2 years) including details of the methodology to be applied to ensure that monitoring data submitted are provided in an accessible and interpretable format consistent with best scientific practices; and (x)

An overview program (list) of all proposed activities

We question the deletion of (2)(b). An EMMP is science-based and relies on data collected by the proponent. For that reason, **independent scientific assessment** is good industry practice in an EIA process. This does not disrupt the LTC's work: the LTC does not have a role to peer review a Contractor's science. We cannot see any reason the ISA would *not* wish to receive independently reviewed data. We suggest reinstatement (with possible terminology change to 'independent peer review'). A Standard could be developed to explain more clearly what is intended, so that this is clear to all.

In paragraph (2)(k) the brackets around 'test mining' can be lifted, but the drafting should reflect that test mining will have occurred, as a mandatory prerequisite.

We support inclusion of paragraph (2)(o bis).

As per our comment in DR52, we suggest adding into Annex VII a requirement that the EMMP includes the dates of performance assessment pursuant to DR52.