

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 VIII**

### **Closure Plan**

1. The Closure Plan or Final Closure Plan shall be prepared and implemented in accordance with Regulation 7, the Environmental Management System, Standards and taking into consideration the Guidelines and the relevant Regional Environmental Management Plan and shall include the following information:

(a) A description of the Closure objectives to ensure that the Closure of Exploitation activities is a process that is incorporated into the mining life cycle, any measures agreed or proposed to implement these, and how these relate to the mining activity and its environmental, socioeconomic and sociocultural setting;

(b) The period during which the plan will be required, which shall be determined by reference to a specified duration, achievement of a specified event or target indicator or compliance with specified terms agreed with the Authority and shall relate to the objectives of the Environmental Impact Assessment, such as recovery of impacted environment;

(c) Coordinates showing the area(s) subject to the Closure objectives accompanied by a map;

(d) A summary of the relevant regulatory requirements, including conditions previously documented, e.g. baselines;

(e) Details of the Closure implementation and timetable, including descriptions of the arrangements for the temporary suspension of Exploitation activities or for permanent Closure as well as Decommissioning arrangements for vessels, Installations, plant and removal of equipment (where applicable);

(f) Summary of data and information relating to environmental baseline for monitoring measures;

(g) A summary of the Environmental Impact Statement entailing an updated Environmental Impact Assessment for the activities that will be undertaken during Closure, if any, together with details of the identifiable remaining Environmental Effects, including any relevant technical documents or reports as well as the expected period until recovery of the environment towards natural state conditions;

(h) ~~[The temporal and spatial intensity of monitoring to be undertaken during and after Closure needs to mirror monitoring efforts prior and during Exploitation using equivalent methodology to allow for full quantification of the impact as well as of any recovery from impacts]~~Details of monitoring to be undertaken during and after closure (comparable to monitoring efforts prior and during exploitation) that specify the

sampling design (spatial and temporal sampling), the methods to be used and the duration of the post-closure activities];

(i) Details of the management measures to minimize, control, Mitigate the remaining Environmental Effects;

(j) Details of the remediation, Restoration and ~~R~~ehabilitation (where possible)] objectives and activities building on those detailed in the Environmental Impact Statement and the Environmental Management and Monitoring Plan;

(k) Documentation of environmental recovery and Details of any anticipated residual impacts that may remain even after Mitigation measures;

(l) Information on reporting and management of data and information post closure including information on how data will be archived and made [publicly] available postclosure, and how the formatting of submitted datasets and reports will be consistent with best scientific practices;

(m) Details of the persons or entity (subcontractor, consultant(s)) that will carry out the monitoring and management measures under the Closure Plan or Final Closure Plan, including their qualification(s) and experience, together with details of the budget, (incl. inflation adjustment for long-term monitoring), project management plan and the protocols for reporting to the Authority under the Closure Plan or Final Closure Plan;

(n) Details of the amount of the Environmental Performance Guarantee provided under these Regulations; and

(o) Details of consultations with Stakeholders in respect of the plan.

2. The level of detail in the Closure Plan or Final Closure Plan is expected to differ between cases involving a temporary suspension of ~~Exploitation activities~~mining operations, cases involving unplanned abandonment of work, and cases involving final mine closure. The content of the Closure Plan or Final Closure Plan is to be commensurate with the nature, extent and duration of activities associated with the level of closure and maturity of the project.

The ~~chapeau~~ in paragraph (1) incorrectly states that the Closure Plan will need to be implemented in accordance with DR7. Oddly, no reference is made to DRs59-61, which are the regulations that cover the Closure Plan.

As we have noted above, we consider there are some **policy points** that the Council needs to agree upon that can then inform drafting of the regulations' provisions about Closure. This includes what the objectives of Closure should be, what Closure requirements are practical during a suspension; and whether it would be feasible or desirable to require progressive Closure (of one part of a Contract Area, whilst others continue under Commercial Production). We also see need for a broader policy discussion on restoration and rehabilitation (noting scientific advice that it is not possible, on current knowledge) and what level of post-production monitoring commitment the ISA expects of Contractors, consistent with the environmental obligations set forth in UNCLOS. This will also be important to determine the appropriate amount for the environmental performance guarantee.

In any event, we believe there needs to be a separate part of the Closure Plan described in this Annex VIII that relates specifically to Contractor obligations during a **temporary suspension**. Our understanding is that this will mean applying interim monitoring and management measures and objectives (not commencing full closure, given the suspension is temporary with an expectation of activities recommencing). As such we would like to see a new 'temporary suspension' section in this Annex, so that Contractors and all Stakeholders are clear what the obligations are during suspension situations.

The term '**post-closure**' should be amended to 'post Commercial Production'. 'Closure' is a phase of the project that continues for some time after mining activities have ended, and should include long-term monitoring and reporting to the ISA in order to inform understanding over timescales of the environmental effects caused by the Exploitation, and any natural recovery. This aspect of Annex VIII could be strengthened.

We would also like to see included more clearly in Annex VII requirements (i) to plan and report upon **safe removal of all equipment**, and (ii) report on the **state of the environment at cessation of Commercial Production** including information about any mineral resources not extracted.