

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.

Regulation 50

Environmental Management and Monitoring Plan

1. The purpose of an Environmental Management and Monitoring Plan is to set out how a Contractor shall meet its management and monitoring obligations under Regulation 49.

2. The Environmental Management and Monitoring Plan shall include all elements and matters prescribed in Annex VII to these Regulations and shall:

(a) Incorporate project specific environmental objectives and environmental performance standards, [including environmental threshold values] which are designed to achieve the environmental policy and objectives of the Authority [including those] set out in Regulation 44ter] and [are compatible with] applicable Standards and [taking into account] the relevant Regional Environmental Management Plan;

(b) Incorporate appropriate measurement criteria, in accordance with the applicable Standard and reflect its methodology to determine whether the environmental objectives [and Environmental Performance standards] are being met and that the operation is compliant with the Exploitation Contract and its schedules and the relevant rules, regulations and procedures of the Authority;

(c) Incorporate measures and procedures on:

(i) How the [Environmental Impacts and] Environmental Effects of Exploitation will be monitored;

(ii) How the Mitigation and Management measures, including pollution control and Mining Discharge in Regulations 53 bis and 53 ter will be implemented and how the effectiveness of such measures will be monitored [and evaluated];

(iii) How spatial and temporal measures, including Preservation Reference Zones and Impact Reference Zones, will be utilised and implemented;

(iv) How, if the monitoring results in new knowledge, the Contractor will take such knowledge into account;

(v) A description of the Environmental Management System and

(vi) How continual improvement will be achieved, including by testing assumptions and predictions made in the Environmental Impact Statement, improving environmental knowledge, and reducing uncertainties remaining from the Environmental Impact Assessment.

(d) Contain a monitoring programme for at least the first seven years of commercial production to be conducted in compliance with the applicable Standards and taking into account the Guidelines.

[2 Alt. The Environmental Management and Monitoring Plan shall be in accordance with the Authority's environmental policy and objectives [including those set out in Regulation 44ter] and [are compatible with] applicable Standards and [taking into account][consideration]] the relevant Regional Environmental Management Plan, the relevant Guidelines, and be based on the Environmental Impact Statement, and shall include all elements and matters prescribed by the Authority in Annex VII to these Regulations, and shall:

(a) Set project specific environmental objectives and environmental performance standards;

(b) Set measurement criteria and methodology;

(b)bis [How spatial and temporal measures, including Preservation Reference Zones and Impact References Zones, will be utilised and implemented;] (c) Commit to specific measures and procedures on;

(i) Monitoring the [Environmental Impacts and] Environmental Effects of Exploitation;

(ii) Mitigation and management, including pollution control and Mining Discharge in Regulations 53 bis and 53 ter;

(iii) [Monitoring the effectiveness of monitoring and management, as the relevant measures and procedures are implemented];

(iv) Taking corrective action and responding to monitoring results and new knowledge with the aim of continuous improvement;

(d) Describe what monitoring data and reports will be submitted to the Authority, including details of: frequency, format, medium, and data integrity standards;

(e) Provide a description of the Environmental Management System.]

[3. A draft Environmental Monitoring and Management Plan or proposal by a Contractor to amend an existing plan shall be subject to Stakeholder consultation in accordance with Regulation 93bis. Coastal states shall be engaged in accordance with Regulation 93ter].

4. The Contractor shall assess and maintain the currency and adequacy of its Environmental Management and Monitoring Plan including its continual improvement during the term of its Exploitation Contract, including as a result of management review and audit under Regulation 50 bis, and performance assessment[s] under Regulation 52, [and any modification to the Plan of Work under Regulation 57]. In conducting such an assessment, the Contractor shall assess the efficacy, timeliness, relevance and accuracy of flow of information and data derived from implementation of the Environmental Management and Monitoring Plan, and the efficacy of management measures taken.

We prefer **paragraph (2 Alt)**. It is clearer that the EMMP is incorporating the ISA's environmental policy and Standards into project-specific commitments that the Contractor must comply with.

We would like deletion of **paragraph (3)**. The regulations already cover the procedure for a draft Plan of Work (including the EMMP) at application stage (DRs 11-16), and for a proposal to modify a Plan of Work (including the EMMP) (DR57). Paragraph (3) seems to create a dual or overlapping process just for an EMMP, which is confusing and unnecessary.

Paragraph (4) is helpful, identifying that the Contractor should both continuously internally assess (DR50(4) and should also periodically and formally assess using external experts (DR54).