

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.

## Section 4

### Records and audit

#### Regulation 74

##### **Proper books and records to be kept**

1. A Contractor shall keep and maintain, [at a place agreed by the Contractor and the Secretary-General] [at a place specified in the Exploitation Contract], complete and accurate records relating to the Minerals recovered in order to verify and support all returns or any other accounting or financial reports required by the Authority in relation to Exploitation.
2. The Contractor shall prepare such records in conformity with internationally accepted accounting principles ~~[and]~~ ~~[that that]~~ verify, in connection with each Mining Area and the Contract Area, inter alia:
  - (a) Details of the quantity and grade of the Minerals, by Metal, recovered from ~~[each Mining Area]~~ and the Contract Area;
  - (b) Details of sales, shipments, transfers, exchanges and other disposals of Minerals, by Metal, from ~~[the Mining Area]~~ ~~[each Mining Area and the Contract Area]~~ [each Mining Area and the Contract Area], including the time, destination, value and basis of valuation and the quantity and grade of each sale, shipment, transfer, exchange or other disposal;
  - (c) Details of all eligible capital expenditure and liabilities by category of expenditure and liability incurred in ~~[each Mining Area]~~ and the Contract Area or in direct support of activities within ~~each Mining Area and the Contract Area~~; and
  - (d) Details of all revenues and operating costs associated with activities in ~~[the Mining Area]~~ ~~[each Mining Area and the Contract Area]~~ each Mining Area and the Contract Area.
3. A Contractor shall supply and file such records at such times as may be required by the Authority under these Regulations and within 60 Days of the receipt of any such request from the Secretary-General.
4. A Contractor shall maintain all records for the duration of the Exploitation Contract and a period of 10 years following the completion of the Closure Plan, and make such records available for [inspection and] audit under Regulation 75.

Generally, we support all the edits in DR39 but continue to see **overlap with DR39** ('Books, records and samples'). We therefore repeat our suggestion that these two regulations be aligned to remove duplication or merged. As DR39 is the broader provisions, our suggestion is that DR74's content be integrated into DR39, and DR74 be deleted.

In terms of drafting, as proposed by another delegation previously, we believe **paragraph (1)** should clarify that both physical and digital records should be kept and maintained. Access to digital copies may be crucial to undertake inspections and audits.