

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION:
COUNCIL - PART I**

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to council@isa.org.jm.

1. Name of Working Group:

Protection and Preservation of the Marine Environment

2. Name(s) of Delegation(s) making the proposal:

The Pew Charitable Trusts

3. Please indicate the relevant provision to which the textual proposal refers.

DR 50

4. Kindly provide the proposed amendments to the regulation or standard or guideline in the text box below, using the “track changes” function in Microsoft Word. Please only reproduce the parts of the text that are being amended or deleted.

- **Red font** are proposed amendments by the Facilitator in this revised text.
- Our proposed amendments and our questions or comments regarding the facilitator’s remarks are indicated as in-line edits in **blue**. Proposed deletions of text proposed by the facilitator appears in strikethrough and **bold**.

1. A Contractor shall not dispose, dump or discharge into the Marine Environment any Mining Discharge, except where such disposal, dumping or discharge is permitted in accordance with:
 - a. The assessment framework for Mining Discharges as set out in the Standard;
 - b. The Environmental Management and Monitoring Plan; and
 - c. ~~International [agreed] [applicable] rules, standards and recommended practices and procedures, regulations set out by the International Maritime Organization.~~
(c) these regulations.
2. Paragraph 1 ~~notwithstanding, a Contractor may nonetheless make such a~~ ~~above shall not apply if such a~~ disposal, dumping or discharge into the Marine Environment ~~where it~~ is necessary for the safety of the vessel or Installation or the safety of human life, provided that such disposal, dumping or discharge is conducted so as to ~~all~~minimize the ~~likelihood possibility~~ of harm to ~~human life human life and prevent Harm to~~ and harm to the Marine Environment. If ~~Serious~~ Harm to the Marine Environment occurs as a result of disposal, dumping or discharge, the Contractor shall, upon safe working conditions being restored, monitor, ~~[and]~~ Mitigate ~~[and manage remediate]~~ the impacts of such harm, and shall report forthwith about such disposal, dumping or ~~[discharge]~~ to the Authority. ~~This constitutes a Notifiable Event under regulation 34 and Appendix 1.~~

~~[2.Alt. Paragraph 1 above- notwithstanding may nonetheless make such a not apply if such disposal, dumping or discharge into the Marine Environment where it is is necessary for the safety of the vessel or Installation or the safety of human life.~~

provided that such disposal, dumping or discharge is conducted so as to minimize the likelihood of harm to human life and prevent Harm to the Marine Environment.]

3. The disposal, dumping or discharge into the Marine Environment of any Mining Discharge that is not permitted in accordance with paragraphs 1 and 2 above is considered an unauthorized Mining Discharge and constitutes a Notifiable Event under regulation 34 and Appendix 1.

4. The applicant or contractor must continuously monitor its ~~also keep a register of Mining Discharges and maintain a register that is reported to the Authority to be updated at least~~ weekly ~~[weekly] [monthly,] where possible, allowing to it be consulted in real~~ and that shall be reported in addition to annually to the Authority as part of the mandatory annual report pursuant to Regulation 38 that must be prepared throughout the operation.

5. Please indicate the rationale for the proposal. [150-word limit]

In DR 50 para (1), we are confused by the reference to international rules and standards that would apply to mining discharges: in our view it is exactly the jurisdiction of the ISA to regulate (via these Regulations). This mandate is given to the ISA by Article 145 of the Convention. This should not be deferred to some other unnamed body or bodies. We therefore suggest deleting sub-paragraph (c), and for the ISA to take a firmer leadership role in establishing precisely what are the rules for mining discharges created by Exploitation in the Area.

Re DR 50 para 2, We prefer the original text with some small modifications (that we will submit in writing). We also consider that an otherwise prohibited disposal into the Marine Environment deemed necessary for the safety of the vessel or human life, even if permitted due to emergency circumstances, should be classified as an Incident - and support others in suggesting that this be explicitly stated in paragraph (2) for the avoidance of doubt - though we prefer 'Incident' over a 'notifiable event' given the seriousness of the trigger event . This is also important to ensure that relevant reporting and follow-up regulatory actions take place. Otherwise, this paragraph (2) envisions a situation in which there was such serious threat to life or the environment, that an otherwise prohibited dumping of mine waste will take place - and this is not considered a breach of the rules of the ISA, and no further action is required apart from inclusion in an annual report.

In para 4, we note your comment, but prefer to retain the more regular update of discharges. We understand that a contractor should be continually monitoring the release of mining discharge in real time, and return of waste from the mining operations to the ocean is likely to be one of the primary sources of environmental impact from Exploitation. So, we do not see why that data should not be readily and regularly made available to the ISA, in its oversight capacity. We suggest that paragraph (3) is amended to reflect this more stringent monitoring and reporting requirement, more accurately.