

**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 53

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 develop an Emergency Response and Contingency Plan prior to the development and application of Plan of Work, taking into account the result of the Environmental Impact Assessment (EIA). Furthermore, a Contractor shall maintain:
 - a. The currency and adequacy of its Emergency Response and Contingency Plans based on the identification of potential Incidents and in accordance with Good Industry Practice, Best Available Techniques, Best Environmental Practices and the applicable Standards and Guidelines, as well as the implementation and monitoring results of the Environmental Management and Monitoring Plan, and which shall be reviewed annually and be tested at least [annually/quarterly]; and
 - b. Such resources, training and procedures as are necessary for the prompt execution and implementation of the Emergency Response and Contingency Plans and any Emergency Orders issued by the Authority including on-vessel presence for rapid emergency response.
2. The Authority shall facilitate the exchange of knowledge, information and experience relating to incidents between Contractors and States, and shall draw on the advice of other relevant international organizations, so that such knowledge and information can be used to prevent, reduce and control pollution and other hazards to the Marine Environment, including the coastline, by supporting:
 - a. Contractors to meet their requirements, inter alia under regulation 53(1), and
 - b. the Authority to prepare and revise relevant Standards and Guidelines ~~where appropriate~~ and to develop and disseminate other appropriate materials.
3. Following an Incident, a Contractor must submit a detailed report on whether the Emergency Response and Contingency pPlan was adequate and to what extent it was

complied with, including, among other aspects, expenses incurred, responsibilities and updating of the plan if necessary.

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

As general comment, we do not object moving this regulation to another section, but we do note like others that the emergency here could very well be a human safety, maritime security or a natural disaster emergency. It's not only an environmental matter, so it may be better placed outside the environmental regulations.

We do not agree with the matrix proposal to move paragraph (1) sub-paragraphs (a) and (b) to Guidelines, if we have understood that proposal correctly. These sub-paragraphs provide mandatory requirements for Contractors to fulfil as a condition of their contracts. These are important obligations designed to prepare for and respond to emergency situations. As such this text needs to be retained in the Regulations, or placed in the Standards, it cannot be moved to Guidelines, and indeed to do so would seem to be neglectful of ISA's duties to implement appropriate measures to protect human life and safety, and the marine environment.

We would be more receptive to the proposal to move paragraph (2) to a guideline. Though we wonder whether it isn't more relevant content for an ISA institutional policy - or Compliance Strategy. We would also like to see transparency and stakeholder engagement included in this procedure about information-sharing.

Regarding paragraph (3), the process seems to end rather abruptly here with the Contractor's report of an Incident. Presumably there should also subsequently be a follow-up, similar to the review of the EMMP procedure in draft regulation 52, whereby the report goes out to public consultation, the LTC considers the report and comments received, then the LTC may require amendment to the Plan of Work (following DR57) or may consider recommending compliance action to the Council. We recommend this be added, otherwise the regulations suggest no action by the ISA to consider the consequences of an Incident.