

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

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:

Informal Working Group – ICE.

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

Republic of Nauru

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

Regulation 99

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.

1. If, as a result of an inspection, an Inspector has reasonable grounds to determine ~~for anticipates~~ that any occurrence, practice or condition endangers or may endanger the health or safety of any person or poses a threat of ~~[Serious]H-Serious [h]H~~ Harm to the Marine Environment ~~or to; human remains and objects and sites of an archaeological or historical nature~~~~[including Underwater Cultural Heritage~~ ~~for a Contractor is otherwise in breach of the terms of its contract with the Authority}...~~

2.or Installation to whom the instruction can be issued. ~~An Inspector may issue an instruction orally under paragraph 1 in urgent situations where the issue of a written instruction is impracticable. Where an instruction is issued orally, the Inspector must confirm it in writing and give it to the designated person at the earliest opportunity.~~

2. sexies. The Compliance Committee may:

(a) Request the ~~[Chief] Chief~~ Chief Inspector to provide further information...

(b) revise or set aside an instruction ~~issued~~ under paragraph 1 ~~above~~ as soon as practicable; or

~~(b) bis Exercise the powers conferred upon it under paragraph 1 of regulation 103, including where a Contractor has failed to comply with a written instruction; or~~

SUGGEST INSERT PARA 2 SEXIES AFTER PARAGRAPH 3 TER.

3. An instruction shall be for a specified period not exceeding seven days. The Chief Inspector may extend such period ~~[by an additional seven days]~~~~[until such time the Contractor has complied with the instruction and fulfilled all requirements]~~, and shall report any such extension to the Compliance Committee.

3.ter Within three days of the expiry of the specified period or any extension thereto under paragraph 3, the Chief-Inspector shall assess whether the instruction has been complied with by the Contractor and shall report immediately to the Compliance Committee. ~~Subject to paragraph 3 bis, where a Contractor has failed to comply with a written instruction or the circumstances giving rise to the instruction remain unresolved, the Compliance Committee may thereafter exercise the powers conferred upon it under regulation 103.~~

3.quarter In the case of a written instruction issued under paragraph 1(d), where the circumstances giving rise to a suspension in some or all ~~exploitation~~ activities are not resolved or are unlikely to be resolved,

the Compliance Committee shall, ~~following consultation with the Contractor~~ notify the Council immediately together with any recommendation as to whether such suspension should continue. ~~Following consultations with the Contractor,~~ ~~TT~~The Council shall decide if the suspension should continue, including the placing of conditions on any recommencement of activities, taking into account any recommendations of the ~~Commission~~ ~~Compliance Committee~~.

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

1. In connection with this regulation, the appropriate level of harm is that of “serious harm”. This is consistent with regulation 28(3).

UCH is not applicable here. Paragraph 1 should reference the terminology reflected in regulations 35 and 28(3).

2. The third revised text provided for an instruction being issued in writing or orally. While the default position should be a written instruction, paragraph 1 contemplates potentially serious or dangerous situations which may warrant issuing an instruction orally for immediate resolution of the occurrence, practice or condition.

2. sexies (a): the CC should communicate through the Chief Inspector for such requests.

3. There should be a limit on the time the Chief Inspector can extend the specified period, following which the CC can revise the instruction or take further action under para. 2 sexies.

3. ter: it would be preferable for this to be reflected in para. 2 sexies. Additionally, “circumstances giving rise to the instruction remain unresolved” may not be related to a breach of the terms of an exploitation contract.

3. quarter: it is the CC who will undertake consultation with the contractor and issue any recommendations to the Council after such consultation.