

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29TH SESSION:
COUNCIL - PART II**

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.im.

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

The Pew Charitable Trusts

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

Draft regulation 34

3. 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. A Contractor shall immediately notify its Sponsoring State ~~or States, [States adjacent to the contract area likely to be affected] [other relevant stakeholders]~~ and the Secretary-General of the occurrence of any of the Notifiable Events ~~listed in appendix I to these Regulations.~~

(...)

3. Upon receipt of notification under paragraph (2), the Secretary-General shall consult with the Sponsoring State or States, States adjacent to the Contract Area ~~[likely to be affected]~~ and ~~[shall seek the instructions of the Compliance Committee/Council]~~ ~~other regulatory authorities as necessary. , and shall seek the instructions of the Compliance Committee/Council.~~

Formatted: Indent: Left: 1.9 cm

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

As a general comment, we would recommend that any situation significant enough to warrant notification of adjacent States and other marine users, should be an Incident, and follow that protocol under DR33, rather than establishing a similar parallel protocol under this DR34. Along these lines we note that there are a range of Notifiable Events, some of which may not require extensive or urgent reporting by the Secretary-General e.g. short periods of occupational time lost due to illness or injury of a crew member. Conversely, other items included in the list of Notifiable Events seem sufficiently significant that we wonder whether they should not (or would not already) constitute ‘Incidents’ for the purposes of DR33. Examples of such ‘Notifiable Events, as defined in Appendix I to the draft Regulations include: ‘Significant leak of hazardous substance’ or ‘Unauthorized Mining Discharge’ or ‘Significant threat or breach of security’, or ‘Contact with fishing gear / submarine pipelines or cables / equipment related to marine scientific research resulting in its damage’.

We also wonder if there may be other items that should be added to the Notifiable Event list (Appendix I). For example, when a Contractor reaches, say, 85% of any environmental thresholds established in Standards (so it is not in breach, but is approaching a specified limit) – this may be a good issue for the ISA to require reporting upon. Loss of equipment used for the performance of the Plan of Work (e.g. submarine cabling, pipes, monitoring tools, or vehicles) is another potential gap we perceive as not currently covered by either the Notifiable Event list, or the Incident definition in the Schedule. In this regard, reserving the possibility to update the list of Notifiable Events e.g. by Standard, may be a good idea.

Along these lines, we believe it would be helpful to re-classify those more serious Notifiable Events as an Incident and make the timing requirement in this regulation more proportional to the level of urgency warranted by a Notifiable Event.

Lastly, like the UK, we are unsure why the Compliance Committee and Council have been deleted from paragraph (3), as it seems they would be the relevant organs for determining next steps, if any.