

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.

**[Regulation 30 bis**

**Human health and safety management system**

1. When conducting its operations, a Contractor shall develop, implement and maintain a safety management system, taking into consideration the Guidelines.
2. A Contractor's safety management system shall:
  - (a) Be capable of delivering site-specific safety objectives and meeting performance requirements specified in the Health and Safety Plan and Maritime Security Plan;
  - (b) Cover occupational health and safety and process safety, including the selection or design of assets, facilities, equipment and materials;
  - (c) Permit effective reporting to the Authority in connection with safety performance;
  - [(c) bis Be independently verified annually by an internationally recognized provider of verification services acceptable to the Authority, in accordance with relevant Standards;]
  - (d) Promote inclusivity and gender equality; and
  - (e) Be in accordance with Good Industry Practice and internationally recognised standards.
3. ~~A proposed change to a Contractor's safety management system shall be treated the same as a modification of a Plan of Work, pursuant to Regulation 57 mutatis mutandis.~~
4. Compliance with this Regulation is a fundamental term of the Exploitation Contract, for the purposes of Regulation 103.]

**Comments**

- The reference to an independent verification has been reinserted.
- It has been suggested by a delegation to delete paragraph 3 as it would require a Contractor to follow the process set out in draft regulation 57, which would risk delaying the updates to the safety management system. Also, it is put forward that the content runs contrary to best practices in relation to monitoring and updating safety management systems. Another suggestion has been to insert a reference to a proposed "material" change to qualify it better.

Generally, we support DR30bis, though we do consider it important that **paragraph (3) be retained**. The adequacy of an applicant's safety management system is evaluated as part of the LTC and Council's assessment of a contract application (see DR13(4)(g)), so any change to the system that is sufficiently material that it may have affected that evaluation should be considered by the LTC and Council. DR57 performs precisely that function of triaging material

changes from non-material changes and channelling the matter to an appropriate approval process depending on the nature of the change. A minor or administrative change to the system should be dealt with swiftly under DR57, enabling Contractors to update safety management systems in line with best practices. The reason that paragraph (3) is necessary here, is that DR57 is stated as applying to proposed changes to the Plan of Work. As the safety management system is not itself part of the Plan of Work, paragraph (3) makes the necessary connection.

As a side comment, not necessarily relevant to the text of the Regulations, we find ourselves unsure how the required 'risk management systems' (DR29ter), Safety Management System (DR30bis), Environmental Management System (DR50ter) inter-relate, and whether the requirements might be met by a single organisational system, covering all aspects? This may be a useful matter for Standards and Guidelines, to ensure mutual understanding from Contractors, States and other stakeholders.