

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 34

### Notifiable events

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.]]~~
2. The Contractor shall, as soon as reasonably practicable, but no later than 24 hours after the Contractor becomes aware of any such Notifiable Event:
  - (a) Provide written notification to the Secretary-General of the event, including a description of the event, the immediate response action taken, ~~including, if appropriate, a statement regarding the implementation of an Emergency Response and Contingency Plan~~ and any planned action to be taken; ~~and~~
  - (b) Record the Notifiable Events in the Incidents Register.
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 other regulatory authorities as necessary.]]~~ and shall seek the instructions of the Compliance Committee/Council.
4. ~~The Contractor shall ensure that all regulatory authorities are notified and consulted, as appropriate.~~
45. Where a complaint is made to a Contractor concerning a matter covered by these Regulations, the Contractor shall record the complaint and shall report it to the Secretary-General within 7 Days of the complaint being received.

### Comments

- It has been suggested to re-insert language on adjacent coastal States. It has been pointed out that the language in relation to coastal States should be updated, once the work of the intersessional working group concerning coastal States is more solid.
- It has been suggested to reinstate the reference to the Compliance Committee in the last sentence of paragraph 3.
- It has been suggested to reinsert paragraph 4, and to clarify which organs that should be notified. It has been attempted to insert the requirement of consultation and seeking instruction from the Compliance Committee and/or the Council in paragraph 3 to accommodate for this. Paragraph 4 is still retained in the text, but in deleted form.
- It is reminded that Appendix 1, listing notifiable events, should be revisited to ensure whether the items qualify as “events” that warrant notification or whether some of these may rather constitute “incidents”.

Largely DR33 is improved, but we agree with the last point in the President’s text box. The definition of ‘Notifiable Event’ in Appendix I contains events that may be of sufficient severity to warrant a more urgent (Incident) response and/or overlap with the definition of an Incident e.g. ‘Significant leak of hazardous substance’, ‘Unauthorized Mining Discharge’, ‘Significant threat or breach of security’, ‘Contact with fishing gear / submarine pipelines or cables / equipment related to marine scientific research resulting in its damage’.

We also can think of events that we believe should trigger a specific management response, but are not covered by either the current definition of ‘Incident’ or the current definition of ‘Notifiable Event’ e.g. 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. cabling, pipes, monitoring tools, remotely operated vehicles) is another potential gap we perceive as not currently covered by either the Notifiable Event list, or the Incident definition in the Schedule.