CMSI Consultation Response

Respondent Details

NAME
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COUNTRY
United States

PERMISSION
Yes, CMSI can disclose my feedback, name, and organisation.

STAKEHOLDER
Government (local / regional / national)

ORGANISATION
U.S. Department of Energy

COMMENTS & QUESTIONS BY DOCUMENT

> Document:
> ## Governance

2. What is the mandate of the Legal Entity to deliver this vision?

COMMENT:

The proposed governance model identifies that a legal entity with a secretariat will be developed. As outlined in the proposal, the responsibility of the legal identity includes, among other roles, developing, promoting, and maintaining the CMS, implementing the assurance process, grievance mechanisms, public disclosure of information, and accreting assurance providers.

The proposal states that the current Copper Mark entity will transition and evolve to become the legal entity.

However, the document lacks detail or Terms of Reference, bylaws, or operating procedures that the legal entity will follow to deliver these responsibilities. If Copper Mark's procedures will be utilized, these procedures should be clearly defined in the governance model and assurance process proposals and provided to provide an opportunity for public consultation and input.

Additionally, the proposal does not define who is selected for the secretariat - will multiple stakeholders/ interests participate on the secretariat? How is the secretariat selected?

Recommendation: Add to the document, the Terms of Reference, bylaws, or operating procedures that define the implementation of the responsibilities of the legal entity and all decision-making bodies. Terms of Reference, bylaws, or operating procedures should be developed that define the implementation of the responsibilities of the legal entity and all decision-making bodies. This is consistent with the ISEAL Code of Good Practice for Sustainability Systems.

Additionally, in alignment with the ISEAL Code of Good Practice, there should be clear lines of responsibility for scheme components and strategies, including delineation of roles and responsibilities for developing, implementing, and revising policies and procedures for each scheme/ standard component and related strategies.

The Terms of Reference, bylaws, or operating procedures documents should further clarify that the Secretariat and board are not responsible for accreditation of auditors; rather, accreditation would be done by members of the International Accreditation Forum (IAF) or International Laboratory Accreditation Cooperation (ILAC). These documents and information should be recirculated for public consultation and input.

6. What will the composition of the Board look like?

COMMENT:

The CMSI should seek to achieve balanced representation and equity in all significant deliberations and decision making on the development of the standard and implementation measures.

We appreciate that the CMS has stated commitment to developing an independent multi-stakeholder board. We also support the proposal's vision and emphasis on establishing consensus-based decision-making that reflects multi-stakeholder interest and ensuring that decisions cannot be made that don't enjoy broad support from all interest groups.

However, the current proposed governance model for committees and the board of directors falls short of ensuring equal representation of the appropriate interest groups.

As proposed, the board of directors is comprised of four groups with four members each: Mining companies (directors of mining companies), affected mining stakeholders (including indigenous, labor, and others to reflect social/ community and environmental perspective), value chain companies (directors from value chain companies), and value chain stakeholders (international NGOs, multilateral organizations, academics, etc).

Aligned with the CSMI stated vision and governance guiding principles outlined, to provide an equal voice and decision-making power to stakeholder groups impacted by mining, "mining stakeholders" and "value chain stakeholders" should be further broken down into the groups they represent and each group should be given equal representation and decision-making power ‑for example, affected communities, labor unions, and NGOs should be separated to ensure that the groups are properly represented. As proposed, these interests are watered down and not given equal representation. Their representation and vote are combined with other, potentially conflicting, interest groups.

Recommendation: Revise the governance model to break down "mining stakeholders" and "value chain stakeholders" into the groups they represent and provide each group with equal representation and decision-making power ‑for example, affected communities, labor unions, and NGOs should be separated to ensure that the groups are properly represented. This comment also applies to the mining and value chain committees.

Document:
Assurance

General comment

COMMENT:

in addition to adhering to the ISO 19011:2018 Guidelines for Auditing Management Systems standard, CMSI should also incorporate relevant ISO Committee on Conformity Assessment (CASCO) standards, commonly known as the CASCO toolbox.

The CASCO toolbox includes the ISO/IEC standards in the 17020 and 17021 series:

ISO/IEC 17020:2012 Conformity assessment ‑Requirements for the operation of various types of bodies performing inspection

ISO/IEC 17021-1:2015 Conformity assessment ‑Requirements for bodies providing audit and certification of management systems ‑Part 1: Requirements

ISO/IEC TS 17021-4:2013 Conformity assessment ‑Requirements for bodies providing audit and certification of management systems ‑Part 4: Competence requirements for auditing and certification of event sustainability management systems

Recommendation: Incorporate relevant ISO Committee on Conformity Assessment (CASCO) standards (see comment).

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2. Roles and Responsibilities

COMMENT:

This section states, "Assurance Providers are accredited based on the criteria listed in Section 2" and below this statement is a list of bullets. The fourth bullet states, "Maintain accreditation as defined in the Section 2 of the Assurance Process." There are no clear criteria in Section 2. It is unclear if the bullets are the criteria; although, the fourth bullet also references Section 2. There are other sections that provide criteria, and it is also unclear if those are the criteria being referenced. The document would benefit by having the criteria clearly labeled and referenced.

Recommendation: Clearly identify and reference the criteria needed for Assurance Provides to be accredited.

Accreditation should be based on international standards and guides for accrediting third-party auditors vs. a list of criteria. Specifically, the CMSI audit program should require auditors be accredited to ISO/IEC 17021-1:2015 Conformity assessment –Requirements for bodies providing audit and certification of management systems –Part 1: Requirements or a similar standard in the ISO/IEC 17000 series of standards. Accreditation should be done by a member of the International Laboratory Accreditation Cooperation (ILAC) or International Accreditation Forum (IAF), not by CMSI.

This aligns with best practices used across geographies and across industry sectors. These practices are recognized for building confidence and trust, avoiding reputational damage, and facilitating global trade.

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4. Consolidated Standard External Assurance Process

COMMENT:

The document discusses the need for facilities to do a self-assessment and throughout the document discusses an Assurance Report without defining what the Assurance Report is. Later in the document, Section 4.4, the Assurance Report is described. Additionally, Section 2. B. notes that the Assurance Provider is responsible for a Facility Assurance Plan; although presumable the same report is titled the Assurance Report in an earlier section (Section A) and in later sections without clarifying which is accurate or that it is shortened for ease of reference. It would be beneficial to provide a definition or brief description of the Assurance report earlier in the documents due to the numerous occurrences of it before Section 4 and refer to it by the same title or note parenthetically that it will be referred to as (Assurance Report) thereafter.

Recommendation: Define or provide a brief description of the Assurance Report in the beginning of the document. This could be added to Section 1 along with Assurance Providers roles, Section 2, or other relevant introductory discussion. Use a consistent title or provide parenthetical of shortened title.

COMMENT:

It may be helpful to identify who is responsible for which step in the process to better demonstrate how the process would be implemented.

Recommendation: Consider including identification of who is responsible for each step in the process.

COMMENT:

Significant changes to the scope of the assessment or significant events or incidents that might affect the rating are identified that obligate a Facility to inform the Secretariat are presented as five bullets. An incident affecting worker safety should also be included, which is a factor triggering a critical notification.

Recommendation: Add new bullet or to fifth bullet or worker safety: An incident resulting in significant negative impact on human rights "or worker safety".

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7. Continual Improvement

COMMENT:

The draft standard and assurance process describe that an overall score will not be provided for a facility based on the levels of achievement - "Foundational, Good, and Leadership levels." The draft assurance process states that "As part of its continual improvement model, all Facilities that use the Consolidated Standard and Assurance Process commit to achieve, at a minimum, the Good Practice Level of performance over time." And "While a Facility works towards obtaining the Good Practice Level across all Performance Areas and after its first independent assessment, the Facility is obligated to develop, and share with the Secretariat for publication on the Consolidated Standard's web page, a continual improvement plan that identifies the gaps that need to be filled to attain Good Practice and document the actions it intends to take to fill them."

However, having a transparent and clear scoring system would help end-users, purchasers, and policy makers in implementing policies and requirements that phase-in requirements and drive towards continual improvement/ raising the global floor. This also helps provide a tool and market support/ value and incentives for leading practices, which ultimately lead to driving innovation in the field.

Recommendation: Recommend implementing a scoring system that offers additional levels and a transparent scoring to allow policy makers and purchasers to phase-in requirements and drive the industry towards continual improvement. Any areas requiring a continual improvement plan to attain "Good Practice" or demonstrating working towards meeting the minimal requirements should include descriptions of how the requirements will be fully met within a specified timeframe.

> ### Document:
> # Standard

General comment on Performance Area

COMMENT:

An improvement to the structure of the document would be to include a bulleted list of the Requirements to be covered under each Performance Area table after the "Intent" statement and before "Other Relevant Performance Areas." This will help the reader identify the metric areas up front and then refer to the table for more details. For example, Area 3: Responsible Supply Chains include a bulleted list

3.1 Responsible Supple Chain

3.2 Responsible Mining Source

Recommendation: Add a bulleted list of each performance measure in the appropriate section under the Intent statement.

Introduction

COMMENT:

The statement that the standard is principally for the operational phase should be rewritten to provide clearer emphasis on pre-operational phase. The EIA standards and other pre-operational phase activities are critically important to set the facility on the right track to achieving performance levels (i.e., stakeholder engagement and engaging indigenous peoples in the design of alternatives/mitigation that's implemented during the operational phase).

In addition, the standard should apply during the closure phase. Some mines have active closure phases that involve maintenance of tailings dams, water management or treatment, monitoring, etc. These closure phases can last for decades or more.

Recommendation: Rewrite to read-

"

…The Consolidated Standard is designed for implementation principally during the operational phase of a mine life and also includes There are important Performance Areas during pre-operational and closure phases. There are Individual requirements throughout the Standard , however, which require implementation at the pre-operational phase of a mine life including Performance Area 4: New Projects, Expansions and Resettlement, Performance Area 12: Stakeholder Engagement, Performance Area 14: Indigenous Peoples, etc.

COMMENT:

Include Assurance Plan in the definition of terms

Performance Area 1: Corporate Requirements

SECTION: 1.3 Transparency of Mineral Revenues, Foundational Practice

COMMENT:

We support the CMS reference and support to the Extractive Industries Transparency Initiative (EITI), which is a global coalition of governments, companies and civil society working together to improve openness and accountable management of revenues from natural resources, allowing citizens to see for themselves how much their government is receiving from their country's natural resources.

The foundational practice includes the requirement to publicly support the responsible management of mineral revenues, consistent with the EITI principles and to publicly disclose material payments to governments. However, the foundational requirement should go beyond public support for principles to ensure that facilities are on the path toward improvements in transparency.

Recommendation: The foundational requirement should require that a corporate policy is in place and implemented that aims to prevent, detect, and address corruption.

In order to ensure that transparency goals are met, all levels should include additional detail on the requirements to disclose revenue and payment information- for example, reports should be made annually, they type of material payments and information disclosed should be clearly defined.

Requirements for project-level payments and revenues information disclosure should also be included and clearly defined. For example:

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Production of minerals/ metals by type and mass, revenues from sales, payments and other benefits to government, taxes and tariffs, payments to political campaigns or related organizations, fines or other penalties

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COMMENT:

Include a definition of double materiality

Performance Area 12: Stakeholder Engagement

SECTION: 12.1 Stakeholder Identification and Engagement, Good Practice

COMMENT:

We support the requirements under Good and Foundational practices to develop stakeholder engagement plans with communities. However, simply developing a plan does not ensure that it is implemented. Stronger language is needed to meet the intent of this Performance Area.

Recommendation: Good Practice requirement #1: Revise text to read, "Establish and implement meaningful stakeholder processes…"

Good Practice requirement #2: Revise to read: Develop and implement a stakeholder engagement plan…"

The standard should include an outline of requirements for what a stakeholder engagement plan needs to include.

COMMENT:

Transparency is an important aspect of meaningful stakeholder engagement. The draft CMS does not appear to describe whether stakeholder plans or independent review results will be made publicly available.

Recommendation: Good Practice requirement #2: Add a sentence stating that the stakeholder engagement plan is to be made publicly available.

Leading Practice item #3: Add a sentence stating that results of the independent review of effectiveness of the stakeholder engagement processes will be made publicly available.

SECTION: 12.1 Stakeholder Identification and Engagement, Leading Practice, 3

COMMENT:

We support the Leading Practice requirement for an independent review of the effectiveness of the stakeholder engagement processes under However, independent review is only effective if it results in changes to improve engagement based on the results of the review.

Recommendation: Leading Practice, requirement #3: Add a sentence stating: Make changes to the stakeholder plan and processes based on the results of the independent review to improve the effectiveness of stakeholder engagement.

Performance Area 13: Community Impacts and Benefits

SECTION: 13.1 Identify and Address Community Impacts, Good Practice

COMMENT:

It is important that Good and Leading Practice follow procedures for engagement that represents meaningful interactions. In other words, input is heard and factored into facility decisions, monitoring, and ongoing communications.

Recommendation: Good Practice, requirement #1: Revise to read, "Meaningfully engage with stakeholders…"

Good Practice, requirement #3: Revise to read, "…in meaningful consultation with impacted stakeholders…."

COMMENT:

Community representatives, particularly underrepresented communities, may need funding or other support in order to effectively participate in the engagement process and/or in the process of developing impact-benefit agreements.

Recommendation: Good Practice: Add a new requirement that, if requested, the company will provide funding for communities to engage in the participatory process.

SECTION: 13.2 Community Development and Benefits, Good Practice

COMMENT:

In addition to supporting opportunities to increase positive social and economic development, it is good practice to consider and support environmental and human health in local communities. For example, community benefits could include supporting health centers, supporting community environmental monitoring, etc. We recommend expanding the scope of community development and benefit agreements to reflect potential health and environmental needs.

Recommendation: Good Practice and Leading Practice: Expand the applicable requirements so that community health and environmental needs are included in the requirements to work with communities to develop benefits.

Performance Area 14: Indigenous Peoples

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Foundational Practice

COMMENT:

Many of the Good Practice requirements should be moved to the Foundational level to align with international commitments related to indigenous peoples and recognize rights to self-determination.

Recommendation: Expand the Foundational level requirements to include: (1) opportunities for Indigenous Peoples to meaningfully engage and participate in decision-making that may affect them or their lands, territories, waters, or resources; (2) require the avoidance and mitigation of potential adverse effects on Indigenous Peoples or their lands, territories, waters, or resources; and; (3) promote and encourage opportunities for benefit sharing that are inclusive of affected Indigenous Peoples.

In addition, add a requirement that recognizes that Indigenous Peoples, as owners and custodians of certain lands and territories (including adjacent lands and territories) endowed with minerals resources, are important partners in the sustainable use and management of mineral resources.

The standard should recognize the right to self-determination for Indigenous Peoples and the right to Free, Prior, and Informed Consent (FPIC), in line with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Proposals to require mere "consultation" of affected Indigenous Peoples can be considered insufficient where, for example, a project may cause the permanent relocation of the Indigenous Peoples from their lands.

Performance Area 16: Artisanal and Small-Scale Mining

SECTION: 16.1 ASM Risk Assessment, Engagement and Reporting, Foundational Practice

COMMENT:

Basic disclosure of activities occurring at ASMs may not always occur; particularly, where activities are occurring in remote areas and when activities are exploratory. However, these practices can have major disturbances (e.g., roads and water use). Therefore, we recommend requirements to disclose pre-mining (e.g., clearing, or associated activities) and activities associated with operations to stakeholders, community members, and indigenous people.

Recommendation: Foundational Practice: Include a requirement to disclose pre-mining (e.g., exploration, clearing or associated ancillary activities) and activities associated with operations to stakeholders, community members, and indigenous people.

SECTION: 16.1 ASM Risk Assessment, Engagement and Reporting, Good Practice, 1

COMMENT:

For ASM Risk Assessment, Engagement and Reporting, there has been a recent shift of various actors in discussing the professionalization of the sector in addition to formalization.

Recommendation: Consider consulting the new World Bank paper on ASM and potentially incorporate the professionalization of ASM in addition to formalization. https://www.worldbank.org/en/news/press-release/2024/09/19/world-bank-s-new-framework-to-boost-sustainable-and-inclusive-artisanal-and-small-scale-mining

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SECTION: 16.1 ASM Risk Assessment, Engagement and Reporting, Good Practice

COMMENT:

We support assessing, managing, and mitigating risks and impacts from ASM to the facility under Good and Foundational practices. Companies should also be responsible for assessing environmental and human health impacts due to ASM-sourced material processed at the facility even if those impacts do not occur at the facility itself.

Recommendation: Good Practice, #1: Revise to read, "Assess risks and impacts to the Facility from ASM and risks and impacts related to the ASM entities it does business with and update the assessment at defined intervals.

Good Practice #2: Revise to read, "Develop and implement a plan to manage and mitigate ASM risks to the Facility and impacts from ASM operations identified in the risk assessment

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COMMENT:

Good practice for success at reducing impacts and risks is to develop and implement a plan, along with monitoring and adaptive management. The draft CMS does not appear to require that effectiveness of ASM risk mitigation be monitored or that the plans and actions be changed if monitoring shows they are unsuccessful. We recommend requiring monitoring and adaptive management.

Recommendation: Good Practice: Add a new requirement that states "Periodically monitor the effectiveness of ASM risk and impact mitigation strategies and adapt plans and actions as necessary to facilitate continued minimization of risks."

Performance Area 18: Water Stewardship

SECTION: 18.1 Water Management and Performance, Good Practice, 2

COMMENT:

We support the characterization of risks to groundwater resources. However, the requirement to do so should be more specific so that it is clear that it applies to both groundwater quantity and quality. In addition, the level of detail should be dependent on groundwater uses as well as risks. For example, groundwater used as drinking water, for cultural practices, that contribute to sensitive surface waters, etc. should be subject to characterization and impact assessment.

Recommendation: Good Practice, requirement #2: Revise to read, "Characterise the hydro-geological context and predict risks and impacts to groundwater resources, including changes to groundwater quality and groundwater amounts/levels with a level of detail informed by identified risks and groundwater uses and values."

SECTION: 18.1 Water Management and Performance, Good Practice, 3

COMMENT:

In addition to assessing cumulative effects, companies should assess how water management contributes to individual effects. Both cumulative and individual effects analysis will help facilitate identification of mitigation measures or alternative practices to protect water.

Recommendation: Good Practice requirement #3: Revise to read, "Assess how water management practices within the Facility contribute to direct and cumulative effects on surface water and groundwater in the watershed…."

SECTION: 18.1 Water Management and Performance, Good Practice, 5

COMMENT:

The plan to mitigate impacts seems overly focused on impacts associated with facility discharges. There could be other facility practices that result in impacts such as mine dewatering during operations, seepage from mine waste facilities, etc.

In addition, some facility activities could impact areas upstream as well as (or instead of downstream) of the facility. For example, mine dewatering can result in changes to groundwater levels radially distant from the mine, including upstream. Therefore, the plan to mitigate risk should not be solely focused on downstream areas.

Recommendation: Good Practice requirement #4: Revise to read, "Develop and implement a plan to mitigate impacts and risks to surface water and groundwater considering the possibly of the discharges or other Facility activities are likely to affect the quality and quantity of watershed resources upstream and downstream of the facility…."

COMMENT:

The plan to mitigate impacts should be updated as needed based on the success (or not) of mitigation measures, results of monitoring and results of periodic evaluation of climate change (requirement #5). This will better ensure protection of water resources throughout operations and closure.

Recommendation: Good Practice requirement #4: Add a new sentence to Good Practice #4 or add a new requirement that states, "Regularly review and update the plan to mitigate impacts and risks based on the monitored effectiveness of mitigation measures, surface water and groundwater monitoring, and results of climate analyses. Implement the updated plan."

COMMENT:

We support inclusion of climate considerations in water management impact assessment and planning. However, the language of the climate requirement is too limiting and seems mainly focused on stormwater. Climate can also impact process water facilities such as holding ponds and treatment plants.

Recommendation: Good Practice requirement #5: Revise to read, "Assess the risks associated with a range of potential climate change scenarios at the Facility and their likely impact on the water balance, water quality and water-related infrastructure such as those for managing process and contact water, erosion, sediment and drought or stormwater related control systems at defined intervals."

SECTION: 18.1 Water Management and Performance, Good Practice, 8

COMMENT:

The plan to mitigate impacts and risks should establish clear goals that need to be achieved that represent acceptable threshold risk or impact levels. Requirement #8 requires the establishment of water quality objectives and/or targets. These objectives and/or targets should be linked to the mitigation plan to ensure water quality and quantity protections.

Recommendation: Good Practice requirement #4: Add a new sentence to the end of Good Practice #4 that states, "The plan should be developed and implemented to meet the objectives and/or targets of requirement #8."

SECTION: 18.1 Water Management and Performance, Good Practice, 9

COMMENT:

The CMS requires monitoring progress of actions to achieve objectives. The type of monitoring needed is vague and more detailed language is needed to ensure that effective monitoring will occur.

Recommendation: Good Practice requirement #9: Add a new sentence and revise to read, "Develop and implement a monitoring plan to regularly monitor progress of actions to achieve objectives and/or targets and report to Facility-level senior management. At a minimum the monitoring plan must include monitoring process water, contact water, and stormwater and groundwater and surface water in areas that could be impacted by the Facility."

SECTION: 18.1 Water Management and Performance, Leading Practice, 1

COMMENT:

Under the CMS only Leading Practice facilities would be required to meet water related objectives protective of groundwater and surface water. This is highly concerning and implies that it is not necessary to meet water quality and quantity standards to be Good Practice. This is problematic for two reasons. First, the definition of "Good" implies that good practices and outcomes will be achieved such as meeting water objectives. Second, if a mine is not expected to meet water quality objectives and allows water quality to be degraded, it is much harder to meet objectives later than if planned and implemented to do so up front.

Recommendation: Leading Practice requirement #1: Move this requirement to the Good Practice category.

SECTION: 18.1 Water Management and Performance

COMMENT:

Some of the Good Practice measures should be part of the Foundational Practice. For example, a water management plan, objectives, and monitoring should be required of all facilities. These are basic needs and practices that are as important for mine operations as for environmental protection.

Recommendation: Functional Level: Include Good Practice requirements for a water management plan (#4), establishment of water quality objectives (#8), and monitoring (#9) under Functional Practice.

SECTION: 18.3 Water Reporting, Good Practice

COMMENT:

Transparent reporting of water quality monitoring does not appear to be required. This is a good practice that is not burdensome and will help protect and build trust with local communities.

Recommendation: Good Practice: Add a requirement to publicly disclose the results of groundwater and sur-face water monitoring in comparison to background water quality and quantity, water objectives/targets, and the previous year's monitoring results in order to clearly demonstrate compliance and trends in water quantity or quality due to Facility operations.

Performance Area 19: Biodiversity, Ecosystem Services and Nature

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Good Practice

COMMENT:

Considering species adaptation and resiliency to disturbance and climate change would be beneficial to in-clude as part of Good Practice.

Recommendation: Good Practice: Include a measure to identify resiliency of affected species and conduct analysis of species adaptation.

Performance Area 2: Business Integrity

SECTION: 2.1 Legal Compliance

COMMENT:

The Good Practice level includes "Publicly disclose significant fines or regulatory actions." The disclosure of significant fines and regulatory actions is not onerous, is beneficial to communities, and will provide incentives for facilities and companies to do better. Therefore, this should also be at the Foundational Practice level.

In addition, more detailed reporting at the Good Level and Leading Level is warranted so to demonstrate how facilities responded to significant fines and regulatory actions.

Recommendation: Add Public disclosure of significant fines and regulatory actions to the Foundational Prac-tice.

At the Good Practice Level include a requirement for public disclosure of corrective actions taken or planned to respond to significant fines or regulatory actions.

Suggest the Leading Practice include how corrective actions are being incorporated as a change in Standard Operating Procedures, best practices, or lessons learned.

Performance Area 20: Climate Action

SECTION: 20.2 Climate Change Management (Facility Level), Foundational Practice, 1

COMMENT:

The requirements for reporting and disclosure of facility GHG emissions and targets should be based on international best practice and guidance, for example the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard, which provides requirements and guidance for companies and other organizations preparing a corporate-level GHG emissions inventory.

Recommendation: Foundational Practice for Facilities (20.2) should ensure that there is a policy being implemented that utilizes credible methodology and publicly discloses GHG emissions from operations and includes targets for reducing direct and indirect GHG emissions, including emissions from energy consumption (from fossil fuel and non-fossil fuel sources, including renewables.) The reporting should be done on a yearly basis. This is aligned with international best practices and safeguard policies of multilateral development banks.

Additional performance-based benchmarks and details should be added to the requirements. We recommend drawing from and building upon the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard.

As required for the Towards Sustainable Mining Standard (AA and AAA levels) we recommend that the "Good Practice" also require that Scope 1, 2 and 3 data are independently assured for accuracy.

Performance Area 21: Tailings Management

SECTION: 21.1 Tailings Management, Leading Practice, 1

COMMENT:

Full conformance with the GISTM or the Tailings Management Protocol for MAC is required only of Leading Practice in the draft CMS. The definition of Leading Practice is the level of practice which goes above and beyond responsible industry good practice. The CMS consultation slide deck (slide #9) indicates that only a minority of companies would achieve Leading Practice, as opposed to Good Practice which is meant to be achieved by all mining companies. The GISTM is meant to represent responsible industry practice and to "… achieve the ultimate goal of zero harm to people and the environment with zero tolerance for human fatality…" This goal won't be achieved if only a minority of companies conform to the GISTM under the CMS. Due to the severe consequences of tailings failures, it is critical that GISTM be fully implemented broadly as Good Practice and not just by a few mining operators.

Recommendation: Good Practice: Require that full conformance with GISTM or the Tailings Management Protocol of MAC be required and demonstrated under Good Practice.

Performance Area 22: Pollution Prevention

SECTION: 22.1 Non, mineral Waste and Hazardous Materials Management

COMMENT:

Foundational Practice requires implementation of actions to avoid and reduce the amount of waste generated. It should also be foundational practice to implement actions to manage the waste that is produced in a manner that is protective of human health and the environment.

Recommendation: Add a new requirement to 22.1 Foundational Practice to implement actions to manage (store, dispose, transport) wastes produced in a manner that is protective of human health and the environment.

SECTION: 22.1 Non, mineral Waste and Hazardous Materials Management, Good Practice

COMMENT:

Good Practice requires establishing and monitoring targets and/or objectives related to waste and hazardous materials management and reduction. It is not enough to establish and monitor targets. Good practice also means meeting targets and making changes, as needed, to continue meeting targets.

Recommendation: Good Practice requirement #3: Revise to read, "Establish and monitor targets and/or objectives related to waste and hazardous materials management and reduction. Meet targets and/or objectives and make changes to actions as needed to consistently meet targets."

SECTION: 22.2 Mineral Wastes, Good Practice

COMMENT:

Standard industry practice for management and disposal of mineralized waste rock entails development and implementation of a waste rock management plan and making changes to the plan as needed.

Recommendation: Good Practice: Add a requirement to develop and implement (and update as needed) a mineralized waste management plan that describes waste management procedures, objectives (including objectives for physical and chemical stability per requirement #1), and monitoring.

SECTION: 22.3 Non, GHG Air Emissions, Good Practice

COMMENT:

The CMS Good practice level requires establishing targets or objectives for air emissions reductions against a defined baseline. Air emission targets should also be protective of human health and the environment which may be more stringent than the current baseline at the operating site.

In addition, establishing targets is not a strong enough goal. Air emission targets should also be monitored and met as a basic requirement of good practice.

Recommendation: Good Practice, requirement #2: Revise as follows, "Establish targets or objectives for air emissions reductions against a defined baseline that are also protective of human health and the environment and in line with the mitigation hierarchy. and Develop and implement corresponding actions including emission controls and monitoring to meet targets and objectives."

SECTION: 22.4 Mercury

COMMENT:

The section on mercury should clarify that the requirements for non-GHG air emissions also apply to mercury (e.g., establishing and achieving air emissions targets)

Recommendation: Provide a note in the Mercury section that clarifies that the requirements of section 22.3 also apply to mercury air emissions.

Performance Area 23: Circular Economy

SECTION: 23.1 Circular Economy Management at all facilities, Foundational Practice

COMMENT:

Labor rights are not clearly incorporated into the requirements.

Recommendation: Suggested addition as a "foundational" practice.

"Publicly commit to apply the principles of circular economy and decent work in the Facility's

operations through increased resource efficiency, reprocessing, reuse, recovery and recycling"

"Identify and document all waste streams, mineral and non-mineral from then Facility, and opportunities to separate waste that can be reprocessed, reused or recycled. This includes environmental and labor practices and hazards."

SECTION: 23.1 Circular Economy Management at all facilities, Leading Practice

COMMENT:

Assessing labor practices, include occupational safety and health, are not included.

Recommendation: Suggested addition as a "leading practice"

"Identify and assess labor rights, human rights, and environmental risks in the scrap supply chain."

Performance Area 24: Closure

SECTION: 24.1 Closure Management, Foundational Practice, 2

COMMENT:

Foundational Practice requires developing (but not implementing) a closure plan. Implementation of closure plans are fundamental and the foundational practice requirements should be strengthened in this area.

Recommendation: Foundational Practice, requirement 2: Revise as follows, "Develop and implement a closure plan in line with regulatory requirements, informed by engagement with potentially affected stakeholders and rights-holders that integrates environmental and social aspects and estimated closure costs."

SECTION: 24.1 Closure Management, Good Practice, 3

COMMENT:

Good Practice requirement # 3 identifies a list of items to be addressed in collaborating with stakeholders during closure planning. Stability is not on the list, yet physical stability of waste rock and tailings facilities, open pits, underground mine audit plugs, etc. is an important feature of closure planning.

Air quality is not mentioned and is also important so that communities and resources are not adversely impacted by fugitive dust or emissions.

Recommendation: Good Practice requirement #3: Revise as follows, "… beneficial future land uses, protection of biodiversity and water sources, air quality, stability, and avoidance of acid rock drainage and metal leaching."

SECTION: 24.1 Closure Management, Leading Practice, 1

COMMENT:

Closure plans and facility-level financial assurance amounts should be made publicly available as a matter of Good Practice (not just Leading Practice). Making this information available does not seem to be burdensome, these are key areas of stakeholder interest, and critical to long-term environmental and human protections.

Recommendation: Revise Leading Practice requirement #1 as follows and move it into the Good Practice section, "Publicly disclose the closure plan and how closure costs are estimated, and the costs and associated financial provisions for all facilities at least annually."

SECTION: 24.1 Closure Management

COMMENT:

The CMS does not describe when the closure plan and financial assurance must be in place. It is critical that these are in place before new mining operations start and as soon as possible for existing operations. We recommend that this be made a requirement.

Recommendation: Good Practice: Develop a new requirement that requires that closure plans and financial assurance to implement the closure plan be established before mining operations commence and as soon as possible for existing operations that do not currently have a closure plan.

Performance Area 3: Responsible Supply Chains

SECTION: 3.1 Responsible Supply Chains (applicable to all facilities), Foundational Practice

COMMENT:

Certain things that should be foundational and non-negotiable practices, especially around identification and mitigation of risk, as well as access to remedy, are included only in "Good practice" or "leading practice."

Recommendation: We suggest moving the below practices in 3.1 from "good" or "leading" to foundational.

Good practice 1: "Identify, assess, and prioritise the most significant parts or segments of the Facility's supply chain where the severity or likelihood of sustainability risks is high or very high. Parts or segments of the supply chain refer to countries, value added activities, suppliers, commodities, or others"

Good practice 2: "Take reasonable action to prevent and mitigate high or very high risks of the Facility's business relationships"

Good practice 5: "Where appropriate, support remedy where the Facility's prioritized business relationships have caused or contributed to adverse impacts."

Performance Area 4: New Projects, Expansions and Resettlement

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Good Practice, 5

COMMENT:

We support the requirement for ESIAs for new projects and expansions. The Good Practice requirement of public disclosure is important. In addition to describing the results of the ESIA, it is also good practice to publicly disclose the ESIA document itself and responses to comments received on the ESIA since this information provides the basis for the ESIA results.

Recommendation: Good Practice requirement 5: Revise to read, "Publicly disclose the results of the ESIA, including how it has been used to influence the project design, and responses to public comments on the ESIA and make it and the ESIA document itself available to affected communities and other local stakeholders in ways that are accessible and understandable."

Performance Area 6: Child Labour and Modern Slavery

SECTION: 6.1 Risk, Mitigation and Operating Performance

COMMENT:

There seems to be some terminology confusion between mitigation and remediation. Companies should take steps to prevent and mitigate risk and remediate violations. These are two distinct processes.

Recommendation: Develop separate practices/bullet points on 1) the policies to mitigate child labor/forced labor risks, and 2) practices to remediate identified cases of forced labor and child labor.

SECTION: Glossary and Interpretive Guidance

COMMENT:

Currently there is definition of remedy, but there is no definition of mitigation.

Recommendation: Add a definition of "mitigation" to the glossary and interpretive guidance.

COMMENT:

While the UK Modern Slavery Act uses the term, "Modern slavery" does not have a definition under international law. In addition, there is no "ILO indicators of modern slavery," but rather ILO indicators of forced labor.

Recommendation: Rather than using the term modern slavery, we strongly recommend replacing it with the term "forced labor" and deferring to the ILO definition of forced labor throughout performance area 6. In addition, we recommend removing the references to the "ILO indicators of modern slavery," which do not exist, and instead use "ILO indicators of forced labor" as per the 2012 publication.

In addition, remove references to the 1926 slavery convention and the UN Supplementary Convention on the abolition of slavery (footnotes 43 and 44), and replace with ILO Conventions 29 and 105, as well as the Palermo Protocol on Trafficking in Persons.

Performance Area 7: Rights of Workers

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Foundational Practice, 1

COMMENT:

Language around subcontracting and freedom of association/collective bargaining currently is weak. In particular, subcontracting is often used to hire workers outside the bargaining unit, thus undermining collective bargaining.

Recommendation: We recommend that as a foundational or good practices, companies commit to not using short-term contracts or subcontractors to undermine collective bargaining or reduce obligations to workers under applicable laws or CBAs.

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Foundational Practice

COMMENT:

Currently the standard lacks employer neutrality, which is an important commitment for the operating company to remain neutral in the face of union organizing efforts. This includes not producing or distributing material in opposition to trade unions, not establishing a company union to undermine legitimate workers representation, and not retaliating against workers organizations participating in legal strikes.

Recommendation: We strongly recommend that an employer neutrality clause be added as a foundational practice.

Employer neutrality should also then be defined in the glossary section.

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Good Practice, 4

COMMENT:

Good practice No. 4 (remuneration) should be a foundation practice and include direct hires, part-time workers, and subcontractors.

Recommendation: Suggested addition as a "foundational practice"

"Remunerate workers with fair wages and benefits that represent competitive remuneration within the job market, including for part-time workers and subcontractors".

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Good Practice, 5

COMMENT:

We would like greater specificity on applicability to direct hires/contractor or subcontractor hires of requirements of equal renumeration in 7.1 Workers' Rights Risk, Mitigation and Operational Performance

Recommendation: For the requirement "Provide equal renumeration, including benefits, for work of equal value," we recommend that this requirement specifically identify that equal renumeration be provided for both direct and indirect hires. Suggested language: Remunerate workers with fair wages and benefits that represent competitive remuneration, including for part-time workers and subcontractors"

In addition, we suggest that this be a "foundational" rather than a "good" practice.

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Good Practice, 7

COMMENT:

Good practice No. 7 (feedback) should include part-time workers, subcontractors and develop and implement with workers.

Recommendation: Suggested addition

"Co-develop a feedback mechanism with workers, including part-time workers and subcontractors that (..),

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SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Good Practice

COMMENT:

We are concerned that there is no guidance where employment should be done through subcontracting/contracting rather than direct hiring. Reliance on indirect hires significantly raises risks of labor rights violations.

Recommendation: Suggested addition as a "good practice": "To exercise greater oversight over labor conditions, directly employ workers wherever possible rather than outsourcing to subcontracting third-party companies.

Eliminate labor-only subcontracting or the use of subcontracted employees to perform the same tasks as direct hires."

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Leading Practice

COMMENT:

We are concerned that under 7.1, "Identify, evaluate and address risks of adverse impacts to workers' rights by employment agencies" and "Apply workers rights policies with employment agencies" are "leading practice" rather than a foundational one. Given that risks of FL and other workers rights violations are highest among

indirect hires, and many mines have significantly more subcontracted workers on sight, not requiring this at a foundational or good practice level significantly weakens the labor standards of the CMS.

Recommendation: We strongly recommend that these two points (leading practices #7 and 8 in performance area 7.1), be identified as "Foundational Practices"

SECTION: 7.2 Grievance Mechanism for Employees and Contractors (Workers), Good Practice

COMMENT:

Under the grievance mechanism, there are several practices listed as "leading" or "good" that should be baseline universal practices

Recommendation: Under 7.2 "Grievance Mechanism for Employees and Contractors" we suggest moving the below requirements to foundational practices.

Good practice #3 "Provide remedy for adverse human rights impacts that the Facility has caused or contributed to as reported through the grievance mechanism, or cooperate in the remediation of these impacts through other legitimate processes"

Leading Practice #1 "Co-design, or integrate improvements to, the grievance mechanism with workers"

COMMENT:

All the proposed standards under this section should be in line with the ILO's decent work principles and indicators, as well as the ILO Fundamental Principles and Rights at work

In line with the 2023 update of the OECD Guidelines for Multinational Enterprises, which specifically mentions subcontractors, all the requirements for foundational and good practices should also cover part-time workers and subcontractors

Recommendation: We recommend reviewing all the foundational and good practices requirements to make sure they are in alignment with the ILO decent work principles/indicators https://www.ilo.org/topics/decent-work and the ILO Fundamental Principles and Rights at Work.

All the requirements for foundational and good practices should also cover part-time workers and subcontractors (in line with the fact that subcontractors are specifically mentioned in the 2023 update of the OECD Guidelines for Multinational Enterprises).

Also, this section should include a requirement related to decent work as foundational or good practice. For example, "publicly commit to implement decent work."

Performance Area 9: Safe, Healthy and Respectful Workplaces

SECTION: 9.1 Health and Safety Management, Foundational Practice

COMMENT:

More could be done to strengthen cooperation between workers, contracting/subcontracting firms, and the facility on occupational health and safety

Recommendation: Suggested addition as a "foundational" or "good" practice.

"Create facility-wide joint labor-management committees to manage the application of occupational safety and health requirements and other labor standards. Ensure that such committees include 1) participation from the mining company and all subcontractors, and 2) equal representation of workers and management."

SECTION: 9.4 Monitoring, Performance and Reporting, Foundational Practice, 1

COMMENT:

Disclosure of safety and health performance should be a foundational practice. This would be in line with the first two requirements (establishing and disseminating objectives and targets).

Recommendation: Suggested addition as a "foundational" practice.

"Publicly disclose and disseminate physical and phycological safety and health performance at least annually"

Document:
Claims

3. Types of Reporting & Claims

COMMENT:

As outlined in the reporting and claims policy, a participant claim is permitted to be used by a facility as soon as its application to participate in the consolidated standard has been approved. This approval signals that a facility is committed to participate in the formal reporting and assurance process but does not convey any information on the performance of the facility against the standard - the participant claim is used until the first Assured Report is published on the consolidated standards website, within 18 months of the application approval (commencement date).

Once the facilities first Assured Report is published on the Consolidated Standard's website, an "Assured Claim can be used to "communicate to interested parties, such as customers, investors, communities and other stakeholders, that the Assurance Process has been completed and an Assured Report is available." The report shows the level of performance achieved within each of the CMS performance areas and the "Assured Claim" can be used as long as a mine continues with the consolidated standard process, policies, and procedures, publishes self-reports between assurance cycles (every year) and undertakes an independent assurance every 3 years, and ensures its fees are paid in full.

The third tier of claims is a performance claim, which can be sought by any facility that has undergone an independent assurance and has achieved an outlined "minimum performance threshold." This claim is intended to communicate a level of performance achieved by the facility. Facilities that produce one or more of the minerals / metals covered by the metals marks are able to apply for one or more metals mark based on the metals they produce. For other facilities that produce metals or minerals not covered by one of the metals marks, they may apply for the Performance Claim based on the Consolidated Standard logo that does not specify a specific metal. Qualifying for the Performance Claim and being approved to use it entitles the facility to use the respective logo as an indication of its level of performance in the standard.

The Reporting and Claims Policy outlines options and is seeking views on the minimum level of performance needed to apply to obtain a "Performance Claim" based on the Consolidated Standard. The options outlined present two examples of a percentage-based "threshold" for the percentage of performance areas where "good practice" level is met (80% and 75%).

While we support the notion that the standard is seeking to balance setting a "high-bar" and large-scale adoption, we urge that the Consolidated Standard set a minimum level for performance claims that seeks to raise the global floor for environmental and social protections.

Several of the Foundational Practice requirements are principle/corporate policy statements and do not ensure that good or best practices are adopted. By setting a percentage of performance areas, this would allow for a facility to make performance-based claims while not implementing, for example, performance- based best practices for environmental protection or labor rights.

Recommendation: We recommend that rather than setting a percentage threshold of performance areas where the facilities achieve "good practice level" for an overarching "Performance Claim" CMSI include a set of critical criteria for each performance area that any facility must achieve to receive the claim - and then have additional leadership performance levels as additional "leadership" criteria is met that goes beyond the critical criteria. This would help to ensure the integrity of the CMSI standard and continual improvement as facilities can strive to meet higher levels of the standard. This also facilitates the standards adoption in government and purchaser policies.

We recommend that rather than setting a percentage threshold of performance areas where the facilities achieve "good practice level" for an overarching "Performance Claim" CMSI include a set of critical criteria for each performance area that any facility must achieve to receive the claim - and then have additional leadership performance levels as additional "leadership" criteria is met that goes beyond the critical criteria. This would help to ensure the integrity of the CMSI standard and continual improvement as facilities can strive to meet higher levels of the standard. This also facilitates the standards adoption in government and purchaser policies.

Additionally, Performance Requirements for the critical criteria for performance-based claims should be strong unambiguous ESG performance benchmarks that are based on international industry best practices.