

CMSI Consultation Response

Respondent Details

NAME

Judy Kreps

COUNTRY

United States

PERMISSION

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

STAKEHOLDER

Other: ESG extractive industry specialist

ORGANISATION

Gone Native

COMMENTS & QUESTIONS BY DOCUMENT

Document:
Governance

QUESTION 1

The governance principles that guided the development of the governance model are inclusive, effective, credible, impact-driven, pragmatic and efficient. From your perspective, does the proposed governance model meet expectations for consistency with these principles?

Response: No Response

QUESTION 2

Does the proposed governance model ensure no single group is able to unduly influence decisions?

Response: unsure

did not review

Document:
Assurance

QUESTION 1

From your perspective, does the Assurance process meet your expectations of a robust, credible, replicable and transparent approach?

Response: 2: Below expectations

lots of jargon, made review difficult - no comments beyond this

Document:
Standard

Introduction

SECTION: 5) Reporting performance against the Consolidated Standard

COMMENT:

[5: at the performance area level]: There is no "score" as per later in the CMS, however there are two (assuming the Foundation level is deleted) levels of performance, so in fact there is a rating system with defined levels of compliance results. Different levels of compliance make reporting difficult - if for example a facility claims it is CMS compliant. It will have to state "CMS-GP compliant" or "CMS-LP compliant". By making the LP level apply to corporations and the GP level apply to facilities, that problem is removed and terminology becomes clearer for all.

SECTION: 6) Glossary and interpretive guidance

COMMENT:

6/first sentence: this is a great idea!

COMMENT:

6/a: "Seeking to" has no actual meaning. One either complies or one doesn't. Phrasing along the lines of "must comply with all applicable local and host-country laws; where those laws differ from CSMI, the project/applicant/whatever will comply with the more rigorous standard" is recommended instead.

COMMENT:

f: "offset", not "compensate" is the more commonly used terminology

COMMENT:

The CMS would benefit from stating that an integrated ESMS - Environmental and Social Management System - (that arises out of a comprehensive ESIA) is the logical home for the detailed and comprehensive procedures and requirements set forth in the Standard. Without placing the Standard requirements contextually within a project's ESMS, the Standard's requirements can appear to add significant burden to ESG for a given project/facility/company.

COMMENT:

Question: how then is one to differentiate what level of compliance a given project is demonstrating, if it says, e.g. "CMS compliant"? Would the expectation be to state more specifically, e.g. "CMS Good Practice-compliant"? Also, what is the motivation then to improve to the next level of practice? Comment: Strongly suggest removing all "Foundation Practice" levels and rolling into Good Practice, which is defined as (and is generally compliant with) recognized industry standard/international best practice (GIIP). Having a CMS level below GIIP is a way for companies to claim compliance without actually complying to GIIP, which lessens the credibility of the CSM for all adopters.

COMMENT:

Broadly speaking, making a commitment to commit is just words. If the aim of the 'Foundational Practice' level is to encourage juniors/new miners to improve their ESG, then give them a timeframe to reach Good Practice compliance, or something similar. Otherwise, standards are typically a performance-based achievement: you either meet/exceed them: check; or you don't, no check/not compliant. There aren't levels of compliance. If the goal of the tiered structure is to provide recognition for those with exception performance, I recommend applying Good Practice to facilities/projects; and Leading PRACTIONER at the corporate level.

COMMENT:

[last sentence, page 3]: Incorporating the CMS into a LOM-ESMS removes this issue.

COMMENT:

c/assurance report: Include reference to who provides the assurance report (covered later in CMS) here.

Overarching Glossary

SECTION: Assurance Process

COMMENT:

Assurance Process: As a consultant this sounds like great news; as a miner, it sounds like another requirement for more consultants. The standard should be aimed and developed for practitioners to put into practice; third-party audits for ESG/CR already exist as GIIP.

SECTION: General Glossary terms

COMMENT:

Commitment: Commitments defined in this manner carry no binding power, and thus aren't effective as measurements of actual ESG/CR performance.

COMMENT:

ESIA: Love the inclusion of "S" in ESIA - A++;

Note: "...and form the basis for a project's ESMS."

COMMENT:

Independent Review of Effectiveness: I recommend simply including an assessment of performance within an IR, rather than having two types of independent reviews. An IR without an assessment of performance doesn't fully serve the reviewed entity. The same comment holds for the two types of Internal Reviews that follow.

And: What is under review is the performance to the CMS and that is defined by a project/facility's ESMS/CR

COMMENT:

Internal Review of Effectiveness: See comments above

SECTION: Levels of Performance

COMMENT:

Good Practice: GP is the MINIMUM level of performance that all responsible mining companies should achieve.

COMMENT:

Management System: Strongly recommend the CMS promulgate and organize under a single Corporate Responsibility/ESMS: multiple management systems have the potential to not to talk to each other, complicate ESG/CR management, contradict/conflict with each other (e.g. - resettlement into a planned biodiversity off-set), and to overly complicate the job for mine managers. The clarion call should be for a single, integrated ESMS that arises from a rigorous, comprehensive ESIA. Also: the CMS should make sure not to conflate an ESMS with the discipline-specific management plan that form an ESMS.

Performance Area 1: Corporate Requirements

SECTION: 1.1 Board and Executive Accountability, Policy and Decision, Making, Foundational Practice

COMMENT:

Foundational Practice: .. and whose job description mandates assuring compliance with relevant standards and legal framework

SECTION: 1.1 Board and Executive Accountability, Policy and Decision, Making, Good Practice

COMMENT:

Good Practice/2: policy and commitment are not the same; policies include commitments and should be binding; commitments are aspirational (or can be considered to be)

SECTION: 1.1 Board and Executive Accountability, Policy and Decision, Making, Good Practice

COMMENT:

Good practice/4: great point! Include climate goals.

SECTION: 1.5 Crisis Management and Communications, Good Practice, 1

COMMENT:

Good Practice/d: to include leaders and appropriate first responders of all potentially affected communities

SECTION: Glossary and Interpretive Guidance

COMMENT:

Crisis/corporate reputation: is this actually a crisis? not sure... and if so, does it need periodic response simulations re: standards, above?

These other listed things, yes, precipitate a crisis. a threat to the bottom line does not.

COMMENT:

Other relevant performance areas: Cross-referencing is an excellent idea; even better if it's hyperlinked!

Performance Area 10: Emergency Preparedness and Response

SECTION: 10.1 Emergency Preparedness and Response Planning, Foundational Practice, 1

COMMENT:

FP/1: good inclusion! Also recommend including extreme weather events and wildfires, specifically.

SECTION: References

COMMENT:

References: IFC General EHS Guidelines (2007) is a good reference, as are IFC's Guidance Note to PS1 (2012) and IFC EHS Guidelines - Mining (2007)

Performance Area 15: Cultural Heritage

SECTION: 15.1 Cultural Heritage Identification and Management, Good Practice, 6

COMMENT:

GP/6: including subcontractors, and training

Performance Area 17: Grievance Management

SECTION: References

COMMENT:

References: Add IFC PS-2

Performance Area 18: Water Stewardship

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

COMMENT:

"... including site-specific groundwater, geochemical mixing, solute transfer, and other modeling as appropriate to facility

SECTION: 18.1 Water Management and Performance, Good Practice, 4

COMMENT:

Good!

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

COMMENT:

Good!

SECTION: 18.2 Collaborative Watershed Management, Leading Practice, 3

COMMENT:

LP/3: Include participatory monitoring with local communities/nearby neighbors: water impacts are typically of highest concern to stakeholders, after jobs.

SECTION: 18.3 Water Reporting, Good Practice, 1

COMMENT:

GP/1: integrate this with cumulative impact assessment in Performance Area Standard 4

SECTION: Intent

COMMENT:

Intent: Delete "many"

Performance Area 19: Biodiversity, Ecosystem Services and Nature

SECTION: Glossary and Interpretive Guidance

COMMENT:

Adverse Impacts: CMS PA should include prohibition from hunting and bushmeat consumption within limits of facility control

COMMENT:

Biodiversity Values: needs to be brought forward and expanded on in PA, as per previous comment above in 19.1

Nature-Positive: Recommend to include full definition of nature for better context: <https://www.ipbes.net/glossary/nature>

SECTION: Intent

COMMENT:

19.1: Recommend adding detail here as per other Performance Areas, including threatened and endangered species and habitat types; and on biodiversity offsets and the concept of net gain in biodiversity for impacts to critical habitat

FP/1: great!

SECTION: References

COMMENT:

References: also include IFC PS-6

Performance Area 2: Business Integrity

SECTION: 2.1 Legal Compliance, Foundational Practice, 2

COMMENT:

Foundational Practice: General comment: "Foundational Practice requirements should just be rolled into Good Practice and Foundational Practice deleted. It is non-compliance with GIIP and the CMS.

Subsection2: Companies must comply with applicable laws, not merely establish processes to do so.

SECTION: 2.1 Legal Compliance, Good Practice, 1

COMMENT:

Good Practice/1: not "any significant non-compliance", ANY non-compliance is significant.

SECTION: 2.2 Business Ethics and Accountability, Foundational Practice, 2

COMMENT:

2.2/Foundational Practice 2: and roll-out to all new and existing workers, with periodic refreshers. Publish on website in relevant languages.

SECTION: 2.2 Business Ethics and Accountability, Foundational Practice, 4

COMMENT:

2.2/Foundational Practice 4: "to receive and resolve..."

Performance Area 20: Climate Action

SECTION: 20.1 Corporate Climate Change Strategy (Corporate Level), Leading Practice, 6

COMMENT:

LP/6: Strongly recommend that the CMS is an excellent place for the mining industry to take a firm stand and demonstrate leadership on this key factor by placing this in GP, not in LP.

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

COMMENT:

assure climate change model predictions are factored into project facility engineering design and water management system design, as well as into emergency response planning.

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

COMMENT:

Good Practice: Facility ESIA/Feasibility Studyies should also include consideration of climate change predictions over LOM/post-closure period. Emissions reductions (for example, alternative power sources to HFO) should also be included in engineering and ESIA Alternatives Analysis in developing a given facility.

SECTION: 20.2 Climate Change Management (Facility Level), Leading Practice, 4

COMMENT:

LP/4b: good!

LP/4d: good!

SECTION: Other Relevant Performance Areas

COMMENT:

Other Relevant PAs: Also include: cross references to: Water resources, Emergency planning, and Supply chains (scope 3 emissions)

Performance Area 22: Pollution Prevention

SECTION: 22.2 Mineral Wastes, Good Practice, 1

COMMENT:

GP/1: to do this first however, there should be a requirement to adequately sample and assess geochem properties of projected mine wastes and effluents, and to include any existing/historic mine waste products within project's footprint/area of operations.

SECTION: 22.2 Mineral Wastes, Leading Practice, 1

COMMENT:

LP/1: add geochemical characterization data into mine/geological model and confirmatory geochemical sampling throughout LOM

SECTION: Glossary and Interpretive Guidance:

COMMENT:

Sensitive Receptors: should also include dust / particulate emissions on ecosystem services concept like crops/water sources used by people and/or wildlife and livestock

References: add IFC PS3 and PS3 Guidance Note; include GARD Guide

Performance Area 24: Closure

SECTION: Intent

COMMENT:

Intent: also include temporary closure and C&M. PLEASE NOTE : THIS IS MY LAST COMMENT IN THIS DOC.

Performance Area 4: New Projects, Expansions and Resettlement

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Foundational Practice, 2

COMMENT:

Foundational Practice/2: stakeholder engagement is almost always required as part of the legal framework for obtaining an ESIA permit approval; and is a necessary step in gaining community support and social license to proceed .

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Good Practice, 3

COMMENT:

Good Practice/3: develop an ESMS of which the discipline-specific management plans are part

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Leading Practice, 1

COMMENT:

Leading Practice/1: this is standard GIIP, not leading practice

SECTION: 4.2 Land Acquisition and Resettlement, Good Practice, 4

COMMENT:

Good Practice/4: yes; note that this was considered "Leading Practice" in 4.2, which is incorrect

SECTION: Intent

COMMENT:

Intent: mitigation hierarchy is applicable to all potential impacts, not just displacement-associated ones. Displacement/resettlement should be a separate performance area, as it has the potential to stop projects and is typically a long-lead item separate from the ESIA timeline

SECTION: References

COMMENT:

IFC PS5 - Recommend a pre-Performance Area section detailing the various references and standards upon which the CSMI is based/incorporates, including IFC PS, PS Guidance Notes, and IFC General EHS and Mining Sector EHS Guidelines

Performance Area 5: Human Rights

SECTION: 5.1 Human Rights, Good Practice, 6

COMMENT:

GP/6: Understanding that Principle 11 discusses Security Measures, it is still extremely worthwhile to include a commitment here to comply with the Voluntary Principles re: armed/private security forces and government security forces use.

Performance Area 7: Rights of Workers

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Good Practice, 13

COMMENT:

Great!

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Good Practice, 14

COMMENT:

Excellent!

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

COMMENT:

Disagree: the minimum ""standard"" should be to provide workers with a livable wage. Providing local employment is the NUMBER ONE benefit associated with any mining project - and critical to gaining community, and often regulatory, acceptance.

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Leading Practice, 3

COMMENT:

Leading Practice/3: As per previous comment, this should be standard industry/Good Practice. Employment is almost always the most significant benefit of any mining project.

SECTION: 7.2 Grievance Mechanism for Employees and Contractors (Workers), Good Practice, 1

COMMENT:

"... assess, address, and resolve and report back on..."

SECTION: 7.2 Grievance Mechanism for Employees and Contractors (Workers), Leading Practice, 4

COMMENT:

include summary of grievances/resolutions in annual transparency ESG reporting

Performance Area 9: Safe, Healthy and Respectful Workplaces

SECTION: 9.2 Psychological Safety and Respectful Workplaces

COMMENT:

Physical and Psychological Health: Great!

QUESTION 1

Does the scope, content, and narrative style of the consolidated standard meet your individual expectations and the collective industry expectation for responsible production practices?

Response: **3: Meets expectations**

QUESTION 2

Do the requirements meet your expectations for being sufficiently clear to support consistent and practical

implementation and to achieve necessary performance improvement?

Response: 2: Below expectations

QUESTION 3

From your perspective, does the three-level performance structure (Foundational, Good, Leading) of the Consolidated Standard meet your expectations for providing an effective on ramp and clear articulation of good practice and effective path to continuous improvement?

Response: 1: Significantly below

see comments in CMS document

Document:
Claims

QUESTION 1

We would value perspectives on a few additional questions related to threshold of performance associated with achievement claims. Please click here/ see page 11 of Reporting and Claims Policy.

Response: No Response

I understand the goal, and that it is aspirational; however I think that the point of standards is that they too are aspirational and that they serve as a compliance mechanism, so that facilities/corporations are either compliant or not. I don't think that facilities should be able to pick and choose their areas of compliance if they are to be able to say they are in compliance with a standard. I think trying to provide 'a more gradual transition' runs the risk of de-incentivizing the uptake of the standard, as does the use of partial compliance thresholds. As mentioned in my detailed comments in the first document, I suggest rolling all Foundation level into the GP level (deleteing foundation level) and then applying superior performance as Leading PRACTITIONERS, instead of Leading Practice - and applying that to corporations.