

CMSI Consultation Response

Respondent Details

NAME

Anonymous

COUNTRY

United Kingdom

PERMISSION

Yes, CMSI can disclose my anonymous feedback.

STAKEHOLDER

Other: Consultancy company and multistakeholder platform

ORGANISATION

Anonymous

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: 2: Below expectations

We do see a minimal commitment to sustainability, and it is also not clear to us what is meant by responsible practices.

QUESTION 2

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

Response: unsure

Document:
Assurance

2. Roles and Responsibilities

COMMENT:

We think there may be a bias if the assessor only interviews the list of stakeholders provided by the company. Moreover, if the company knows which workers, rightholders and other stakeholders the assessor is going to interview, there may be fears of reprisals that might not make the stakeholders able to speak freely. We think there should be some more guidance for assessors to avoid bias and protect interviewees.

We would also like to understand in which cases the Improvement plan will not be required. Given that the aim of the Standard is to continually and gradually improve, we think all companies should prepare and make public an improvement plan, regardless of having complied 100% or 60% with the Standard, as there are requirements that go beyond.

4. Consolidated Standard External Assurance Process

COMMENT:

Could you clarify why the Facility must select the assurance provider and not the secretariat?

COMMENT:

We think the boundaries need to be defined more concretely by clearly indicating up to which level of ownership should be considered within the boundary or not. Otherwise there may be differences between assurance providers.

COMMENT:

4.2.7.2. In the absence of national panels, we recommend requiring the interview of a small sample of rightsholders. Or look at country wide benchmarks

COMMENT:

We believe that a supporting guidance document with interview questions by stakeholder group and performance area would be very useful to ensure alignment between assessors.

COMMENT:

We recommend drafting a supporting guidance document with clearly stating the number of interviews on external stakeholders and rights holders needed in order to make the sample truly representative. It would be useful to get input from a statistician to understand what would be the minimum to speak with to gather the views of all.

Moreover, within the sampled interviewees, we recommend that the perspectives of people that may be vulnerable (women, etc) for each identified rights holder group should be gathered. Because impacts are felt differently by vulnerable groups and non-vulnerable groups.

It is good that it is required for the assurance provider to deduct the identity of interviewees, unless the interviewee consents, but if the sample of interviewees is not massive and the Facility knows that list, interviewees might not feel fully protected either and may fear reprisals, since the Facility has a list and can guess who it was from the list.

Finally, I would clarify what is considered "within a reasonable amount of time" for the completion of interviews.

COMMENT:

Editorial comments: remove comma from sentence 2, and remove space before comma in sentence 3.

COMMENT:

There is one paragraph that says: "After the report is deemed complete, the Secretariat will publish the final Assurance Report, including any associated continual improvement plans to achieve the Good Practice Level, on the website of the Consolidated Standard"

We think that the end aim should be to achieve the Leading practice and not Good practice only

COMMENT:

Similarly to the comment made before, we think that Facilities should aim at achieve the Leading practice over time.

QUESTION 1

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

Response: 2: Below expectations

Document:
Standard

Performance Area 18: Water Stewardship

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

COMMENT:

We think that it would be good to specifically mention that is important to consider risks and impacts at different seasons, since there are seasonal and temporal variability in flows, physical and chemical considitons, natural springs, grownwater levels, etc.

COMMENT:

Editorial error: "over" instead of "of"

SECTION: 18.1 Water Management and Performance, Foundational Practice, 6

COMMENT:

To be able to monitor risks, it is important to understand the baseline surface water and groundwater systems, studies of which are not always available. I would add a requirement for facilities to conduct such baselines if the government hasn't done those. Again, baselines should be done on a seasonal manner to account for differences in seasons. The suggested guidance document accompanying the standard could specify how to conduct the baseline.

SECTION: 18.1 Water Management and Performance, Foundational Practice, 7

COMMENT:

We think that the communication of non-compliance and corrective actions should also be communicated/or publicly available to potentially affected rightholders. We feel it is important to share those to gain the social license to operate.

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

COMMENT:

We recommend moving this requirement to Foundational Practice. It can potentially be merged with requirement 2 of Foundational Practice. Moreover, I would clearly state that avoidance comes before mitigation of impacts, in order to be aligned with the mitigation hierarchy.

SECTION: 18.1 Water Management and Performance, Good Practice, 6

COMMENT:

we recommend renaming this requirement from "Identify opportunities (...)" to "identify and implement opportunities"

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

COMMENT:

We think this requirement should be foundational. We think that what should set the difference between foundational and leading practice is the level of quality and ambition of objectives and targets set, but the difference should not be made upon those that achieve targets and those that do not. We think that the achievement of targets should be foundational practice.

SECTION: 18.3 Water Reporting, Foundational Practice, 1

COMMENT:

We think that baseline and monitoring analysis as well as risks and impacts studies should also be disclosed.

SECTION: 18.3 Water Reporting, Leading Practice, 1

COMMENT:

We think this requirement should be foundational practice, particularly around the alignment of regulatory requirements on disclosure.

COMMENT:

In general, we find the requirements quite broad and therefore specific guidance on how to achieve each requirement is needed to ensure that the outcomes achieved are positive. Therefore, we strongly recommend the provision of a clear guidance document accompanying the standard. That would be beneficial not only for facilities who are looking to comply with the standard but also for auditors to know how to assess the quality of achievement of each requirement. For PA 18, requirements that would greatly benefit from supporting guidance include:

2. Apply the mitigation hierarchy (...)

4. Would be useful to cite in the supporting guidance specifically which parameters of water quality should be assessed (i.e. pH, conductance, T, turbidity, etc.) - and the frequency to assess analysis

5. Identify and evaluate risks - Would be good to provide guidance on how to conduct a good evaluation of risks and impacts, including mapping the mining activities that pose a risk to water quality and availability, as well as interviews with affected (or potentially affected) rightsholders.

6. Water monitoring - would be great to set specific guidance on how to conduct these monitorings, and the frequency these monitorings should have. Including sampling and analysis plan

Performance Area 19: Biodiversity, Ecosystem Services and Nature

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Foundational Practice, 2

COMMENT:

We recommend clarifying that protected areas should be legally designated at the international, regional, sub-national, national and local areas.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Foundational Practice, 5

COMMENT:

We recommend clarifying that baseline studies should be conducted before the exploration phase.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Foundational Practice, 6

COMMENT:

We recommend making mention of the three levels of impacts that must be accounted for. We also recommend including the assessment of ecosystem services and ecosystem risk and impacts beyond biodiversity to be included as a foundational practice.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Foundational Practice, 7

COMMENT:

We recommend adding nature to this requirement. Develop a nature and biodiversity management plan. Moreover, we recommend clearly stating that monitoring exercises should be conducted over biodiversity and ecosystem services.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Good Practice, 2

COMMENT:

Given that mine sites can operate in decadal time scales, we feel it is insufficient - especially at the "good practice" level - to allow for no net loss to only be achieved by closure. No net loss should be achieved on much shorter time scales, while net positive should be the goal by at least closure.

COMMENT:

After avoiding & reducing harm, off-site offsets may be appropriate to achieve no net loss during the lifetime of the mine - of course only in line with the mitigation hierarchy – we think that this should be made much more explicit in the guidance.

We agree that the target should be as close to no net loss as possible throughout the lifecycle of the mine

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Good Practice, 5

COMMENT:

We recommend that the disclosure also includes the plan to provide remedy or redress for harms caused.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Good Practice, 6

COMMENT:

We would welcome some clarity around who and how to determine priority locations

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Leading Practice, 1

COMMENT:

We believe that the implementation of plan to achieve no net loss would be good practice. We also think that the requirement should include "nature and biodiversity" not only "biodiversity"

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Leading Practice, 3

COMMENT:

We believe that collaborating with stakeholders and rightsholders should be at least good practice, since it is not possible to implement a biodiversity management plan without consulting relevant rightsholders.

SECTION: Glossary and Interpretive Guidance

COMMENT:

Biodiversity values definition - The baseline assessments should include KPIs that don't just relate to biodiversity values - e.g. ecosystem quality & ecosystem service indicators

COMMENT:

In general, we find the requirements quite broad and therefore specific guidance on how to achieve each requirement is needed to ensure that the outcomes achieved are positive. Therefore, we strongly recommend the provision of a clear guidance document accompanying the standard. That would be beneficial not only for facilities who are looking to comply with the standard but also for auditors to know how to assess the quality of achievement of each requirement. For PA 19 in particular we recommend supporting guidance on the following:

- How to conduct a biodiversity baseline and how to identify biodiversity values, setting up a clear methodology. At minimum baseline assessments should occur before any activities - even before the exploration phase.

- Guidance on how to assess risks and impacts would be useful

Performance Area 20: Climate Action

SECTION: 20.1 Corporate Climate Change Strategy (Corporate Level), Foundational Practice, 1

COMMENT:

We recommend adding information in this requirement around managing energy consumption by a given time-frame.

SECTION: 20.1 Corporate Climate Change Strategy (Corporate Level), Good Practice, 1

COMMENT:

we believe this should be foundational practice

SECTION: 20.1 Corporate Climate Change Strategy (Corporate Level), Good Practice, 2

COMMENT:

We also believe this requirement should be foundational practice. Moreover, beyond setting targets it is important that the requirement clearly states that those targets need to be implemented. And explain that the way to achieve implementation is through the mitigation hierarchy, avoiding emissions first and foremost by reducing energy consumption for instance.

SECTION: 20.1 Corporate Climate Change Strategy (Corporate Level), Leading Practice, 3

COMMENT:

offsets can be damaging if not well managed, even if accredited, would be careful in incentivising those here without clear guidance on their use.

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

COMMENT:

We think that requirements 6 and 7 should be good practice. Net-zero targets should be complemented by several mid-term targets and companies should monitor those and make sure they commit to them

SECTION: 20.2 Climate Change Management (Facility Level)

COMMENT:

I would include a foundational practice requirement around the gradual phase out of coal and fossil fuels as energy source.

Performance Area 21: Tailings Management

SECTION: 21.1 Tailings Management, Foundational Practice, 1

COMMENT:

We would like to understand why only the use of tailings at mines that started production after 1st of Jan of 2024 should be prohibited.

SECTION: 21.1 Tailings Management, Good Practice, 1

COMMENT:

we think that this principle should be foundational

Performance Area 22: Pollution Prevention

SECTION: 22.3 Non, GHG Air Emissions, Good Practice

COMMENT:

We believe this requirement should be foundational, since it requires alignment with international normative frameworks.

SECTION: 22.7 Noise, Vibration and Light pollution/nuisance, Good Practice, 3

COMMENT:

We recommend adding in the requirement the disclosure of the monitorings of those mitigation measures

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: 2: Below 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

In general, we find the requirements quite broad and therefore specific guidance on how to achieve each requirement is needed to ensure that the outcomes achieved are positive. Therefore, we strongly recommend the provision of a clear guidance document accompanying the standard. That would be beneficial not only for facilities who are looking to comply with the standard but also for auditors to know how to assess the quality of achievement of each requirement.

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: 2: Below expectations

We feel that the performance areas could be better structured in accordance with the OECD RBC 6 step framework. We agree with the way of setting up different levels to continuously improve over the years.

Document:
Claims

3. Types of Reporting & Claims

COMMENT:

In page 6 it says that the first self-assessment report it will not be published, but in page 8 (the box after the graphic) it says it will be published. Could you clarify?

COMMENT:

Formatting comment. Page 9, the bullet points below "This means that it must continue to" should not appear at the same level as the one above.

COMMENT:

In reply to: Within the example thresholds above, or other thresholds, should there be Performance Areas that must be at Good Practice (for example, the Tailings Management Performance Area) and/or should there be specific requirements within some of the Performance Areas that must be met in order to meet the threshold for the Performance Claim?

We think that only for environmental and human rights due diligence (EHRDD), i.e. the HOW of controlling risks because other risks cannot be controlled well if EHRDD is not excellent.

The WHATS, e.g. tailings standards, indigenous peoples etc. are all CIRCUMSTANTIAL and so their salience relates to the particularities of that facility. We think that they should be seeking compulsory good practice for those risks that their EHRDD risk assessment has judged to be salient.

This is a risk-based approach to performance and aligns with the UNGPs and the OECD Guidelines for MNEs and the OECD RBC guidance. Anything else is prescriptive, will divert resources away from the real priorities for a facility's specific reality and so may reassure noisy stakeholders but leave important risks inadequately managed.

Therefore, we think that materiality (relevance/ salience) of the issue to the specific facility must be taken into account in determining thresholds of compliance. But of course, the materiality assessment can be flawed, so there must be some assurance that facilities will actually identify all material issues - e.g. even indirect ecosystem impacts.

COMMENT:

In reply to: Is there value in recognising leading practice through a higher-level claim, such as a claim that is attained when Good Practice or Leading Practice is achieved across all Performance Areas?

We think that a higher-level claim level would be highly appropriate. We are in favour of this

5. Monitoring and Enforcement

COMMENT:

We think that if it takes time for the Secretariat to notice the misuse of claims, a simple removal of the claim might not be sufficient, since the clients of that facility might have already noticed the claim and made note of it. We think that beyond removing the claim immediately, the facility should communicate to each of their clients the claim error. We think that companies should communicate passively (e.g. a note on the companies' website) and conduct proactive outreach / notification to, for example, any clients with whom the company conducted business during the period where the inaccurate claim was made.

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** \begin{quote}We think the 75% / 75% split is a no-go, since it is not intuitive and it would be very hard to communicate clearly to stakeholders. Something more similar to Example 1 should be used - at minimum, companies should be meeting the Foundational Practice level across all performance areas, and the Foundational Practices should be at least "do no harm" in terms of human rights violations (& ideally also in terms of biodiversity loss/ irreversible ecosystem damage).\end{quote}