

CMSI Consultation Response

Respondent Details

NAME

Anonymous

COUNTRY

United States

PERMISSION

Yes, CMSI can disclose my anonymous feedback.

STAKEHOLDER

Intergovernmental / multi-lateral organisation

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: No Response

QUESTION 2

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

Response: unsure

Document:
Assurance

QUESTION 1

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

Response: No Response

Document:
Standard

General comment on Performance Area

COMMENT:

Generally speaking, if most of the CMS PAs are applied to the "Leading practice" level, a facility could be confident of achieving a comprehensive compliance with international standards and most GIIP for mining and non-mining facilities, including the Associated Facilities typically required for new mining projects.

In spreading the practice levels for each of the 24 PAs over a spectrum of “Foundational / Good / Leading” there is a risk that some projects or facilities will aim for the minimum Foundational practice level to obtain CMS certification and in so doing may fall significantly short, in some areas, of meeting GIIP, IFC PS, EP4 or other international performance standards. From a Lender’s perspective, such as the IFC assessing the potential environmental and social risks of a project during a loan lifetime, a project that has, or is, preparing for CMS certification, may not reach the required, equivalent Performance Standards before construction or loan drawdown, and could plan to be compliant at the Good or Leading practice levels at much later stages in the project life cycle than Lenders could accept.

Generally, the Foundational Practice does not meet GIIP and falls short of being able to address the impacts, in most cases only requiring the identification and avoidance of impacts, but not including management of impacts. This is especially important and clear in aspects such as Emergency Preparedness and Response, which is not a requirement in the FP.

The approach to contractors is limited and the CMS would benefit from including something more on the “how” to apply these standards at contractor level. The application of the Standard will be different from “a facility perspective” if it is for own employees vs. contracted workers. Interestingly, the Grievance Mechanism does provide more details.

The introduction indicates that the CMS will consider equivalency assessments with other standards in the future to reduce duplication. When is this expected to occur and how is the CMS planning to assess this equivalency? What are the key standards that would be considered for equivalency?

In terms of applicability, most of the PA apply at the facility level, however, some, can be applied at the corporate level. Consider in the future, developing a differentiated certification for corporate only, that also indicates its limitations.

The bar at the “Foundational” practice for some PAs is very low. If a facility achieves all foundational, they would be certified and claim CMS certification. There should be some conditional requirement for certification, such as a commitment to move up to Good in a given time frame. Moreover, in several PA, the foundational include the identification of impacts and risk, but no mitigation or action to address the impacts, therefore, the risks and impacts are left unaddressed, which is a high risk. In addition, some FP refer to the PSs but limiting its application, for example, a RAP is required only at the GP and not at FP, but if following PS5, a RAP, when applicable, is a minimum standard requirement.

Performance Area 1: Corporate Requirements

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

COMMENT:

It would be beneficial to include reference to the qualifications and/or training of individuals overseeing corporate-wide sustainability practices and performance and risk assessment. E.g. use “qualified individuals” and include a requirement for “training”.

SECTION: 1.4 Risk Assessment, Good Practice, 1

COMMENT:

Good Practice 1 (Create a risk register of prioritized risks) should be a foundational practice.

SECTION: 1.5 Crisis Management and Communications, Foundational Practice, 2

COMMENT:

Foundational #2, should not be a “draft” Corporate Crisis Response Plan, but rather an approved plan that is revised every 3 years.

SECTION: 1.5 Crisis Management and Communications, Good Practice, 3

COMMENT:

Good Practice 3 (Conduct a full crisis simulation exercise every three years) should be a foundational practice. Good Practices should be at least every two years.

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

COMMENT:

In Leading Practice 1, the crisis simulation exercise should be every year (instead of every two years).

Performance Area 10: Emergency Preparedness and Response

SECTION: 10.1 Emergency Preparedness and Response Planning

COMMENT:

In the Foundational Practice Item 1 and Good Practice Item 11, the identification of credible potential emergency scenarios and regular revision of considered scenarios should include climate related hazards (for example, worker and community emergency plans in extreme weather) and their potential to exacerbate EPRP scenarios. The EPRP should be informed by the results of climate risks assessment taking into account major climate-related hazards and developing EPRP protocols accordingly. Item 1 (Leading Practice) should consider climate risks (e.g. flash floods, strong winds) as part of crisis simulations.

COMMENT:

Testing the system with period drills should be a Foundational Practice.

Performance Area 12: Stakeholder Engagement

COMMENT:

The LP requirements of the CMS for stakeholder engagement point towards meeting GIIP, however the requirements could be strengthened with the inclusion of stakeholder planning and consultation requirements of IFC PS1, PS5 and PS8 from the foundational practice level.

Performance Area 13: Community Impacts and Benefits

SECTION: 13.2 Community Development and Benefits, Good Practice, 1

COMMENT:

Good Practice 1 advises conducting internal review of the opportunities to increase positive social and economic development impact in the area of influence. As an additional component of the internal review, opportunities to increase resilience against the impacts of climate change should be considered. This could help

the client to support the community in climate adaptation efforts, and increasing adaptation capacity, within the scope of the project's objectives.

The Building Climate Resilience in the Mining Sector report, page 31, showcases four capital assets (human, natural, physical and financial capital) for climate-resilient mines and mining communities, this could help to understand and develop sound opportunities for communities, additionally to its chapter 4 (Committing to Adaptation).

Performance Area 14: Indigenous Peoples

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Foundational Practice, 3

COMMENT:

Foundational practice 3 and Good Practices 4 emphasize the importance of consultation and engagement regarding and Indigenous knowledge, voices and perspectives from local Indigenous Peoples and respectfully apply it to inform decisions and practices, where appropriate. Efforts should be made to elicit Indigenous knowledge related to historical and current climate events in order to understand how IPs have been coping with climate change and how culturally and contextually appropriate climate adaptation measures can be implemented.

COMMENT:

The CMS is still developing the definitions of FIPC and "good faith" with regards to indigenous peoples. Where IFC PS 7 is a requirement on a given CMS certified project, these are important concepts and principles to be aligned with. Therefore, further review is required once the forthcoming ICMM position statement is available. Alignment with accepted international standards will help in the adoption of the CMS.

Performance Area 15: Cultural Heritage

SECTION: 15.1 Cultural Heritage Identification and Management, Foundational Practice, 2

COMMENT:

Foundational practice 2 advises to identify cultural heritage that could be impacted by the Facility's activities. In addition, it would be useful for the standard to cover the extent to which impacts to cultural heritage may be exacerbated by climate change hazards.

Performance Area 16: Artisanal and Small-Scale Mining

COMMENT:

Performance Area 16 is a welcome initiative for engagement with artisanal miners and to define a clearer and workable definition of legitimate artisanal mining, while seeking a more inclusive and mutually beneficial relationship with artisanal miners and their communities.

COMMENT:

It is important to differentiate the requirements for Facilities that 1) have ASM present within the Facilities operations (e.g. informal ASM within industrial mining concessions and encroachment of ASM miners) and

2) Facilities that source minerals from ASM. The former will relate primarily to how Facilities address the presence of ASM and could support formalization and mitigation of human rights risks within their Facility (primarily severe human rights risks such as child labor), while the latter will relate to risks in the supply chain, regardless of where ASM activities are located. Relatedly, the standard would also benefit from including a requirement upfront to assess for presence of ASM either at the Facility's operations or in the supply chain if sourcing from third parties.

The definition of area of influence does not explicitly include reference to ASM suppliers. Definition "b) associated facilities, not controlled by the Facility but that would not have otherwise been constructed or expanded and without which the Facility's activities would not be viable" would benefit from a more specific reference to ASM given the specific sector that this standard covers and should include all ASM, not just those that would not have otherwise been constructed or expanded and without which the Facility's activities would not be viable. ASM may have been operating in an area long before the Facility was there and, if sourcing from ASM, Facilities may change number and type of supplier regularly and those suppliers may not depend solely on one Facility for their operations.

Performance Area 17: Grievance Management

COMMENT:

The requirements could be strengthened by: 1) including a requirement to develop clear policies and procedures for grievance management and communicate those at all levels of the Facility; 2) including specific requirements to prevent and respond to instances of discrimination and/or reprisals against stakeholders (e.g. procedures to investigate); and 3) including together with the previous, requirements to prevent and address instances of sexual harassment exploitation and abuse/gender-based violence (SHEA/GBV), as this is a prevalent risk in the sector to which both workers and local communities are exposed to.

Performance Area 18: Water Stewardship

SECTION: 18.1 Water Management and Performance, Good Practice, 10

COMMENT:

Good Practice 10: training to workers on water-related roles and responsibilities should consider incorporating training on climate-related impacts to water resources and management in the short-, medium-, and long-term.

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

COMMENT:

Good Practice 5 advises to assess risks associated with climate change scenarios at the Facility and their impact on the water balance, water quality and water-related infrastructure. Building upon this, it is recommended that the water assessment also consider how climate related impacts to water availability, quality and management may impact affected communities beyond the project's operational needs.

Performance Area 19: Biodiversity, Ecosystem Services and Nature

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

COMMENT:

Foundational Practice 1: the word “value” should be plural (so that it reads outstanding universal values). In addition, consider including a similar statement for Alliance for Zero Extinction site, e.g. No impacts on the values for which AZE sites have been designated.

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

COMMENT:

Foundational Practice 2:

a) note that Key Biodiversity Areas are rarely protected by legal restrictions;

b) in the statement “confirm that any new operations or changes to existing operations are compatible with the value for which they were designated”, the concept “compatible” should be defined. E.g., does it mean not significantly affecting?

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

COMMENT:

Foundational Practice 5: for the statement “Establish a biodiversity baseline in the area of influence and identify significant biodiversity values”, consider adding “presenting these data spatially”.

Consider including a Biodiversity Policy as Foundational Practice. A suggested wording: “Consult with relevant stakeholders (experts, NGOs, academia) to identify significant biodiversity values”.

Consider adding an aspirational “striving to meet no net loss” in the Foundational Practice category. The current bar for Foundational is low.

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

COMMENT:

Foundational Practice 6 establishes the need to assess risks and impacts to biodiversity in the area of influence from the activities relating to the Facility. Suggest including potential impacts of climate change (based on climate risks assessment) that may exacerbate impacts to biodiversity within the project’s area of influence (e.g., potential changes to the presence of vulnerable species and altered migration routes from climate change, exacerbation of impacts to ecosystems and ecosystem services used by the project/communities from climate change, etc).

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

COMMENT:

Good Practice 2: Strongly recommend moving Good Practice 2a to the Foundational Practice section. “Pursuing progressive rehabilitation and/or restoration where feasible” should also be a Foundational Practice.

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

COMMENT:

Good Practice 3: The assessment should also consider cumulative impacts (other operators, other sectors) at landscape level and impacts deriving from associated facilities (e.g. transmission lines).

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Good Practice, 4

COMMENT:

Good Practice 4: Note that the Biodiversity Management Plan (BMP) captures on-site mitigation measures, but anything offset - and efforts required to achieve net gain - should be in a Biodiversity Action Plan (BAP). Strongly recommend that BAP is distinguished from BMP, as they serve very different purposes and a BAP is included here in this tier, developed in collaboration with relevant stakeholders. On a related note, the entire topic of offsets is omitted from this standard - it's highly likely that most greenfield mines will require an offset. Suggest a mention and clubbing that together with the BAP.

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

COMMENT:

Leading Practice 1: Suggest moving this to the Good Practice section (this requirement is in IFC's PS6 / GN6, which is defined as GIIP, not Leading Practice).

COMMENT:

Leading Practice 1 considers the development and implementation of biodiversity management plans to achieve net gain by closure. Building on the above Foundational practice, suggest incorporating potential climate change hazards that may impact biodiversity management plans and related measures, taking into account different climate scenarios.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Leading Practice, 4

COMMENT:

Leading Practice 4: suggest specifying that the independent review should be done with biodiversity experts.

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

COMMENT:

Leading Practice section -overall comment: The Leading Practice tier falls short, and seems to go back on ICMM's Nature Positive Position Statement. Why is that Position Paper referenced here? Recommend lifting the whole paper and insert as Leading Practice. While this standard references 'Nature Positive', it does not contain anything new towards that objective. Nature Positive would be understood to partake in landscape-scale initiatives that address other drivers of biodiversity loss and to make a concerted effort to address biodiversity risk at this scale. ICMM's Nature Positive Position Statement captures this spirit, but that is not reflected here. As written, this tier falls short of expectations.

Leading Practice 1: Suggest moving this to the Good Practice section (this requirement is in IFC's PS6 / GN6, which is defined as GIIP, not Leading Practice).

Leading Practice 2: Inserting these and other statements ala TNFD, as is being done here, is not leading practice. TNFD itself is mainly relevant to the corporate level, and this Standard is more relevant to the Facility level. See comment above on Nature Positive.

Leading Practice 3: it refers to a biodiversity management plan, which diverges with current practices. Strongly suggest this reference be a Biodiversity Action Plan, rather than a BMP.

Leading Practice 4: suggest specifying that the independent review should be done with biodiversity experts.

SECTION: Glossary and Interpretive Guidance

COMMENT:

Glossary, definition of “Biodiversity Baseline’: when it refers to “occurring at a facility” it should be within the area of influence of the project.

References: Suggest adding this reference for project in proximity to WHS. <https://whc.unesco.org/en/guidance-toolkit-impact-assessments/>

COMMENT:

The Foundational Practice tier is set too low for biodiversity.

The numerous references to the BMP diverge from current practice. While the BMP is indeed a critical document that houses on-site mitigation measures as part of the ESMS, the Standard also needs to reference a BAP, which has a different focus -it’s designed to encompass not only on-site, but in particular, off-site actions and those needed to be carried out with third parties to achieve No Net Loss or Net Gain. This is the more so the document that’s developed with external parties, rather than the BMP.

The Leading Practice tier falls short. ICMM made great progress on leading practice with its Nature Positive Position Statement (2024). It’s unclear why this statement does not form the basis of Leading Practice in this document. Indeed, it doesn’t seem to be referenced at all in this document. While the document references the Nature Positive concept, there are very view elements that reflect this newer thinking. Notably, landscape-level / transformational actions are not included. Rather, the Leading Practice seems to be borrowing concepts from TNFD, which is (i) not leading; and (ii) more applicable to the corporate level, while this Standard is more relevant to the facility level.

Performance Area 2: Business Integrity

COMMENT:

Performance Area 2 upholds the principle of adherence to national legislation as a foundational practice however, it would be enhanced if there was an overall requirement to meet the CMS where this exceeds applicable law requirements.

Performance Area 20: Climate Action

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

COMMENT:

Leading Practice -20.1 Corporate Climate Change Strategy [Corporate Level]) encourages to include investments in climate adaptation that provide social value and benefits for local stakeholders and/or rights-holders in the climate change strategy. Suggest highlighting the need for stakeholder engagement in the identification of opportunities to provide social value that are suitable for local communities and avoid potential maladaptation.

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

COMMENT:

Leading Practice -20.2 Climate Change Management [Facility Level] advises identifying, assessing, and updating at defined intervals the risks resulting from potential climate-related impacts to the facility. It also recommends considering any implications of those risks for the surrounding areas and local affected stakeholders and rights-holders. This aligns with the requirements of IFC Performance Standard 1 related to the

identification of risks and impacts, including the impacts of a changing climate on the project. It may be useful to consider recategorizing this measure as a foundational practice instead of leading practice. This could increase the awareness and visibility of the project's potential E&S aspects (workers, communities and the environment) affected by climate change within the scope of the project's activities. Climate risk assessments at both the facility and corporate levels should integrate these aspects, extending beyond consideration of the resilience of the project's physical assets and infrastructure.

COMMENT:

The Climate Action Performance Area is comprehensive and detailed, classifying practices that can be implemented at both the corporate and facility levels. It encompasses adaptation and mitigation strategies for climate change, emphasizing that climate change acts as an enabler for greater and cascading risks that may extend beyond the operations and assets of a project. Below are some suggestions to enhance the resilience of the exposed Environmental and Social (E&S) aspects of projects.

Performance Area 21: Tailings Management

COMMENT:

Include references to WB and IFC technical notes to Tailings Management.

Performance Area 22: Pollution Prevention

SECTION: 22.1 Non

COMMENT:

Same as non-mineral wastes, the identification of mineral wastes and its processing and storage should consider scenarios where climate impacts might exceed the current protocols and infrastructure utilized to safeguard and process mineral wastes, resulting in increased risks of uncontrolled releases of environmental pollution.

SECTION: 22.2 Mineral Wastes, Good Practice, 1

COMMENT:

GP1 For Acid Rock Drainage, it would be useful to include a reference to GIIIP for the standard.

SECTION: 22.6 Accidental Polluting Releases, Good Practice

COMMENT:

GP2 EPRP and GP3 remediation, should be a foundational practice.

SECTION: 22.6 Accidental Polluting Releases

COMMENT:

The risk assessment of potential accidental polluting releases to air, soil, surface and groundwater, or seawater should consider cases where such releases are exacerbated by acute events such as extreme weather or

slow-onset, chronic events that decrease the adaptation capacity of infrastructure and procedures in place. Emergency Preparedness and Response Plans shall be reviewed and updated accordingly.

SECTION: 22.7 Noise, Vibration and Light pollution/nuisance

COMMENT:

Elements under GP should be FP.

COMMENT:

If applied up to the good and leading practice levels this performance area generally aligns with GIIP and IFC performance standard PS3. GP2 should be a foundational practice, to implement actions to address adverse impacts, as this is a minimum requirement, especially for hazardous materials and waste. This sub area also needs to reflect the need for capacity and resources as part of the management system to implement measures.

Performance Area 23: Circular Economy

COMMENT:

Local communities should also be consulted and given preference to benefit from any economic benefits from the application of circular economy principles to the facility during construction, operation and closure. Contractors should also be required to apply circular economy principles to their operations at the facility lesson within the Environmental and Social Management System (ESMS) of the facility and its Waste Management Plan (WMP).

Performance Area 24: Closure

COMMENT:

The comprehensive requirements which if applied up to the leading practice level should ensure compliance with GIP and international standards for mine closure.

Performance Area 3: Responsible Supply Chains

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Foundational Practice, 2

COMMENT:

There is a significant gap between the requirements for Foundational Practice compared to Good Practice. FP2 Designing a system to prioritize sustainability risks alone does not add much value if it is not combined with a certain degree of implementation of that system. The baseline should be for all to also use the system to identify risks and, where possible, manage high or very high risks. Suggest including "Design and implement a system..." and "Take reasonable action to prevent and mitigate high or very high risks of the Facility's business relationships" in the Foundational, rather than Good Practice.

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Good Practice, 2

COMMENT:

Good Practice 2 where it says “take reasonable action”, more guidance is necessary on the types of actions to be taken. For example, including contractual requirements, having the ability to conduct audits on the supplier, having the ability to disengage or shift suppliers, etc. Good Practice 3 it is unclear if what is meant here is to allow for the suppliers (or other business relationships) to file complaints or grievances to the Facility? If the intent is that this is available to the suppliers’ (or business relationships) workers, then this should be specified. Leading Practice should include the Facility’s mapping/ characterization of its supply chain, starting with the process characterization and focusing on the highest risk segments and then focusing on the highest risk materials/ products or services and require the traceability of those highest risk chains. In addition, the LP should also include collaboration with suppliers and clients to establish traceability systems that are auditable and verifiable.

SECTION: Glossary and Interpretive Guidance

COMMENT:

the definition of business relationship, for which the requirements for supply chain apply, include the “Facility’s own operations, products or services”, but is not characterized. Suggest, for supply chains, to characterize as “core or essential to the business operations’. Similarly, when it refers to the “ability of the Facility to prevent ... vary across different types of business relationships, as well as due to other factors”, it would be important to indicate that the leverage that a Facility may have over the supplier is one of the key determinants to their ability to influence, and should be indicated. Finally, on supply chains the reference is to “high or very high risks” and its definition is characterized by gravity, extent and irremediability. This leaves it open to many types of risks. Suggest to evaluate narrowing down the applicability for supply chain so that it may be implemented in practice (for example, a focus on forced labor and child labor as an example).

SECTION: Intent

COMMENT:

Where it says “... due diligence on business relationships...”, suggest to say “...due diligence on existing or potential business relationship” considering the fact that the due diligence could result in a recommendation not to engage with a given supplier or business.

COMMENT:

The Performance Area 3 has an advantage in the requirement for a risk-based approach (PA 3 page 20) to assess supply chains E&S risks which will enable comparisons on a semi-quantitative basis between different suppliers and supply chain options at the design phase, thereby facilitating decisive decision-making, and giving a disinterested method and basis for justifying design modifications and selection of suppliers.

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: In many countries, national regulation is less stringent than the IFC PS requirements - this text is fine for Foundational Practice, but we suggest to refer to IFC PS1 application again in Leading Practice, if more stringent than national regulation.

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions

COMMENT:

Performance Area 4 upholds the principle of adherence to national legislation as a foundational practice, however, it would be enhanced if there was an overall requirement to consistently meet the CMS where this exceeds applicable law requirements. With regard to the mitigation hierarchy for E&S impacts, the CMS should make clear that the order of priority is avoidance, followed by mitigation, and only where residual impacts cannot demonstrably be technically or financially mitigated/minimized, should they be compensated.

The GP requirement to disclose publicly the results of the ESIA (PA 4.1 GP 5) Page 28 to demonstrate how it has influenced the project design, will, if done in a timely manner as part of a reiterative ICP process with project affected communities, greatly improve the chances that the project will obtain its social license to operate.

COMMENT:

From a climate perspective, it would be beneficial to consider in the collection of baseline data (Item 1 -Foundational Practice), the climate patterns and projections where the expansion or existing operations are being considered, this will help in the development of climate adaptation measures if needed. In the context of possible physical and economic displacement, it is important to consider the impacts of a changing climate with regards to the viability of alternative sites and economic activities.

IFC and ICMM has recently published a new guidance note, Building Climate Resilience in the Mining Sector. Suggest referring to its Chapter 2, as it elaborates on good practices to identifying physical climate risk for the mining sector. Additionally, there is a comprehensive checklist of what a climate risk assessment should take into consideration (Chapter 3, Box 3.1 page 26).

COMMENT:

GP2 refers to the assessment of cumulative impacts; however, in the FP2, it says that ESIA should follow regulations or IFC PS1, and IFC PS1 includes the assessment of cumulative impacts. Therefore, the assessment of cumulative impacts, which is critical, should be highlighted in the FP2. Also, GP3 on implementation of management plans to avoid, mitigate and/or compensate should be included as Foundational Practice.

SECTION: 4.2 Land Acquisition and Resettlement

COMMENT:

Implement actions and remedies that avoid, minimize mitigate or compensate for adverse impacts of involuntary physical and/or economic displacement, paying particular attention to women, vulnerable and/or under-represented group" this is in integral part of the resettlement planning process and should be covered under FP.

Some of the aspects and requirements covered under Good practice could ideally be included in the Foundational practice. For example, currently the requirements of RAP & LRP and compensation for lost assets at full replacement cost are listed under good practice. In most jurisdiction, payment of market value for land and assets is a statutory requirement and hence should be covered under the foundational requirements in the standards. Similarly "Publicly disclosure of engagement processes, impacts, plans and progress related to involuntary physical and/or economic displacement" should also be covered under the Foundational practice as these are also obligatory under most jurisdictions (either as part of EIA or stand alone resettlement requirements).

FP2 "Where physical and/or economic displacement is unavoidable, consult with potentially affected stakeholders and rights-holders during the planning stages of any new project or expansion in ways that are accessible, understandable and culturally appropriate"- add timeline before accessible as it is key to the engagement process.

The implementation of impact mitigation is listed as good practice.

Performance Area 5: Human Rights

SECTION: 5.1 Human Rights, Foundational Practice, 2

COMMENT:

The requirement under the Foundational Practice to “Respect the rights of groups or individuals (including human rights defenders) who are working on to promote and protect human rights” is difficult to measure. Suggest reframing to focus on the identification, assessment and (ideally) management of severe human rights risks caused or contributed to by the Facility’s operations. This would not go as far as the requirement for Good Practice - which would cover all human rights risks and impacts - but it would go a step further and be more measurable. It would also make it consistent with the requirements in Performance Area 6 on Child Labor and Modern Slavery.

Performance Area 6: Child Labour and Modern Slavery

SECTION: 6.1 Risk, Mitigation and Operating Performance, Good Practice

COMMENT:

This Performance Area could benefit from a requirement to screen contractors to assess the risk of modern slavery.

SECTION: 6.1 Risk, Mitigation and Operating Performance

COMMENT:

At GP and LP, include requirements for identification and management of child safeguarding and protection, especially against sexual harassment, abuse and exploitation.

Performance Area 7: Rights of Workers

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

COMMENT:

At Foundational Practice 1, the public commitments should also include “no forced labor”, as part of the workers’ rights and include provisions to protect migrant workers, which should increase in depth and complexity in the GP and LP.

Performance Area 9: Safe, Healthy and Respectful Workplaces

SECTION: 9.1 Health and Safety Management

COMMENT:

Training for workers on climate-related risks is essential (e.g., extreme heat, extreme weather events, such as flash floods), particularly in the identification of the climate hazards that may lead to material OHS risks,

and potential adaptation measures for workers as part of the client's OHS protocols and emergency response plans.

SECTION: 9.3 Training, Behaviour and Culture, Foundational Practice

COMMENT:

Requires the identification of health and safety risks and hazards and adopt risks controls. This could be an entry point to identifying OHS hazards exacerbated by changing climate conditions that may impact directly worker's wellbeing, for example increasing incidence and severity of heat exposure under changing climate conditions. Additionally, the reporting of climate-related incidents such as heat stress incidents, will increase visibility and awareness of acute risks in the workplace, expediting adaptive measures when necessary.

SECTION: 9.3 Training, Behaviour and Culture, Good Practice, 1

COMMENT:

In GP1, include a requirement to identify all work functions, from senior management to contractors and suppliers and indicate the training requirements for each function. Training, commitment and capacity building of Senior management and middle management is essential and should be included.

SECTION: 9.4 Monitoring, Performance and Reporting, Good Practice

COMMENT:

To effectively mitigate and prevent health and safety risks, an HSMS is a fundamental requirement as part of the Facility's overall ESMS if avoidance and improvements in workplace HSE risks are to be achieved; for the CMS this should be a Foundational requirement rather than Good Practice.

Regarding the four-year period for a fatality free workplace; a zero-fatality workplace without time limitations should be the primary objective of any HSE policy and system, the CMS should strive for zero fatalities throughout the facility's lifetime.

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: 3: Meets 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: 3: Meets expectations

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**

Generally speaking, if most of the CMS PAs are applied to the ‘Leading practice’ level, a facility could be confident of achieving a comprehensive compliance with international standards and most GIIP for mining and non-mining facilities, including the Associated Facilities typically required for new mining projects.

In spreading the practice levels for each of the 24 PAs over a spectrum of ‘Foundational / Good / Leading’ there is a risk that some projects or facilities will aim for the minimum Foundational practice level to obtain CMS certification and in so doing may fall significantly short, in some areas, of meeting GIIP, IFC PS, EP4 or other international performance standards. From a Lender’s perspective, such as the IFC assessing the potential environmental and social risks of a project during a loan lifetime, a project that has, or is, preparing for CMS certification, may not reach the required, equivalent Performance Standards before construction or loan drawdown, and could plan to be compliant at the Good or Leading practice levels at much later stages in the project life cycle than Lenders could accept.

Generally, the Foundational Practice does not meet GIIP and falls short of being able to address the impacts, in most cases only requiring the identification and avoidance of impacts, but not including management of impacts. This is especially important and clear in aspects such as Emergency Preparedness and Response, which is not a requirement in the FP.

The bar at the “Foundational” practice for some PAs is very low. If a facility achieves all foundational, they would be certified and claim CMS certification. There should be some conditional requirement for certification, such as a commitment to move up to Good in a given time frame. Moreover, in several PA, the foundational include the identification of impacts and risk, but no mitigation or action to address the impacts, therefore, the risks and impacts are left unaddressed, which is a high risk. In addition, some FP refer to the PSs but limiting its application, for example, a RAP is required only at the GP and not at FP, but if following PS5, a RAP, when applicable, is a minimum standard requirement.

There is indeed value in recognizing the Leading Practice with a higher-level claim. However, please be mindful that at Foundational Practice, many facilities would not meet the minimum standard required, at least for international financing.