



Document reviewed	
Title of the draft being reviewed:	Standard and guidelines for the preparation and implementation of emergency response and contingency plans
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General Comments	
<p>Australia confirms its position, as previously stated that these Guidelines can only be approved as part of a package, together with the Draft Exploitation Regulations (Regulations) and other Standards and Guidelines. We note also that to the extent these Guidelines refer to other Guidelines which are yet to be developed, it is appropriate to have a further opportunity to comment on this Guideline in the light of the other Guidelines once they have been prepared.</p>	
<p>Australia reiterates comments made to the draft Regulations and Annex VII and considers that any proposed amendments to the Regulations should also be reflected in the Guidelines.</p>	
<p>These Guidelines should include a statement to the effect that where the Guidelines seemingly conflict with the Regulations, including its annexes, or any Standards, the Regulations or Standards will prevail.</p>	
<p>Australia has serious concerns that it is not clear how the Standard or Guidelines assist in achieving the requirements of regulation 53 and Annex V due to an insufficient link to these overarching requirements. In updating the draft Standard and Guidelines, it would be beneficial to establish a clear link to the requirements in regulation 53 and Annex V.</p>	
<p>Australia has further concerns that the draft Standards are not detailed enough to specify a clear standard to be followed or achieved. It does not establish a clear benchmark against which performance can be measured.</p> <p>For example, in paragraph 7, the Contractor is required to carry out a hazard identification process that provides a balanced and most comprehensible picture of the hazards associated with the mining activities. What makes the picture balanced? What makes it most comprehensive?</p> <p>Another example is in paragraph 9, which states that the Contractor is expected to prepare an emergency preparedness manual, which shall capture the essence of this Standard. This is ambiguous language, making it very difficult to establish whether a Contractor has 'captured the essence of this Standard.' An effective Standard needs to be clear, so performance against the standard is measurable.</p>	

Similarly, while the Guidelines are not mandatory, they should be clear in their guidance to the user. Australia has concerns that the draft Guidelines here do not appear to clarify what is required and has inserted key requests for clarification below, but the Guidelines as a whole could benefit from further clarification of expectations.

Australia also has concerns that the draft Standard and Guidelines do not use language consistent with the draft Exploitation Regulations and Annex V. Terms defined in the draft Exploitation Regulations should be used consistently and capitalised throughout the draft Standards and Guidelines. For example, the draft Standards and Guidelines refer to “accidents” (or similar) instead of “Incidents”.

Please clarify where the Commission has noted the matters listed in paragraphs 3 to 5 of the Background.

Australia considers that the proposal for an ‘emergency response organization’, as referred to in the draft Standard and Guidelines, requires further clarification. The Standard seems to imply that a separate entity has to be established, but the two examples provided in the Guidelines are not consistent with that approach in the Standard. It is not clear what kind of emergency response organization is required under the Standard and how the Guidelines interact with the Standard on this matter.

Terms defined in the schedule to the Regulations should be consistently used and capitalised throughout the Guidelines.

Support the document’s focus on strong environmental regulation.

Specific Comments

Page	Line	Comment
3	30	Please insert “the” before “exploitation.”
3	45	Please insert “, in addition to regulation 53 and Annex V of the Exploitation Regulations” after “plans”.
3	52-54	Please amend as indicated: “ While identifying accidental scenarios, it is important to consider the mitigating actions towards controlling the risk of such incidents. An <u>E</u> mergency <u>R</u> esponse and <u>C</u> ontingency <u>p</u> lan is <u>seen as</u> a vital contributor to mitigating <u>such the risks of Incidents occurring during Exploitation of the Mineral Resources.</u> ”
3	57	Please replace “accidental events” with “Incidents”.
3	67-70	Please clarify this paragraph as its meaning is unclear and it uses terms that are not consistent with the Exploitation Regulations. It also currently appears to have words missing.
3	72	Please explain how the emergency preparedness manual fits into the Emergency Response and Contingency Plan. Is it the emergency response plan as discussed in paragraph (c)(xiv) of Annex V? If so, please use consistent terminology.
4	76	Please explain how the emergency preparedness assessment fits into the development of the Emergency Response and Contingency Plan. How does it relate to the emergency preparedness manual?
4	Flow chart	Please explain the flow chart and how it establishes a Standard to be followed.
4	82	Please explain whether the contingency planning, referred to line 82, relates to the process in the flow chart above, and if so, how. If this is not related to the flow chart above, this text should be moved.

4	83	Please insert “as a result of an Incident” after “occur”.
4	92-93	Please clarify what constitutes “a Defined Situations of Hazards and Accidents”.
5	100	Please delete “help”.
5	105-106	Please clarify what is meant by “The Contractor shall define the objectives for the emergency preparedness assessment relevant for the project phase for the system(s).” Under Annex V, paragraph (c)(i) requires that the Emergency Response and Contingency Plan include the overall aims, objectives and arrangements for controlling the risk of Incidents. The sentence in the draft Standard appears to seek objectives per project phase for an unspecified system. This does not appear consistent with Annex V.
5	117	Please also refer to Annex V, as Annex V contains information on the contents of the Emergency Response and Contingency Plan which should be reflected in the emergency preparedness assessment.
5	119-132	Please clarify whether “premises” refers to “Installations and vessels”, particularly as “Installations” is a defined term under the Schedule to the Exploitation Regulations.
5	128	Please clarify what constitutes an “emergency preparedness philosophy”.
5	136	Please clarify whether “other involved parties” refers to “the Authority, coastal States, other competent international organizations and, where applicable, emergency response organizations”, as referred to in paragraph (b) of Annex V. If not, please clarify who should be an involved party to enable an assessment for compliance.
5	137	Please clarify what “process” is being referred to here.
5	147	Please clarify the “lifecycle phases” of what process or event are being referred to here.
6	150-152	Please clarify: <ul style="list-style-type: none"> • why personnel with engineering/ design competence are only required to be involved during a project phase, instead of the planning and preparation aspects as well; • what constitutes a project phase; • what assessments are being referred to here; • what constitutes operational and modification phases, how they differ from a project phase.
6	161-162	Please clarify how this differs to the scope. It is also not clear how this fits into the development of the Emergency Response and Contingency Plan.
6	187-188	Please replace “In any case, updating needs shall be assessed periodically (at least every 5 years)” with a requirement to test the effectiveness of the Emergency Response and Contingency Plan on an annual basis and update the plan as needed, but in any event at least once every five years.
6	188-191	Please clarify “The Contractor’s management systems and their alignment with the subcontractors’, if any, is vital during the mining operations. Therefore, the emergency preparedness manual shall establish such links, common goals and objectives for the handling of an emergency incident.”

7	203-204	Please clarify what standard is required here: "The Contractor shall make a judgement on historical incidents, ensuring that the contingency shall be dimensioned in accordance with the environmental risk."
7	206	It would be beneficial to explain what constitutes a barrier in this context.
7	208-212	Please clarify what constitutes a "failure" in this context. How does it differ to a "hazard" or "Incident"? References to "accidents" should be replaced with "Incidents".
7	219	Please amend as indicated: " <u>the Contractor must implement training and manuals to ensure that Personnel shall be aware</u> of what barriers [...]", as the obligation for the Emergency Response and Contingency Plan is on the Contractor.
7	225	Please clarify where the information is to be presented.
7	225-226	Please amend as indicated: " <u>The Contractor must implement Necessary measures shall be implemented</u> to remedy or compensate for missing or impaired barriers."
7	230	This line appears to indicate that the EPA includes barrier management. This is not clear and should be clarified. Additionally, neither the flow chart nor anywhere else in Part II on Emergency Preparedness Scenarios does it indicate that the EPA includes barrier management. Please clarify as necessary.
7	231	Please clarify "develop an emergency preparedness organization." In particular, explain why it is necessary to establish a separate organization which may be a legal entity separate to the Contractor. Moreover, this is different to the heading right above on "Emergency Response Organisation."
7	233	Please insert "for responding to" after "processes".
7	236	Currently this only requires having a process for identifying risk ownership. Please also include a requirement to specify personnel / role responsible for the risk (risk owners).
7	241-243	Please clarify what is meant by the following: "Such an emergency preparedness organization shall indicate overlap of roles among the different functions. The organization shall also describe and present the different levels of emergency preparedness organization."
7	248	Please clarify what organization is being referred to here. Is it the Contractor, where the contractor is corporate entity? Or is it the emergency preparedness organization?
8	258	Please amend as indicated: "[...] in <u>adventthe event</u> of an <u>lincident</u> ."
8	264-265	Please amend as indicated: "The <u>Contractor shall ensure any subcontractors are obligated to promptly notify any Incidentsubcontractors, if any, have a responsibility towards the Contractor in facilitating and therefore initiating such notifications.</u> "
8	285-286	Please amend as indicated: " There shall be t <u>The Contractor shall provide to the outcomes of three types of audit and the results for the same shall be documented to the Authority [or Commission]. It is the responsibility of the Contractor to ensure that the sub-contractor and independent audit are conducted in accordance with the requirements listed in this Standard.</u> "

8	288-293	Please clarify what is to be audited by the subcontractor.
8	295-298	Please include a requirement to rectify any non-conformities found as a result of the audit.
9	300-304	This appears to require an independent external audit of the audit reports by the subcontractor and Contractor. Please clarify why this is necessary, rather than just conducting a single independent external audit.
9	325	“Asset” has been defined here, yet is not capitalized throughout the Standard or Guidelines. Please use terms consistently.
11	370	Please replace “accidental events” with “Incidents”.
11	380	Please replace “scope” with “purpose”.
11	383	As above, is the “emergency preparedness plan” meant to be the “emergency response plan” as identified in paragraph (c)(xiv) of Annex V?
11	388	Please clarify what “phases” are being referred to here. Explain the phases.
11	404	Please replace “defining” with “assigning”.
12	414	Please clarify “involved in life-cycle phases during an EPA”.
12	425	Please include reference to the baseline data to be collected by the Contractor.
12	436	Please insert “and mechanism” after “goals”.
12	439-441	Please clarify what action is to be taken here “The selection of historical incidents should be considered so that an incident with a significant consequence is not excluded.”
13	488	Please clarify “internal and external” to what entity.
13	490	Please replace “contacts” with “contact details”.
13	491-492	Please clarify “the means of communication to each of the relevant personnel – email, fax, text message etc. should be well established.” Does this mean regular contact should be maintained? Does it mean that only reliable methods of communications should be used? Is it something else entirely?
13	508	Please clarify who should evaluate the drill.
13	509	Please clarify “at an early point in time.” Early in reference to what?
14	518	Please insert “test and” before “ensure”.
14	529	Please replace “such logs” with “the information collected and resulting audit reports, including conclusions drawn,”
15-17	560-662	Please clarify how the Appendix fits into the Guidelines and how the user is intended to utilize the information contained in the Appendix.