



**Template for the review of the draft standards and guidelines  
associated with the draft regulations on exploitation of mineral resources in the Area**

**I. Background**

1. The draft regulations on exploitation of mineral resources in the Area ([ISBA/25/C/WP.1](#)) require that certain issues are addressed in accordance with, or taking into account, standards and guidelines to be developed by the organs of the Authority. The standards will be adopted by the Council and will be legally binding on Contractors and the Authority, whereas the guidelines will be issued by the Legal and Technical Commission or the Secretary-General and will be recommendatory in nature.
2. Stakeholder consultation is an integral part of the process decided upon by the Commission for the development of the standards and guidelines ([ISBA/25/C/19/Add.1](#)).
3. The Legal and Technical Commission will consider the comments received through stakeholder consultation during its current session.
4. The drafts include a cover page containing background and contextual information on the approach taken by the Legal and Technical Commission in developing each standard and guidelines. Please note that stakeholder comments are not sought on this cover note.
5. Issues of format and consistency across the standards and guidelines will be reviewed by the secretariat and the Legal and Technical Commission once the content of the various standards and guidelines is finalized following stakeholder consultation.

**II. Submitting Comments**

6. To ensure that your comments are given due consideration, please send them by e-mail to [ola@isa.org.im](mailto:ola@isa.org.im), at your earliest convenience but **no later than the date announced on the ISA website for the relevant draft standards and guidelines**.
7. When submitting comments, please adhere to the following guidance as much as possible:
  - a. Please provide all comments in writing and in an MS Word .doc or .docx format using the table provided below.
  - b. The table format allows for an unlimited number of comments to be added. To add more comments, you may add more rows.

- c. Please provide full contact information for the individual/Government/organization submitting the comments.
  - d. Please avoid commenting on issues related to format, grammar, spelling or punctuation, unless it affects the overall meaning of the text, as the document will be formatted and edited when the final draft is prepared by the Legal and Technical Commission.
  - e. To facilitate the revision process please be as specific as possible in your comments. In areas where you feel additional or alternative text or information is required, please suggest what this text may look like or what information should be included.
  - f. Text may be copied from the draft into the table if stakeholders wish to use "track changes" in editing text (this is encouraged to ensure accuracy and avoid numbering errors).
  - g. If you refer to additional sources of information, please include these with your comments when possible or provide a complete reference or hyperlink.
  - h. All review comments will be posted on the ISA website, unless otherwise requested by the submitting entity.
8. Should you have any questions regarding the review process, please contact [ola@isa.org.jm](mailto:ola@isa.org.jm).

**III. Template for Comments**

- 9. Please use the review template below when providing comments.
- 10. Line and page numbers have been provided in the drafts. Please use these as a reference as illustrated in the table below.

**TEMPLATE FOR COMMENTS**

<i>Document reviewed</i>	
<b>Title of the draft being reviewed:</b>	Draft Guidelines for the preparation of an environmental impact statement
<i>Contact information</i>	
<b>Surname:</b>	Martin
<b>Given Name:</b>	Cyrill
<b>Government (if applicable):</b>	
<b>Organization (if applicable):</b>	OceanCare
<b>Country:</b>	Switzerland

<b>E-mail:</b>	cmartin@oceancares.org
<b>General Comments</b>	
<p>1. Pending the consideration of relevant stakeholder comments on the Draft Exploitation Regulations, their according amendment and formal adoption, the development and finalizing of standards and guidelines is premature. While it is helpful to have insight into the ideas of the LTC for future standards and regulations in order to see the whole picture, the formal process for developing and finalizing this lower level 'legislation' needs to be done only after formal adoption of the Draft Exploitation Regulations. The current process is legally doubtful, at best.</p>	
<p>2. The aforementioned is particularly problematic in the case when constraints on the draft standards and guidelines are based on the unfinalized and unadopted Draft Exploitation Regulations e.g. when used to justify very limited public consultation in the EIA process.</p>	
<p>3. As a general comment we want to express our great concern that the draft standards and guidelines presented are not meeting the necessary criteria to effectively protect the marine environment from harmful effects which may arise from activities in the Area. They also do not guarantee the necessary transparency and stakeholder involvement.</p>	
<p>4. We urge the International Seabed Authority (ISA) to use only the most effective and stringent international or national regulations on protection of the environment as a basis for regulating the Area. Where such is lacking, the most qualified scientist and policy experts shall be involved to draft regulations strictly based on the precautionary principle.</p>	
<p>5. Furthermore, this drafting shall be conducted in a fully transparent manner. This includes disclosure of contributors to the Draft Standards and Guidelines and their affiliation. Following the precautionary principle we ask the ISA to abstain from allowing any activities in the Area where there is uncertainty if the activity could cause significant harm to the marine environment.</p>	
<p>6. OceanCare is focusing on noise emissions from Deep Sea Mining (DSM) activities and we therefore will focus our specific comments primarily on that subject. This should not be interpreted as prejudice, endorsement or legitimization of the other parts of the draft standards and guidelines.</p>	
<p>7. It is important to note that exploration activities and baseline data collection cause noise emissions with potential significant impacts on marine species (e.g. shipping propulsion and cavitation, dynamic positioning, acoustic exploration measures such as echosounders and seismic methods, extraction activities for sampling). These should be accounted for already at the exploration and baseline environmental data collection stage, be subject to, where necessary, potential avoidance and exclusion provisions and as a general principle the least harmful method should always be prescribed. In that respect incentive models should become stimulated that only the least noise-generating technology is applied and best environmental practices are followed which shall be subject to frequent and continued updating.</p>	
<p>8. The EIA process should not be split in different documents with duplications as well as</p>	

inconsistencies. We rather recommend to integrate EIA, EIS and EMMP into one process and provide a standard on the whole process. The fundamental requirement for EIA, EIS and EMMP should be binding. Non-binding recommendations that leave the concrete steps at the discretion of the contractor are not sufficient to effectively protect the marine environment from harmful effects which may arise from activities in the Area and do not reflect the obligation of ISA to manage the Area as a common heritage of mankind. More technical details should be developed as supportive guidance to the EIA process in the form of guidelines. To illustrate this with an example on underwater noise, we kindly invite you to have a look at the Convention on the Conservation of Migratory Species of Wild Animals (CMS) Family Guidelines on Environmental Impact Assessments for Marine Noise-generating Activities (as inspiration for a standard) and their technical support information (as model for a guideline)

CMS Family Guidelines:

[https://www.cms.int/sites/default/files/document/cms\\_cop12\\_res.12.14\\_marine-noise\\_e.pdf](https://www.cms.int/sites/default/files/document/cms_cop12_res.12.14_marine-noise_e.pdf)

Technical Support information:

[https://www.cms.int/sites/default/files/basic\\_page\\_documents/CMS-Guidelines-EIA-Marine-Noise\\_TechnicalSupportInformation\\_FINAL20170918.pdf](https://www.cms.int/sites/default/files/basic_page_documents/CMS-Guidelines-EIA-Marine-Noise_TechnicalSupportInformation_FINAL20170918.pdf)

9. It is crucial that ISA provides stakeholders with available information on all data relevant for environmental impacts. Those have to be publicly and easily available. Failing to do so undermines the efforts for effective environmental protection.

#### *Specific Comments*

Page	Line	Comment
6	240	Add here: <u>Fisheries regulations, animal and species conservation regulations, ocean conservation regulations</u>
6	244	We suggest adding the following text: <u>Fisheries agreements, animal and species conservation agreements (e.g. Convention on the Conservation of Migratory Species of Wild Animals (CMS), Convention on Biological Diversity (CBD), ocean conservation agreements and future agreements relevant for the proposed activities (e.g. the ‘International legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ)’)</u>
7	278	Please amend with the underlined text: “The likely extent of any secondary impacts such as sediment plumes <u>and underwater noise</u> ”
7	298	General remark on new and untested mining methodologies (this comment applies also to other sections of the EIS Guidelines): Detailed description on new, untested or only little tested techniques, technologies and equipment shall be submitted for review by an independent expert body which includes scientific experts on marine

		biology, engineering, acoustics and from other relevant fields. Their review should include assessment of the impacts of the techniques, technologies and equipment on the environment and provide binding recommendations on whether or not the technique, technology or equipment should be used and on how environmental impacts should be mitigated.
7	318 et sqq.	Provisions for alternatives should be stronger, e.g. “Alternative screening criteria <u>must typically</u> include the following: Environmental impacts”
8	346	Where there are not sufficient data available from the review of existing literature and scientific studies, the primary data shall be submitted for review by an independent expert body which includes scientific experts on marine biology, engineering, acoustics and from other relevant fields.
9	398	Please amend with the underlined text: “Noise and light (ambient levels <u>(including noise from shipping)</u> , and influence of existing maritime, exploration, and exploitation activity in and around the proposed Contract Area)”  There needs to be a request to submit specific information such as dB, Hz etc and binding provisions on how to measure these data.  All existing, past or proposed anthropogenic noise sources should be detailed by sound pressure levels (SPLs), sound exposure levels (SELs), particle motion, frequency spectrum, duration, duty cycle, etc., so that a clear understanding of how the natural soundscape has been altered in the past, and how it will be altered in the present and future is gained.
13	588	Please amend with the underlined text: “...Sources of potential impacts may include (but are not limited to) physical disturbance of the seabed during mining activities, sediment plume(s) <u>and noise</u> that could disperse beyond the footprint of the Contract Area...”
14	612	“noise affecting the food chain and availability of prey” Noise can cause a broader range of detrimental impacts than those listed. Please extend listing accordingly, e.g. impacts on community interactions, population health and welfare, ecosystem services, etc.
14	622 et sqq.	Please amend with the underlined texts: <ul style="list-style-type: none"> <li>• “increased vessel activities and potential pollution (from vessel discharge and wastes <u>as well as noise emission from production vessels, offtake, monitoring and other vessels)</u> of the surrounding area” (noise is, according to Art. 1, para. 1 No. 1 UNCLOS, a kind of</li> </ul>

		<p>pollution (“introduction by man... of energy into the marine environment...”))</p> <ul style="list-style-type: none"> <li>• Add the underlined text below para. 622/623: Noise is briefly addressed in para. 631. However, we believe that noise as a potential surface impact with strong effects on marine life should be included more prominently here. We therefore suggest to include the following bullet below para. 623: <u>“Noise pollution from production vessels (e.g. dynamic positioning, machinery and processing of minerals, pumps), offtake, monitoring and other vessels as well as riser and discharge systems and any acoustic exploration method used before or during exploitation”</u></li> </ul>
14	633 et sqq.	<p>The following bullet should be added to “Potential water column impacts (200-50m above seafloor)”:</p> <ul style="list-style-type: none"> <li>• <u>noise pollution from riser and discharge systems and AUVs/ROVs operating in mid-water and any acoustic exploration method used before or during exploitation</u></li> </ul>
14	643	<p>Add <u>“etc.”</u> to “potential noise effects (direct avoidance, masking faunal communication, feeding disruption, <u>etc.</u>)” as this is not an exhaustive list of noise effects.</p>
14	644 et sqq.	<p>The following bullets should be added to “Potential benthic impacts (seafloor to 50 m above)”:</p> <ul style="list-style-type: none"> <li>• <u>Noise pollution from production tools and machinery (e.g. from dredging, grinding, drilling as well as machine noise) and any acoustic exploration method used before or during exploitation</u></li> </ul> <p>We also strongly advice to add a bullet for potential noise effects:</p> <ul style="list-style-type: none"> <li>• <u>Impacts from noise and particle motion through the water and substrate, as well as vibration through the substrate</u></li> </ul>
<p><i>Additional rows can be added to this table by selecting “Table” followed by “insert” and “rows below”</i></p>		

Comments should be sent by e-mail to [ola@isa.org.im](mailto:ola@isa.org.im)