

Proposal by the intersessional working group on DR 45 (Environmental Standards and Guidelines)

The revised text version below is the result of written exchange between delegates from Chile, China, The Kingdom of Denmark, France, Germany, Japan, Micronesia, The Netherlands, Norway, Pew Charitable Trusts, Spain and United Kingdom.

Not necessary all participants of the group agreed on all details and amendments in this revised draft and these need further discussion. However, there was a broad consensus on the overall revised structure (e.g. the separation of standards and guidelines) and on a majority of the individual elements. Even though consensus was not achieved by the group on all elements, the attached revised text of DR45 is presented without brackets for clarity of the proposed structure and general readability.

The group has attempted to clarify the structure of the regulation by

- moving the 'purpose' of environmental Standards and Guidelines into an introductory Para 1;
- separating standards and guidelines in the regulation: by focusing in the substantial part (Para 2) on Standards and adding a new Para 4 on Guidelines and in the latter leaving it open which issues these should be developed on;
- revising the issues in Para 2 and within Para 2 (c) in order to enhance readability.

Furthermore,

- in Para 2, the chapeau text is adapted to Reg 94 ("the Council shall adopt").
- The list of parameters under Para 2c has been reordered and further developed. E.g. "Sedimentation rates" from Para 2c iv is now included as "resettlement" under 2c ii.
- Original Para 2f ("Quantitative assessment of environmental effects" is suggested to be deleted as "quantitative assessment" is covered by (c).
- Original Para 2i ("Safe management and operation of mining vessels...") is suggested to be deleted as it does not directly relate to "Environmental" Standards and Guidelines.
- A new Para 5 on "review" is proposed.

For better readability, we provide a clean revised version in Annex 1 and, for reference, a tracked-changes version, based on the last facilitator text, in Annex 2.

Draft Regulation 45 - Development of Environmental Standards and Guidelines

1. Environmental Standards and Guidelines developed under this regulation shall have the aim to ensure the effective protection of the Marine Environment from harmful effects, in accordance with Article 145 of the Convention.
2. The Council shall, based on the recommendations of the Commission, adopt Environmental Standards in accordance with regulation 94, inter alia on the following subject matters:
 - (a) Baseline investigations;
 - (b) Environmental quality objectives;
 - (c) Indicators and quantitative environmental thresholds, including but not limited to
 - i biodiversity status and ecosystem structures, functions and services;
 - ii sediment plume properties such as dispersion and dilution, resettlement, temperature, toxicity and composition;
 - iii water chemistry and temperature;
 - iv light emissions;
 - v noise and vibrations emissions and
 - vi habitat removal.
 - (d) Monitoring procedures
 - (e) Mitigation measures;
 - (f) Technical requirements for environment protection with regard to the equipment used for the Exploitation activities and
 - (g) Assessment of accidental events and natural hazards leading to environmental emergencies as well as environmentally hazardous discharges and residual effects of such emergencies, including preparation and implementation of emergency response and contingency plans.
 - (h) Procedural and substantive requirements relating to submissions or reports required by these regulations, including but not limited to: Plans of Work, Environmental Management Systems, Environmental Impact Assessments, Environmental Risk Assessments, Environmental Impact Statements, Environmental Management and Monitoring Plans and Closure Plans.
3. The Authority shall not approve any Exploitation activities unless the Environmental Standards have been adopted.
4. In addition to the Environmental Standards, Guidelines on environmental matters may be developed, in accordance with Regulation 95.
5. Environmental Standards and Guidelines shall be regularly reviewed and updated in response to advancements in scientific knowledge and experience.

Regulation 45

Development of environmental Standards and Guidelines

1. Environmental Standards and Guidelines developed under this regulation shall have the aim to ensure the effective protection of the Marine Environment from harmful effects, in accordance with Article 145 of the Convention.

~~1.2.~~ The Council shall, based on the recommendations of the Commission, develop adopt Environmental Standards and Guidelines shall be developed in accordance with regulations 94 and 95 and shall include, inter alia, on the following subject matters aimed at ensuring a Contractor does not cause Serious Harm to the Marine Environment:

- (a) ~~(a)~~ ~~bis~~ Bbaseline investigations
- (b) Environmental quality objectives,
- (c) ~~and~~ ~~i~~Indicators and quantitative thresholds, including but not limited to ~~on~~ ecological balance of the marine environment
 - i biodiversity status and ecosystem, structures, functions and services, biodiversity status,
 - ii sediment plume properties, such as, dispersion and dilution, resettlement, temperature toxicity and, composition,
 - iii water chemistry and temperature, ~~as well as~~ and extent sedimentation rates and
 - iv light emissions
 - v ~~and~~ noise and vibrations emissions and
 - ~~(a)~~ ~~vi~~ habitat removal. This also includes ~~(a)~~ ~~bis~~ Bbaseline data collection, including ~~as well as~~ all available data on the marine ecosystems and biodiversity.
- (d) ~~Environmental management, reporting and m~~Monitoring procedures
- ~~(b)~~ ~~(e)~~ to assess the impacts on the Marine Environment, including and interpretation of results, and
- ~~(e)~~ ~~(f)~~ Mitigation measures of harmful effects to the marine environment, Mitigation measures Prevention, reduction and control measures and/or remediation of environmental harm, and/or where possible, remediation or compensation of environmental harm, thereby following the mitigation hierarchy of avoid, minimize, remediate
- ~~(d)~~ ~~(g)~~ Technical requirements for environment protection with regard to the equipment used for the Exploitation activities and
- ~~(f)~~ Quantitative assessment of ~~E~~environmental ~~E~~effects.
- ~~(g)~~ ~~(f)~~ Assessment of accidental events and natural hazards leading to environmental emergencies as well as environmentally hazardous discharges and residual effects of such emergencies, including preparation and implementation of emergency response and contingency plans.

~~(h)(g)~~ Procedural and substantive requirements relating to submissions required by these regulations, including but not limited to: Plans of Work, Environmental Management Systems, Environmental Impact Assessments, Environmental Impact Statements, Environmental Risk Assessments, and Environmental Management and Monitoring Plans and Closure Plans.

~~(i) Safe management and operation of mining vessels and installations.~~

3. The Authority shall not approve any Exploitation activities unless the necessary environmental Standards and Guidelines have been adopted.

4. In addition to the Environmental Standards, Guidelines on environmental matters may be developed, in accordance with Regulation 95.

5. Environmental Standards and Guidelines shall be regularly reviewed and updated in response to advancements in scientific knowledge and experience.

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