



INTERNATIONAL CYANIDE MANAGEMENT INSTITUTE

Guidance for Recertification Audits

For The International Cyanide Management Code

www.cyanidecode.org

December 2016

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Introduction

ICMI's *Auditor Guidance for Use of the Mining Operations Verification Protocol (Mining Auditor Guidance)* and *Auditor Guidance for Use of the Cyanide Transportation Verification Protocol (Transportation Auditor Guidance)* provide detailed information regarding the Code's expectations for compliance, as well as interpretative guidance on how Code auditors are to evaluate an operation and determine its compliance status. These documents were developed at the Code's inception, and therefore focused primarily on the measures that mining and cyanide transport operations needed to implement in preparation for their initial verification audits and the factors their auditors needed to consider to determine their initial compliance status.

However, while initial audits determine an operation's compliance only at the time of the audit, triennial recertification audits evaluate compliance over the entire three-year period since the previous audit. Although many aspects of initial and recertification audits are identical and the *Mining Auditor Guidance* and *Transportation Auditor Guidance* apply to both types of audits, recertification audits can involve the assessment of additional factors which are not considered during an initial audit. For example, an auditor conducting a recertification audit may need to determine the compliance status of a certified mine that experienced a cyanide release several years prior to the recertification audit. Initial and recertification audits may also differ with respect to procedural issues, since some of the evidence presented in an initial audit report can be used to support the findings of a recertification report.

ICMI's *Guidance for Recertification Audits* discusses the similarities and differences between initial and recertification audits, both with respect to procedural issues and substantive evaluations. Information in this document should be considered in conjunction with ICMI's *Mining Auditor Guidance* and *Transportation Auditor Guidance* documents. Although ICMI has not issued a guidance document for auditing cyanide production operations, the provisions of the Cyanide Production Verification Protocol should be interpreted consistent with these other guidance documents, and the *Guidance for Recertification Audits* also applies to recertification of cyanide production facilities.

1. Deadlines for Recertification

In order to maintain its certification, an operation must be audited on a three-year cycle. The three-year period begins when ICMI takes formal certification action based on an auditor's findings. ICMI sends a formal certification letter to a signatory company when its operation is certified, indicating the operation's formal certification date. In most, but not all cases, this is the same date as the press releases ICMI posts on its web site announcing the certification. However, the operation is not required to receive its formal recertification within three years of its previous certification. Rather, the deadline applies to the field portion of the audit, and the deadline is met as long as the auditor's site visit and inspection have been completed within three years of the operation's previous certification date. The auditor then has 90 days from the end of the site visit to submit the audit report to ICMI. Since it may then take weeks or months after submission of the report before ICMI takes final action with respect to an operation's certification, the actual duration of an audit cycle can be somewhat longer than three years.

2. Auditors

The same requirements regarding an auditor's qualifications apply to initial and recertification audits. Auditors are prohibited from conducting a Code Verification audit of an operation more than twice consecutively, while audit companies are prohibited from conducting a Code Verification audit of an operation more than three times consecutively. Once a site has been audited at least once by a different auditor/audit company, the same auditor(s) who conducted the first two audits can return for two more audit cycles, and/or the same company that conducted the first three audits can return for three more audit cycles.

3. Audit Protocol, Potential Findings and Certification Process

The same Verification Protocol is used for initial and recertification audits, and in both cases, detailed responses are required for each Protocol question. However, the nature of the responses may differ. Some Protocol questions during recertification audits may require more in-depth evaluations and responses than were necessary during the initial audit, while the responses to other Protocol questions during recertification may simply refer to the findings of the initial audit.

An auditor's response to the questions in the Verification Protocol becomes the Detailed Audit Findings Report, and as discussed further in Section 5, full and complete answers are necessary to document the evidence observed as the basis for the audit findings. Where a situation is unchanged from the previous audit, the responses to Protocol questions in the Detailed Audit Findings Report can restate the corresponding responses from the previous Detailed Audit Findings Report verbatim.

The Summary Audit Report of a recertification audit must address all the issues raised in the Protocol regardless of whether the operation's cyanide management systems, procedures and facilities are unchanged from the previous audit. While language used in the previous Summary Audit Report can be restated when appropriate, the new Summary Audit Report cannot simply

refer to the previous report. The new Summary Audit Report must be a stand-alone document that provides the Code's stakeholders with all applicable information.

Recertification audits result in the same three potential findings as an initial audit: full compliance, substantial compliance and non-compliance. However, determining the appropriate finding can be more involved during a recertification audit due to its coverage of the entire three-year period between audits. If a deficiency exists at the time of a recertification audit, then the auditor makes his finding in the same manner as during an initial audit. However, if a deficiency that occurred at some time during a three-year audit cycle has been corrected prior to a recertification audit, application of the three criteria for a substantial compliance finding becomes a more complex task.

All procedural requirements applicable to initial audits are also applicable to recertification audits. The auditor has 90 days from the end of the field portion of the audit to submit the audit report to ICMI, which will then conduct its Completeness Review to determine if the Detailed Audit Findings Report has fully responded to the Protocol and if the Summary Audit Report accurately portrays the audit findings. Once all necessary revisions and/or clarifications have been made, ICMI will post the Summary Audit Report, Auditor Credentials Form and, if necessary, the Corrective Action Plan on its web site.

4. Nature of Protocol Responses

The nature of the responses to Verification Protocol questions is the same for the initial audit and all subsequent recertification audits. This is discussed in the *Mining Auditor Guidance* and the *Transportation Auditor Guidance* as follows, and the *Cyanide Production Verification Protocol* includes a similar statement:

“Detailed written responses to each Protocol question are necessary. Since the completed Verification Protocol becomes the Detailed Audit Report, answers to each question must be of sufficient detail to provide a clear justification for the resulting audit finding. A simple “yes” or “no” or “not applicable” answer is not adequate. In response to each question, the auditor must describe the evidence that supports the finding. What evidence demonstrates that the operation is in full compliance? What deficiency results in only substantial compliance? Why is a question “not applicable”? Data to support a finding, such as the cyanide concentration in open waters or discharged to a stream, should also be provided, where applicable.”

However, while recertification audits must provide sufficient detail to justify their findings, the nature of the evidence presented in a recertification audit report may differ from that included in the report of the initial audit.

Some of these differences are already identified in Code documentation. For example, the *Mining Auditor Guidance* for question 5 under Standard of Practice 4.8 notes the following with respect to Quality Assurance/Quality Control (QA/QC) documentation:

“Information regarding the design, construction and quality assurance/quality control of cyanide facilities need only be verified during the initial audit. In subsequent audits, the auditor should reference the initial audit report as evidence that the operation is in compliance with these Standards of Practice. Additional QA/QC information would be necessary in subsequent Verification Audits only if the cyanide facilities have been modified or additional cyanide facilities have been constructed.”

In the above case, it is important to distinguish between the need to verify the QA/QC data and the need to fully answer the Protocol question. The Detailed Audit Findings Report of a recertification audit must answer the question in the same comprehensive manner as required in the initial audit, but, for example, the auditor need not independently review the as-built drawings of cyanide facilities to verify that they were certified by a professional engineer. Since conducting a QA/QC program was a one-time event that was done in the past, there is no need to evaluate continuous compliance with this provision (other than to confirm that the QA/QC records have been retained). The auditor can cite the previous audit report’s statement that these documents were reviewed as evidence of compliance.

The same concept applies to many other of the Code’s provisions where compliance is achieved at a single point in time. Examples include the development of standard operating procedures, contingency plans, training programs, emergency response plans, and decommissioning strategies and financial assurance. However, while the previous audit report can be used as evidence that these have been developed, a recertification audit would still need to evaluate whether these programs have been implemented over the entire three years since the last audit. Further, if these have been changed in any way, the auditor must also determine if the changes conform to the Code.

For example, an initial audit’s finding that all secondary containments are adequately sized and competent to prevent seepage may be acceptable evidence that these cyanide facilities were constructed to meet Code requirements, but an auditor conducting a recertification audit would still need to inspect them to confirm that their integrity remained sound, and review the reports of their periodic inspection to confirm that they were adequately maintained throughout the three-year audit period.

Having a complete and detailed write-up of the evidence for a finding, even if the evidence is the finding of a previous audit, is also necessary to provide the basis for the information presented in the Summary Audit Report. Since the Summary Audit Report cannot present any information not found in the Detailed Audit Findings Report, complete descriptions of the basis of each response must be available so they can be summarized for the benefit of the Code’s stakeholders viewing the audit results on the ICMI web site.

Code auditors must have access to the previous Detailed Audit Findings Report to facilitate the recertification audit. Therefore, the Verification and Certification section of the Code requires operations to “make all relevant data available to the auditors, including the complete findings of their most recent independent Code Verification Audit.”

5. Operational Changes and Cyanide Incidents during Three-Year Audit Cycle

It is recognized that certified operations may revise operating practices, modify cyanide management procedures and facilities, and/or construct new cyanide facilities, and that certified cyanide transporters may revise existing routes and/or add new ones during the three-year period between certification audits. The Code does not require these operations to notify ICMI or seek prior approval regarding such changes or to conduct internal audits for Code compliance between audits.¹ Regardless, certified operations are expected to maintain their full compliance throughout the three-year period until their recertification audit.

During a recertification audit, the auditor should evaluate all changes since the previous audit related to the operation's management of cyanide. It is the responsibility of the operation to demonstrate to the auditor that such changes are in full compliance with the Code. The logical first question for an auditor to ask at a recertification audit is "What changes to the operation's management of cyanide have been made since the last audit was conducted?" The answer to this question will determine whether the audit simply revisits the same issues as in the previous audit to determine if compliance was maintained, or whether it must evaluate new or revised procedures and cyanide facilities for compliance in addition to confirming the ongoing compliance of the operation's existing procedures and facilities.

Similarly, an auditor conducting a recertification audit should inquire about cyanide exposures, unplanned releases or other cyanide incidents that occurred during the preceding three-year certification period. Operations must provide the auditor with such information, including any "significant cyanide incidents" and the use of "non-certified cyanide" that were reported to ICMI pursuant to Item 6 of the instructions for the *Signatory Application Form*. Factors for the auditor's consideration in evaluating these incidents as they relate to the operation's compliance status are discussed below in Section 6.

There are two types of deficiencies or non-compliance situations that always should be discussed in an operation's recertification audit report. Signatory companies are required to notify ICMI of the occurrence of any "significant cyanide incidents," and these incidents should be described in both the Detailed Audit Findings Report and Summary Audit Report of a recertification audit. In addition, any cyanide exposures or releases that fall under the disclosure provisions of Standard of Practice 9.3.3 should similarly be included in recertification audit reports. The nature and cause of these incidents, as well as the operation's responses and the measures it has taken to prevent their reoccurrence, should be described in the Detailed Audit Findings Report and summarized in the Summary Audit Report. The auditor should also provide his rationale for the resulting finding and compliance determination, based on the factors identified in the Recertification Guidance.

Auditors must use their professional judgment to determine if deficiencies or non-compliance situations other than those noted above merit inclusion in a recertification audit report. It may be appropriate for the Detailed Audit Findings Report to document those situations which may themselves be insignificant but which may indicate a trend that should be identified to

¹ Changes to the carriers included in a consignor/transporter's certified supply chain do require notification to ICMI and additional auditing; see Section 9 of the General Guidance in the *Transportation Auditor Guidance* for further information.

subsequent auditors. For example, less than perfect implementation of an inspection program may appear as a few isolated instances; while they may not be significant enough to merit discussion in the Summary Audit Report, the auditor should consider documenting them in the Detailed Audit Findings Report (along with the rationale for the resulting finding) so that similar deficiencies found in the next audit could be evaluated in the proper context.

6. Factors to Consider When Evaluating Compliance during Three-Year Audit Cycle

The most significant difference between initial and recertification audits is that recertification audits evaluate compliance over the entire three-year period since previous audit. Since an operation is expected to have evidence of its continuous compliance over those three years, auditors will evaluate the significance of deficiencies that may have occurred which may have been corrected by the time of the recertification audit, in determining the compliance status of an operation.

Existing ICMI guidance with respect to use of “non-certified cyanide” at certified mines provides the conceptual model for evaluating such situations. With regard to question 2 under Standard of Practice 1.1, the *Mining Auditor Guidance* states the following:

“It is possible that during the three-year period between certification audits, a certified mining operation’s supply of cyanide manufactured by a certified producer may be disrupted. The mine is not expected to cease operations if it cannot immediately contract with another certified cyanide producer, nor is it necessarily in non-compliance with the Code. In such a case, the auditor’s finding depends on the nature of the disruption and the mine’s response. The auditor should consider the following factors when determining whether the mining operation was in full, substantial or non-compliance with Standards of Practice 1.1 during the preceding three-year audit cycle:

- What caused the disruption in the supply from the certified producer?
- How did the mine operator respond when its certified supply was disrupted?
- Did the mine operator re-establish a certified cyanide supply as soon as reasonably practical?

In general, full or substantial compliance could be indicated when a) the disruption was due to forces beyond the mine’s control, b) the mine made a good-faith effort to purchase cyanide from another certified producer, but was unable to do so, and/or c) the mine re-established its certified supply in a reasonable period of time. Substantial or non-compliance may result when a) the mine elected to use a non-certified producer due to the higher cost of certified cyanide production, b) the mine used up a large stockpile of certified cyanide before it sought an alternate certified supply, and was then forced to use non-certified vendors because it had not made arrangements to receive certified cyanide in a timely manner, and/or c) when the mine continued to use a non-certified producer for a prolonged period even though a certified producer was available. The auditor’s decision is highly dependent on site-specific circumstances, and should be well supported in the Detailed Audit Findings Report and Summary Audit Report. Mining operations

that experience such disruptions should document their circumstances and responses to provide the auditor with a basis for his finding.”

The *Mining Auditor Guidance* for question 2 under Standard of Practice 2.2 includes similar language regarding the non-certified transport of cyanide to a certified mine. Pursuant to Item 6 of the Instructions for completing the *Signatory Application Form*, certified mines are required to notify ICMI of the use of “non-certified cyanide,” and an auditor conducting a recertification audit should inquire if the operation has made any such notifications during the current audit cycle.

The conceptual basis for the auditor’s finding with respect to the use of non-certified cyanide can be generally applied to any deficiency identified during a recertification audit; the auditor’s finding and resulting compliance determination will primarily depend on the cause and duration of the problem and the nature of the operation’s response.

Cause: Cyanide exposures or releases directly attributable to worker error can be viewed as being beyond the operation’s control as long as the operation took all required measures from a programmatic perspective. For example, if an operation had maintained its standard operating procedures and task training programs in full compliance with the Code, then a release caused by a worker who failed to follow proper procedures could still result in a finding of full compliance as long as the operation had a rapid and effective response to the incident. A release or exposure that results from a pipe rupture or other equipment failure may be viewed similarly if the operation had conducted the required QA/QC or fit-for-service programs, and had implemented inspection and preventive maintenance procedures that fully complied with the Code.

However, if these same releases and exposures occurred but the underlying management systems had broken down (e.g., task training was not documented, inspections or preventive maintenance had not been not conducted), then the auditor should find that their prevention was within the operation’s control and was a result, at least in part, of deficiencies in the operation’s cyanide management systems. Depending on the specific nature of the programmatic failure, an operation could still be found in full compliance if its response to the deficiency was appropriate; that is, the cause of the deficiency was identified and corrected, and in the judgment of the auditor, sufficient time had passed to demonstrate that the corrective measures are effective in preventing a reoccurrence of the situation. Alternately, an auditor could find the operation in substantial compliance if its response did not fully achieve these goals, or even in non-compliance if the operation did not make a good-faith effort to come back into full compliance, the existing deficiency could not be corrected within one year, or the situation still presented an immediate or substantial risk to health and the environment.

Deficiencies can be separated into those that are isolated incidents and those that represent programmatic failures. Isolated incidents can include anything from a single missing monthly inspection form from three years of inspections to an upset in a cyanide destruction system that causes a discharge of tailings in excess of 50 mg/l WAD cyanide to a tailings impoundment. If these situations are quickly remedied, measures are taken to prevent their reoccurrence, and the operation has demonstrated that it can maintain compliance, then these situations may be found in full compliance. However, programmatic failures such as no having no inspection forms for

one of the three years being audited or not being able to re-establish the discharge within Code limits for several days, could result in a finding of substantial or even non-compliance if the operation did not make a good-faith effort to comply with the Code's provisions.

Duration: The duration of the deficiency may also have direct implications on the resulting audit finding. While situations that present significant risks to workers, communities and the environment obviously require as immediate a response and correction as practical, operations are expected to take prompt action to remedy all deficiencies regardless of the risk they present, in order to demonstrate the operation's good faith efforts to comply with the Code. It therefore is possible for a relatively minor deficiency such as failure to maintain required documentation to result in a finding of substantial or even non-compliance if allowed to go on for an unreasonably long period of time, while a full compliance finding could result from a more serious problem that was corrected immediately.

Regardless of the cause of a deficiency or the severity of an impact, a rapid and effective response to a problem is necessary for an operation to be found in full compliance. This should include a determination of the root cause of the deficiency, the implementation of measures to prevent its reoccurrence, and follow-up evaluations as needed to ensure that the remedy remains effective.

On-going Compliance Efforts: An operation's efforts to maintain its full compliance status are indicative of its commitment to manage cyanide responsibly, and may therefore provide context with respect to the deficiency. Assuming that the deficiency was readily and appropriately corrected an operation that periodically audits or reviews its Code compliance during the three-year audit cycle is more likely to be viewed as fully compliant than one that evaluates its compliance only during its triennial certification audit. Although not required by the Code, operations that conduct their own internal or third-party audits or program reviews demonstrate to their workforce that responsible cyanide management is an integral part of operation rather than something that needs attention only every three years. This focus can enhance worker acceptance and Code compliance. These audits or reviews can also identify potential problems before they occur and prevent a slow, incremental deterioration of the operation's cyanide management programs that may otherwise go unnoticed until an incident or accident occurs. As a result, the operation may maintain full compliance with the Code rather than falling into substantial compliance. It should eliminate the need for a major compliance effort immediately prior to the recertification audit and create a record of continuous compliance, which then provides context to any isolated deficiencies that may be observed during the audit. Most importantly, periodic audits during the three-year audit cycles help meet the Code's ultimate goal of enhanced protection of workers, communities and the environment.

Other Factors: How a deficiency was identified may also be a legitimate factor in evaluating an operation's compliance status during a recertification audit. A finding of full or substantial compliance is more easily supported if an operation identifies and addresses a problem as part of its standard practices before it caused or became a significant cyanide incident or was identified during a regulatory inspection. In this regard, periodic audits and program reviews, along with effective inspection and preventive maintenance programs, show that an operation actively seeks to ensure its continuous compliance.

As noted in Item 6 of the *Signatory Application Form*, a signatory's certified operations are required to notify ICMI of any cyanide exposure, release and/or impact that is considered to constitute a "significant cyanide incident." While the specific cause and duration of the incident, as well as the operation's response, are critical factors in determining the operation's compliance status, a secondary consideration is whether the required notice was provided to ICMI. Compliance with the notification requirements indicates that the operation is focused on its responsibilities under the Code and the identification of out-of-compliance situations, while the lack of the necessary notification suggests that Code compliance is not a high priority for the operation. Therefore, as noted previously with respect to use of "non-certified cyanide," the auditor should inquire whether an operation being audited for recertification has submitted any "significant cyanide incident" notifications to ICMI during the current audit cycle.

Another factor for the auditor's consideration is the point in the three-year audit cycle in which the deficiency occurred. A finding of full compliance is more easily justified when a deficiency which occurred early in the audit cycle has not reoccurred, because it suggests that the operation's response has adequately addressed the root cause of the deficiency. However, if the same problem had occurred just prior to the recertification audit, the adequacy of the response may be less clear, and a finding of substantial compliance may be more appropriate to allow the operation to demonstrate its control of the situation.

Several mining operations have been certified even though they discharge tailings in excess of the Code's recommended WAD cyanide limit. These operations have presented peer-reviewed scientific studies demonstrating the effectiveness of alternative methods of protecting wildlife from open waters containing greater than 50 mg/l WAD cyanide. As discussed in the *Mining Auditor Guidance* with respect to question 1 of Standard of Practice 4.4, operations that have employed such a study "must implement the (study's) recommendations and their implementation will be evaluated by Code auditors during the certification process." In these cases, the auditor should confirm that the operation has continued to implement all the practices and procedures, including any study recommendations that were identified in the study as necessary for the alternative method to be effective. In order for a recommendation to be dropped and its implementation to no longer be required, the scientists who conducted the original study, or other scientists with comparable credentials if the original auditors are no longer available, must determine that it is no longer necessary to meet the intent of the Code, and the same peer review team that evaluated the study must concur. These opinions must be documented in writing for presentation to the auditor, and must also be included with the recertification audit report.

7. Findings and Compliance Status

Making a finding with respect to a deficiency that exists at the time of a recertification audit is no different than evaluating compliance during an initial audit. The challenge that auditors face in recertification audits involves making findings and determining the compliance status of an operation that has experienced a deficiency in the past but has corrected it prior to its recertification audit. Given the number of site- and issue-specific variables involved with determining an operation's compliance status in such a situation, it is not possible to prejudge the

numerous possible circumstances to create a workable decision matrix or flow chart that could be used to generate appropriate and consistent findings at all operations. Auditors must use their professional judgment to make the required determinations based on the factors discussed above, as well as other site-specific circumstances that bear on how well an operation has lived up to its commitments.

The existence of a deficiency at some time during the three-year audit cycle does not preclude a finding of full compliance, particularly when the deficiency was quickly corrected, measures were taken to prevent its reoccurrence, and sufficient time has passed to demonstrate that the operation has regained control of the situation. However, it is incumbent on the operation to make the auditor aware of the circumstance that caused the deficiency, as well as the measures taken in response to the deficiency, to facilitate the audit process and provide the necessary support for the audit findings.

Once a deficiency has been corrected, a finding of substantial compliance loses its significance because there is no need for a Corrective Action Plan. Therefore, an operation that has corrected a deficiency and has had sufficient time to demonstrate that its remedy is effective, should typically be found in full compliance and be fully certified.

However, if its response to a past deficiency was not complete or effective, or the deficiency was sufficiently recent that the auditor cannot be certain of its effectiveness, a finding of substantial compliance should be made and the operation should be conditionally certified, subject to implementation of a Corrective Action Plan. To be found in substantial compliance, the operation must have made a good-faith effort to comply with the Code, the deficiency must be correctable within one year, and the situation cannot present an immediate or substantial risk to health or the environment. If any of these three criteria are not met, the operation must be found in non-compliance and it cannot be recertified.

8. Summary Audit Report of Recertification Audit

The Summary Audit Report of a recertification audit that has found an operation in full compliance must include one additional statement that is not required in the Summary Audit Report of an initial audit report. The auditor must indicate whether the operation, during the previous three-year audit period, has had any “significant cyanide incidents” subject to the notification requirements in Item 6 of the Signatory Application, or any cyanide exposures or releases subject to Item 9.3.3 in the *Mining Operations Verification Protocol*. This requirement applies to recertification Summary Audit Reports of mines, as well as those of cyanide production facilities and cyanide transporters that are not otherwise subject to Item 9.3.3 in the *Mining Operations Verification Protocol*.

For operations that have not had compliance issues, the following statement should be included directly following the overall compliance finding for operations:

“This operation has not experienced compliance problems during the previous three-year audit cycle.”

For operations that have had compliance issues but have still be found in full compliance, the following statement should be included:

“This operation has experienced compliance problems during the previous three-year audit cycle which are discussed in this report under Standard(s) of Practice (Production Practice/ Transport Practice, as appropriate) _____.”