



2022 TSM Verification Oversight

FINAL REPORT

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Our Mission

We work collaboratively with governments, Indigenous peoples, business and civil society to navigate complex challenges, develop integrated and practical solutions and support societal transitions that result in sustainable outcomes.

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Introduction

MAC has introduced a verification oversight process to ensure the Towards Sustainable Mining (TSM) external verification process is operating as intended. The goal of the verification oversight process is to ensure consistent and robust application of the TSM external verification process. More specifically, the oversight process seeks to confirm if:

- Active verifiers are conforming with the Terms of Reference for Verifiers, and
- Verifiers are demonstrating sound interpretation and application of TSM protocol requirements.

The verification oversight process includes two components: 1) direct oversight of verifiers, and 2) a general review of the effectiveness of certain elements of TSM verification through a voluntary survey of verifiers. This report describes the methodology, findings and recommendations from the 2022 direct oversight process.

Methodology

Direct Oversight Process

The direct oversight process is structured to ensure that each active verifier is reviewed every three to five years. Eleven (11) external verifications were conducted in 2022. Stratos reviewed the list of verifiers who conducted external verifications in 2022 and chose a sample of three (3) verification teams and reports for review, which is a sample size of 27% of the 2022 verification reports. The sample included both experienced and newer TSM verifiers, as well as stand-alone and integrated verifications (i.e. verifications that included both TSM and other mining standards).

The direct oversight process was completed by Stephanie Meyer, an experienced audit professional who holds a designation as an Environmental Professional (Compliance Auditor) – Emeritus. Direct oversight involved the following:

- Review of verifier credentials, the verification plan and the sampling strategy to determine conformance with the requirements of the Terms of Reference for Verifiers
- Review of the Verification Report and a sample of completed checklists for a sub-set of protocols. In 2022, the review focused on the Indigenous and Community Relationships protocol (a newer protocol that was undergoing external verification for the first time in 2022) and the Biodiversity Conservation Protocol (a more established protocol), and
- Discussion with each verification team to ask questions and collect additional information to determine if TSM protocol requirements have been consistently interpreted and applied.

Stratos documented its observations and findings in confidential working papers. This report presents a summary of findings and associated recommendations.

Direct Oversight Findings

Based on a review of the selected sample of verification reports, related documents and interviews, Stratos offers the following findings.

Verifier Qualifications

- All verifiers included in the sample were able to demonstrate that they met the verifier qualifications related to independence, participation in TSM training workshops, and participation in the annual webinar.
- All but one verifier was able to demonstrate they meet all the Verifier Qualification requirements. One verifier demonstrated subject matter knowledge and verification experience but did not hold an auditor designation. The auditor designation is a requirement under the new Terms of Reference. The transition process allowed existing verifiers to be grandfathered until their next renewal period, at which point the verifier would need to meet the new requirements before their accreditation is renewed. This verifier would be required to comply with this new requirement beginning in 2023.

Verification Plan

- Verification plans were prepared for all verifications included in the sample. While the format of the verification plans varied, they included almost all information required in the Verifier Terms of Reference.
- The one area not consistently covered in detail pertains to COI interviews. While all verification plans mentioned that COI interviews would take place, no information was provided on the methodology to be used to select the interviewees or the number of types of interviewees to be included. This could be due to the timing of COI interviewee selection, which may occur as part of the execution phase of the verification.
- For one international verification, no COI interviews were conducted. The verifier did not think COI interviews were mandatory for international verifications, as this was the case in the early years of TSM adoption where companies could voluntarily choose if and how they applied TSM to their international operations. With the increased stakeholder engagement expectations included within the revised Terms of Reference and TSM Verification Guide, and with growing international application of TSM, COI interviews are required for all TSM external verifications whether in Canada or abroad. The verifier and company have committed to conduct COI interviews for this international facility in 2023 to address this gap.
- The selection process used to select COI interviews and the number of interviews conducted varied across the sample of verifications reviewed.
- Sampling was routinely applied to determine the sample size of documents or records for review.

Protocol Application

In 2022, the review focused on two protocols: the Indigenous and Community Relationships protocol and the Biodiversity Conservation Protocol. In reviewing the Summary Reports, where anomalies were noted with any of the other protocols, the Verifier expanded the sample size to review the additional protocols in question.

Indigenous and Community Relations Protocol

This is a newer protocol and, as such, this was the first year of external verification for this protocol. In reviewing the completed checklists and speaking with the verifiers, the review noted the following:

- The protocol was understood and did not present any significant challenges in understanding the criteria.
- In a small number of incidences, evidence for one indicator was included under a different indicator (e.g. evidence relevant for Indicator 4 was included under Indicator 2). This could either signal a comprehensive approach to filling out the checklist (sometimes evidence is captured from an interview under one indicator and is not later moved to another indicator), or a need to clarify the ‘boundaries’ between the indicators in this protocol.
- Where a facility is remote and has no communities within a long distance from the mine (e.g. > 150 km), it was noted to be challenging to apply Indicator 4 of the protocol, particularly in terms of impacts. FAQ#16 provides relevant guidance for how and when to indicate a criterion is Not Applicable in the rare instances where this is the case.

Biodiversity Conservation Management

This is a well-established protocol that has been applied for multiple verification cycles. In the sample reviewed, we found that:

- The protocol was understood and did not present significant challenges in understanding the criteria.
- It can be difficult to apply this protocol in areas where biodiversity is minimal and is not considered a significant environmental aspect. In these situations, it is useful for the verifier to reach out to MAC to learn from their experience with similar situations.
- For Level AA of this protocol, one of the verifiers cited ISO 14001 audits as evidence of independent review (internal or external). It is important that verifiers review the scope of any other audit (including ISO 14001) to determine if it covers the criteria of each indicator.

Summary of Findings Table

This is the first year in which verifiers are required to prepare a public facing Summary Report.

- The verifiers indicated that, in their opinion, the Summary Report template includes a good level of information and is appropriate.
- In reviewing the Summary of Findings tables, we observed a wide variety of practices in completing the Comments column. The Verification Summary Reports reviewed used one of the following approaches:

- Some provided a high-level summary of what is in place for each indicator, and where gaps exist.
- Some focused the commentary on gaps to the next level (i.e. what is missing that prevents the facility from achieving the next performance level), without summarizing what is in place.
- Some focused on summarizing the methods used to verify performance for each indicator, identifying where COI interviews were a source of evidence. No commentary on what is in place or what is missing to achieve the next level was provided.

To ensure transparency, MAC's intention was for the summary reports to provide a high-level summary of what is in place for each indicator and, where relevant, identified gaps. The guidance also states that, where relevant, these comments can also indicate the types of evidence consulted and the types of communities of interest engaged. The one verification team that did not provide any commentary on what is in place or what is missing has been asked to re-issue the summary reports to address this gap.

Other

Verifiers whose firms conduct financial auditing for MAC member companies are bound by strict SEC laws that govern the sharing of client information to third parties. In situations where the TSM verifier is from the same company that provides financial assurance to the MAC member, the TSM external verification engagement letter will need to include legal language that permits the sharing of certain documents as part of the verification oversight program.

The review of summary reports identified errors in one Tailings Summary Report and one Crisis Management Summary Report. These errors have since been addressed and the corrected reports have been re-issued.

Direct Oversight Recommendations

Based on the direct oversight findings, Stratos offers the following continual improvement recommendations for MAC’s consideration.

Table 1: Continuous improvement recommendations for considerations

Review Verifier Qualifications	1. Prior to including a verifier on its list of accredited TSM verifiers, MAC should require verifiers to provide evidence demonstrating they meet all the Verifier requirements.
Summary Report	2. Consider revising the Summary Report template to include information on the number and types of COI interviews conducted to enhance transparency related to this important component. 3. Member companies and MAC should conduct a critical review of the submitted summary reports to ensure accuracy.
Communication to Verifiers / Annual Webinar	In the annual webinar for verifiers (or other communication vehicles): 4. Communicate any updated requirements or guidance on COI interviews to member companies and verifiers, emphasizing the importance of this process to TSM’s credibility. 5. Review the expectation that the Comments column in the Summary Report should include a high-level summary of what is in place for each indicator and key gaps. This could also include identification of those indicators where COI interviews provided corroborating evidence. 6. Draw attention to FAQ#16 of the Indigenous and Community Relationships protocol on non-applicability and discuss how to navigate related discussions and decisions.
Verification Guidance	7. Consider whether more specific requirements and/or guidance should be provided for COI interviews. For example, additional guidance on how to select an appropriate number of COI to be interviewed, consideration of materiality in selecting the sample of COI to be interviewed, identification of which protocols and conformance levels may require COI interviews, and/or guidance on the types of questions to be asked. 8. Consider adding a text box to the TSM Verification Guidance document that discusses how ISO audits can be used within a TSM verification. 9. Provide examples of well-prepared Summary of Findings tables from Summary Reports. 10. Provide guidance around real-time reporting, including establishment of a cut-off date for each verification beyond which no additional evidence can be provided.
Enabling Sharing of Information	11. Contact all TSM verifiers whose companies provide financial audit services to ask that, where their company provides financial verification for a MAC member company for whom they plan to provide TSM external verification, they adjust the wording in their engagement letters to enable provision of TSM verification-related documents to MAC as part of the verification oversight process, with prior approval from the client.