



# AUDITOR PERFORMANCE MANAGEMENT

Effective Date: 2019 - 03 - 01

Owned by: Juliet Goodwin  
Manager, Safety Audits & Certifications

Approval: *Juliet Goodwin*

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Valid Until: 2021 - 03 - 01

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## SUMMARY OF CHANGES

This Summary shows:

- All changes from last approved and published document
- The location within the document where the changes have been made

Version	Date	Author(s)	Revision Notes
1.0	March 01, 2019	Melissa Mass	This is the first revision of the Auditor Performance Management Procedure. This revision brings the Procedure template into alignment with the templates used by the Governing Documents Framework.

 Requirements changed in the new revision will be identified with a revision triangle beside it.

## SUMMARY OF REVIEWERS

The following people were involved in the review of this Procedure.

Name	Position
Juliet Goodwin	Manager, Safety Audits and Certifications
Justin Degagne	Program Manager, Training
SA&C Team	Subject Matter Experts (SME)

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## CONTENTS

Summary of Changes .....	2
Summary of Reviewers.....	2
1.0 About this Procedure .....	4
1.1 Purpose and Direction .....	4
1.2 Scope.....	4
1.3 Target Audience.....	4
2.0 Procedure .....	5
3.0 Roles & Responsibilities for Procedure.....	20
4.0 Reference Documents .....	20

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## 1.0 ABOUT THIS PROCEDURE

### 1.1 Purpose and Direction

This procedure outlines how certified auditors and candidate auditors are required to maintain high standards in terms of ethical behavior and professional performance in their auditing role. This procedure is meant to create accountability to this high standard. Specifically, it outlines how Energy Safety Canada manages auditors when their performance raises either ethical and/or audit quality assurance (QA) issues.<sup>1</sup>

### 1.2 Scope

Energy Safety Canada has an obligation to its industry partners. Our industry partners should carry a positive expectation that auditors certified by Energy Safety Canada will consistently conduct themselves with honesty and the highest degree of professionalism.

Auditor performance concerns and issues may come to Energy Safety Canada's attention through a number of avenues. This can include such things as:

- Observations and investigations carried out as part of Energy Safety Canada's QA Review
- Discoveries made as a result of an onsite visit to a Certificate of Recognition (COR) client during or after an audit is conducted
- Complaints or reports from COR clients
- Complaints or reports from other Energy Safety Canada COR Auditors
- The results of an On Site Audit Review

A Visual Guide to the Energy Safety Canada Performance Management Procedure is available for review.<sup>2</sup>

### 1.3 Target Audience

The target audience for this document is all Energy Safety Canada personnel and third parties involved in the COR program any work location. This includes Employers, Auditors and applicable governing bodies.

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## 2.0 PROCEDURE

This is applicable to all auditors and auditor issues.

- 2.1 In this Auditor Performance Management Procedure, "Auditor" means an Energy Safety Canada-certified Auditor and candidate Auditor.
- 2.2 In this Auditor Performance Management Procedure, "Management Representative" means a representative from the department responsible for overseeing Energy Safety Canada's COR program.
- 2.3 In this Auditor Performance Management Procedure, "Procedure" means the Auditor Performance Management Procedure.
- 2.4 An Auditor will be provided access to the Procedure as part of the auditor certification process.
- 2.5 As a condition of maintaining an Energy Safety Canada auditor certification, the Auditor shall agree to be bound by the disciplinary process outlined in the Procedure by signing the Energy Safety Canada Certified Auditor's Agreement (hereafter referred to as "Agreement") (see Appendix).
- 2.6 Reported and/or confirmed Auditor performance issues, whether relating to ethical or QA issues, will be documented on the Auditor's file as follows:
  - 2.6.1 If Energy Safety Canada concludes, on the basis of its investigation, that a suspected Auditor performance issue was not established, the documentation on the Auditor's file will reflect that the matter was investigated and found to be unsupported. This documentation will remain on the Auditor's file for a period of 2 years, after which it will be removed.
  - 2.6.2 The Auditor in question may or may not be notified by Energy Safety Canada, in Energy Safety Canada's sole discretion, that such documentation has been placed on the Auditor's file.
  - 2.6.3 If Energy Safety Canada's investigation concludes that the Auditor performance issue is proven, the results of the investigation and the associated disciplinary measures will be permanently recorded on the Auditor's file.
- 2.7 Any organization that is affected by an Auditor performance management issue, whether relating to ethical or QA issues, may be notified by Energy Safety Canada, as set out in the Agreement.

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- 2.8** If Energy Safety Canada receives notice from another Certificate of Recognition Certifying Partner that an Auditor has committed one or more infractions of that Certifying Partner's policies or code of ethics, Energy Safety Canada may initiate its own investigation of the Auditor. As part of its investigation, Energy Safety Canada may discipline the Auditor in accordance with this Procedure but is not obligated to do so.
- 2.9** Once Energy Safety Canada begins an investigation into an Auditor's performance, and particularly when disciplinary measures affecting the Auditor's certification are a possible outcome, Energy Safety Canada may place the Auditor under an Interim Suspension while Energy Safety Canada's investigation takes place ("Interim Suspension"). In that case, Energy Safety Canada will notify the Auditor in writing of the Interim Suspension.
- 2.9.1** An Auditor subject to an Interim Suspension is prohibited from registering any new audits with Energy Safety Canada.
- 2.9.2** Upon being notified of an Interim Suspension, Energy Safety Canada will communicate what, if any, audits the Auditor may complete during the Interim Suspension.
- 2.9.3** Any audits completed and submitted after an Interim Suspension is imposed and for which written approval was not obtained may not be accepted by Energy Safety Canada.
- 2.9.4** An Interim Suspension is imposed at Energy Safety Canada's discretion when there is reason to believe that harm could result if the Auditor is not suspended during the remainder of the investigation.
- 2.9.5** An Interim Suspension will be in effect from the time it is imposed for a maximum of 90 days, or until Energy Safety Canada issues a disciplinary decision, whichever is earlier.
- 2.9.6** In all cases, Energy Safety Canada will use best efforts to limit the duration of the Interim Suspension.
- 2.9.7** The duration of any Interim Suspension will form part of and be credited toward the term of any subsequent suspension imposed by Energy Safety Canada as part of the disciplinary measures imposed on the Auditor in accordance with this Procedure.
- 2.10** If the Auditor has committed more than one infraction, whether ethical or QA in nature, Energy Safety Canada shall determine whether the disciplinary measure for each infraction will be served one after another, or concurrently.

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- 2.11** During the course of its investigation into an Auditor performance issue, Energy Safety Canada may request information from the Auditor, including, but not limited to documents, software, emails, copies of the Auditor's contracts with Employers, draft and final versions of audit reports and field notes, correspondence between the Auditor and Employers, notes from meetings between the Auditor and Employers, recordings, and any other information that may reasonably be expected to assist Energy Safety Canada in its investigation.
- 2.12** During the course of its investigation, Energy Safety Canada may request that the Auditor answer questions or provide additional information regarding the issues under investigation.
- 2.13** The Auditor shall provide the information set out in sections 2.11 and 2.12 within a reasonable timeframe, as set by Energy Safety Canada.
- 2.14** The Auditor's refusal or omission to provide the information Energy Safety Canada requests may, in Energy Safety Canada's discretion, result in an adverse inference being drawn against the Auditor.
- 2.15** During Energy Safety Canada's investigation, or at its conclusion, the Auditor will be given an opportunity to respond to Energy Safety Canada's concerns.
- 2.16** Any disciplinary decision reached by Energy Safety Canada will be communicated to the Auditor in writing.
- 2.17** Disciplinary decisions are effective immediately upon notice to the Auditor by Energy Safety Canada.
- 2.18** Energy Safety Canada's written notice to the Auditor setting out the disciplinary decision will be accompanied by instructions on the appeals process.
- 2.19** If the Auditor submits a request for an appeal, the commencement of the disciplinary decision made under the Procedure is not delayed or suspended during the time when a request for an appeal could be made, during the time prior to the date of a scheduled appeal, or while an appeal is being heard.
- 2.20** All other applicable Certificate of Recognition Certifying Partners and applicable governing bodies will be notified if the Auditor is suspended for 12 months or more as a result of discipline in accordance with this Procedure.
- 2.21** Energy Safety Canada may disclose to any one or more of the following entities any disciplinary decision that results in the Auditor's suspension and the findings upon which the disciplinary decision was based:

  - 2.21.1** Professional organizations, including self-governing and certifying bodies relevant to auditor certification;

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2.21.2 The Canadian Association of Oilwell Drilling Contractors ("CAODC"), in cases when the suspended Auditor is also an approved CAODC auditor; and

2.21.3 Law enforcement and regulatory agencies.

## **Ethical Issues**

The following section outlines Energy Safety Canada's Procedure with respect to any breach or allegation of a breach of the Energy Safety Canada Auditor Code of Ethics by the Auditor.

**2.22** An initial investigation of a breach of the Energy Safety Canada Auditor Code of Ethics will be conducted, and, based on the results of the initial investigation, an in-depth investigation may then be carried out.

**2.23** If the Auditor is disciplined by Energy Safety Canada for ethical reasons, information regarding the investigation and discipline will be shared with Energy Safety Canada's training department(s).

2.23.1 Energy Safety Canada may rely upon information obtained during its investigations under the Procedure when determining whether to accept the Auditor's application to provide training, or when investigating the Auditor's performance as an existing trainer with Energy Safety Canada's training department(s).

2.23.2 Energy Safety Canada may obtain information about the Auditor from other Energy Safety Canada departments that may affect the Auditor's compliance with the Energy Safety Canada Auditor Code of Ethics, and Energy Safety Canada may rely upon that information in its investigation into the alleged breach of the Energy Safety Canada Auditor Code of Ethics.

**2.24** If, as a result of investigation, Energy Safety Canada concludes that the Auditor has committed ethical infractions in relation to multiple audits, each audit so affected may be deemed to have been a single ethical infraction, and each of those single infractions may be deemed to have occurred sequentially, based on the date and time of each audit's registration. An example is boiler-plating multiple audits.

**2.25** When considering whether an infraction is "Minor", "Significant", "Serious", or a "repeated minor ethical infraction", Energy Safety Canada may refer to documented disciplinary measures on the Auditor's file that have occurred within the past three years.

**2.26** The following table outlines more precisely how Energy Safety Canada classifies and investigates various ethical infractions and the penalties assigned to these types of infractions.

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**2.27** In this section,

2.27.1 "repeated" means any infraction after the first infraction.

2.27.2 "repeated minor ethical infraction" means any infraction after the first infraction, regardless of whether the nature of the repeated infraction is the same as the first infraction or relates to a different violation of the Energy Safety Canada Auditor Code of Ethics.

**Table 1: Ethical Infractions Discipline Table**

Classification	Description	Investigation/Decision	Appropriate Penalties
Note to File	Unsubstantiated / Non-verifiable / False reports of breaches of the <i>Energy Safety Canada Auditor Code of Ethics</i>	Investigation by Energy Safety Canada; Decision by Audit Advisor	Note will be placed on the Auditor's file, including the outcome of investigation.  Auditor may be informed of this action by letter.
Minor Infraction	Any infraction of the <i>Energy Safety Canada Auditor Code of Ethics</i> that is relatively minor in nature and does not impact on the approval of an audit.	Investigation by Energy Safety Canada; Decision by Audit Advisor	An Education Letter outlining the requirements with written warning not resulting in disciplinary action.  (Where Energy Safety Canada deems the issues correctible without impact to the audit quality)  For example, where a new rule is implemented, but the auditor has not become familiar with the new rule yet.
		Investigation by Energy Safety Canada; Decision by Management Representative	A Warning Letter with one or more of the following requirements: <ul style="list-style-type: none"> <li>• Training</li> <li>• Repeat Auditor Training and Qualification audit</li> <li>• Suspension of up to 6 months</li> </ul> For example, the Auditor had received previous education on an issue, and failed to correct their actions.

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<p>Significant Infraction</p>	<p>Includes a repeated minor ethical infraction. Also includes any ethical infraction that results in an audit's rejection by Energy Safety Canada, and/or an employer losing its COR status.</p>	<p>Investigation by Energy Safety Canada; Decision by Management Representative</p>	<p><u>Must</u> include any one or more of the following on the Auditor's 1<sup>st</sup> offence in this category:</p> <ul style="list-style-type: none"> <li>• Repeat Auditor Training</li> <li>• Qualification Audit</li> <li>• Suspension of up to 6 months</li> </ul> <p><u>Must</u> include any one or more of the following on the Auditor's 2<sup>nd</sup> offence in this category:</p> <ul style="list-style-type: none"> <li>• Repeat Auditor Training</li> <li>• Qualification Audit</li> <li>• Suspension of up to 1 year</li> </ul>
<p>Serious Infraction</p>	<p>These include third infractions, which may follow any combination of two earlier infractions, whether the first two infractions were "Minor", "Significant", or "Serious".</p> <p>Also includes any violation of the <i>Energy Safety Canada Auditor Code of Ethics</i> that calls into question the Auditor's honesty, integrity, diligence, or professionalism.</p>	<p>Investigation by Energy Safety Canada; Decision by Management Representative</p>	<p><u>Must</u> include the following on the Auditor's 1<sup>st</sup> offence in this category:</p> <ul style="list-style-type: none"> <li>• Suspension from 6 months up to 1 year, repeat Auditor Training and Qualification Audit</li> </ul> <p><u>Must</u> include the following on the Auditor's 2<sup>nd</sup> offence in this category:</p> <ul style="list-style-type: none"> <li>• Suspension of 1 to 2 years, repeat Auditor Training and Qualification Audit</li> </ul> <p><u>May</u> include the following on 1<sup>st</sup> and 2<sup>nd</sup> offences and <u>must</u> include the following on any 3<sup>rd</sup> offence in this category:</p> <ul style="list-style-type: none"> <li>• Permanent revocation of the Auditor's certification</li> </ul>

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## Audit Quality Issues

The following section outlines Energy Safety Canada's Procedure and procedures with respect to any serious, unaddressed, or repeated shortcomings in audit quality by the auditor.

- 2.28 Energy Safety Canada will identify QA issues in the course of providing Audit QA Review to the Auditor.
- 2.29 Energy Safety Canada will inform a Management Representative about any concerns regarding repeated QA issues or an audit of such low quality that it cannot pass the Audit QA Review process.
- 2.30 Energy Safety Canada will consider whether the nature of the QA issue is a Minor QA Issue, in which case Energy Safety Canada will provide the Auditor with written notice to that effect and may take additional actions, as set out in the chart below.
- 2.31 If the nature of the QA issue is classified as a "First Significant Issue", Energy Safety Canada will communicate the same to the Auditor and may take additional actions, as set out in the chart below.
- 2.32 If the nature of the QA issue is classified as a "Second Significant Issue" or "Third Significant Issue", Energy Safety Canada will communicate the same to the Auditor and take appropriate action, as set out in the chart below.
- 2.33 If the investigation concludes that the Auditor has committed quality assurance infractions in relation to multiple audits, each audit so affected may be treated as a single infraction and may be deemed to have occurred sequentially, based on the date and time of each audit's registration.
- 2.34 When considering whether an infraction is a "Minor Quality Assurance", "First Significant", "Second Significant", "Third Significant" or a "repeated Minor QA" infraction, Energy Safety Canada may refer to documented disciplinary measures on the Auditor's file that have occurred within the past three years.
- 2.35 The following table outlines more precisely how Energy Safety Canada classifies and investigates audit QA shortcomings by the Auditor.
- 2.36 In this section,
  - 2.36.1 "repeated Minor QA Issues" means QA issues whose nature and frequency demonstrate that the Auditor is not making best efforts to institute Energy Safety Canada's requested changes and instructions in order to ensure the Auditor's compliance with Energy Safety Canada's policies and procedures regarding auditing, or the Health and Safety Certificate of Recognition Program: quality assurance standards.

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**Table 2: Quality Infractions Discipline Table**

Classification	Description	Investigation/Decision	Appropriate Penalties
Minor Quality Assurance Issues	Administrative and/or correctable audit deficiencies	Addressed via ongoing Audit QA processes; Flagged and investigated by Energy Safety Canada; Decision by Audit Advisor & Program Advisor	<ul style="list-style-type: none"> <li>Written feedback to the Auditor on the first review</li> <li>Communication with Auditor with an Education Letter if deficiencies identified in the first review are not corrected in the Auditor's second submission of the audit.</li> <li>Any failure on the Auditor's third or fourth submission of the audit may result in the audit being rejected by Energy Safety Canada and, as such, the QA issue will then be considered a "Significant QA Issue".</li> </ul> <p>NOTE: A warning letter must be sent before repeated issues are classified as "Significant".</p>
First Significant Issue	Repeated Minor QA Issues <u>or</u> any QA issue(s) that result in an audit's rejection by Energy Safety Canada	Investigation by Energy Safety Canada; Decision by Management Representative	<p><u>Must</u> include telephone contact and a warning letter to the Auditor.</p> <p>Warning letter must include one or more of the following requirements:</p> <ul style="list-style-type: none"> <li>Training</li> <li>Repeat Auditor Training</li> <li>Qualification Audit</li> </ul>

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Second Significant Issue	Failure to address any issue(s) already addressed as a First Significant Issue	Investigation by Energy Safety Canada; Decision by Management Representative	<p><u>Must</u> include any one or more of the following, in addition to telephone contact and a warning letter.</p> <p>Warning letter must include one or more of the following requirements:</p> <ul style="list-style-type: none"> <li>• Training</li> <li>• Repeat Auditor Training</li> <li>• Qualification Audit</li> <li>• Suspension of up to 1 year</li> </ul>
Third Significant Issue	Failure to address any issue(s) already addressed as a Second Significant Issue	Investigation by Energy Safety Canada; Decision by Management Representative	<p><u>Must</u> result in a permanent revocation of the Auditor's certification.</p>

## Certification Reinstatement

**2.37** An Auditor who has been assessed any restriction(s) on his or her certification (as an Energy Safety Canada Certified Auditor) will need to meet all of the conditions set out in the Procedure, as applicable, before being reinstated.

**2.38** In advance of being considered for reinstatement:

2.38.1 The Auditor must satisfy all of the conditions and requirements outlined in the discipline letter or appeal decision letter, as applicable,

2.38.2 Any training requirements applied are only considered completed once confirmation of a successful completion is formally processed by Energy Safety Canada. As such, any exam or other course requirements would need to be completed, receive a passing grade from the instructor, and be processed by Energy Safety Canada before the training requirements would be considered met.

2.38.3 If a Qualification Audit is required as part of the Auditor's discipline, the audit must meet all of Energy Safety Canada's audit standards and pass the Energy Safety Canada QA Review. Conditions regarding the Qualification Audit will be removed when the audit passes the QA review and is processed as an approved audit by Energy Safety Canada.

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- 2.38.4 An Auditor may neither register nor start any new audit during the suspension period. Auditors are only permitted to complete and submit audits specifically referenced in the discipline letter or appeal decision letter, as applicable. Qualification Audits are subject to the same restrictions as any other audits and may only be registered and started once the suspension period has ended.
- 2.38.5 An Auditor will be invited to meet with a Management Representative from Energy Safety Canada. This meeting will be offered by Energy Safety Canada at a time and location, and through a means of communication (telephone, videoconference, etc.), intended to be convenient for the Auditor. Refusal to attend this meeting will not prevent reinstatement once all disciplinary requirements have been met, but the Auditor's refusal to attend will be documented on the Auditor's file. The purpose of the meeting will be to:
- Clarify Energy Safety Canada's expectations of the Auditor's performance and possible consequences if these expectations are not met
  - Outline resources Energy Safety Canada has made available to the Auditor to assist the Auditor in meeting the expectations
  - To provide the Auditor with an opportunity to ask Energy Safety Canada questions regarding auditing and/or Energy Safety Canada's expectations of the Auditor
- 2.39** Once all of the conditions and requirements have been satisfied by the Auditor, Energy Safety Canada will reinstate the Auditor's certification by:
- 2.39.1 Sending the Auditor a letter outlining the reinstatement of the Auditor's certification.
- 2.39.2 Permitting the Auditor to register and start audits as applicable to his or her auditor certification.
- 2.39.3 An Energy Safety Canada Certified External Auditor's name will be placed on any publicly accessible list of auditors, maintained by Energy Safety Canada, at the next time that the list is scheduled to be updated by Energy Safety Canada.

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## Appeals

- 2.40** Any Auditor who has been assessed some form of disciplinary decision may appeal the disciplinary decision in accordance with this Procedure by following the Energy Safety Canada Framework for Auditor Performance Management.
- 2.40.1 Appeals may be heard only with respect to the decision and disciplinary measures made by a Management Representative.
- 2.40.2 Individuals hearing arbitrations under this Procedure will not include any person(s) who were involved in reaching the particular decisions appealed from.
- 2.40.3 The Auditor shall not appeal the content of government standards as set out by any government bodies that have responsibility for the COR program in their jurisdiction, and the Auditor shall not appeal the contents of Energy Safety Canada policies, such as those found in the Approved Energy Safety Canada Audit Protocol, or as set out in other written Energy Safety Canada policies and procedures.
- 2.41** The Energy Safety Canada Framework for Auditor Performance Management offers two levels of appeal:
- 2.41.1 Level One: Formal Meeting with a Management Representative.
- 2.41.2 Level Two: Arbitration.
- arbitration is available when the auditor chooses to appeal the decision made by a management representative following a formal meeting

### **Level One: Formal Meeting with a Management Representative**

#### Requests for Formal Meeting

- 2.42** The Auditor may challenge a disciplinary decision made in accordance with the Procedure by making a written request for a Formal Meeting with a Management Representative within 14 days of being informed of the disciplinary decision. The postmark on an envelope or other official indicator of date sent, or the time indicated on electronic mail, whichever is earlier, will be taken as the date the Auditor was informed of the decision.
- 2.43** A written request for a Formal Meeting with a Management Representative to challenge a disciplinary decision must include the Auditor's reasons to support his or her position. The Formal Meeting will be limited to discussion of those matters directly related to the decision being appealed.
- 2.43.1 The address to which the request for a Formal Meeting must be sent is as follows:

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**ENERGY SAFETY CANADA**

Attention: Manager, Safety Audits & Certifications  
5055 – 11<sup>th</sup> Street N.E.  
Calgary, Alberta T2E 8N4

Formal Meeting

- 2.44** Energy Safety Canada will use its best efforts to schedule a Formal Meeting with the Auditor on a date that is within 30 days of Energy Safety Canada's receipt of the Auditor's written request for a Formal Meeting.
- 2.45** The Formal Meeting may be held in person, by telephone call, or by video conference, in Energy Safety Canada's discretion.
- 2.46** The Management Representative and any additional Energy Safety Canada staff whose attendance would, in Energy Safety Canada's view, be of assistance, will be present at the Formal Meeting. At the Formal Meeting, the Auditor will have the opportunity to present reasons to support the Auditor's position. No additional persons are permitted to be present during the Formal Meeting.
- 2.47** The Management Representative will communicate, in writing, Energy Safety Canada's decision and reasons to the Auditor within 14 days of the Formal Meeting.
- 2.48** The Management Representative may uphold, modify or set aside the original decision, in accordance with this Procedure. The Management Representative may not order a stay of the disciplinary measures ordered in the original decision prior to issuing a final decision after the Formal Meeting.
- 2.49** The decision of the Management Representative following a Formal Meeting can be appealed to an arbitrator.

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## Level Two: Arbitration

**2.50** To initiate arbitration, the Auditor must provide a formal, written request for arbitration.

### Requests for Arbitration

**2.51** Requests for arbitration must:

2.51.1 Be submitted in writing within 14 days of being informed of a disciplinary decision by Energy Safety Canada in order to be eligible for the arbitration process.

2.51.2 Include:

- The reason for the request for arbitration
- The desired remedy
- Copies of any documentation that will be used to support the auditor's position at the arbitration
- The names and contact information for any witnesses that will be called by the auditor

2.51.3 Be addressed to Manger, Safety Audits & Certification and must be sent to the following address:

**ENERGY SAFETY CANADA**  
Attention: Manager, Safety Audits & Certifications  
5055 – 11<sup>th</sup> Street N.E.  
Calgary, Alberta T2E 8N4

**2.52** All requests for arbitration will be verified by Energy Safety Canada to ensure they were sent within the 14 day limit on appeals.

2.52.1 The postmark on an envelope or other official indicator of date sent will be taken as the date the request for arbitration was made.

2.52.2 The day when the request for arbitration is received in Energy Safety Canada's office will be the start date for any timelines in which Energy Safety Canada is required to respond to the request for arbitration in accordance with this Procedure.

**2.53** Within seven days of receipt of a request for arbitration, Energy Safety Canada will provide written notification to the Auditor confirming receipt of the request for arbitration.

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- 2.54** If a request for arbitration does not comply with the requirements set out in this Procedure, Energy Safety Canada will advise the Auditor within seven days of having received the request for arbitration. No arbitration will be scheduled if the request for arbitration does not comply with this Procedure.
- 2.55** If the request for arbitration is received by Energy Safety Canada, Energy Safety Canada will forward to the Auditor within seven days of receiving the request for arbitration the roster of arbitrators maintained by Energy Safety Canada. The roster includes those arbitrators approved by Energy Safety Canada from a list of potential arbitrators provided by the Director of Alberta Partnerships.

#### Appointment of an Arbitrator

- 2.56** The Auditor and Energy Safety Canada (the "Parties") must appoint a single arbitrator by mutual agreement within seven days after the roster of arbitrators is forwarded to the Auditor. If the Parties fail to agree on the selection of an arbitrator, either party may apply to the Director of Alberta Partnerships to appoint an arbitrator. The selection of an arbitrator by the Director of Alberta Partnerships is final and may not be appealed.

#### Arbitration Hearings

- 2.57** Arbitration hearings under this Procedure will follow the rules for arbitrations set out in the Alberta Arbitration Act, as amended from time to time, with the following specifications and/or exceptions:
- 2.57.1 All arbitration hearings will be conducted by a single arbitrator;
  - 2.57.2 All arbitrations must take place at a location that is mutually agreeable to both the Auditor and Energy Safety Canada;
  - 2.57.3 If the Parties cannot agree on the location for an arbitration hearing, the arbitrator will determine the location for the arbitration hearing;
  - 2.57.4 The actual costs of the arbitration, including arbitrator's fees, hearing costs and administrative expenses, as approved by the arbitrator, must be shared equally between the Parties and must not be allocated by the arbitrator as part of his or her decision;
  - 2.57.5 The arbitrator must issue interim reports on his or her services to the Parties every 15 days during the arbitration process unless the parties otherwise agree;
  - 2.57.6 The Parties must each be responsible for their own costs related to the arbitration, including but not limited to any legal fees, travel time and expenses, lost income, and witness fees;
  - 2.57.7 For arbitrations concerning the Auditor's suspension and/or revocation of certification, the arbitrator's decision is limited to actions outlined in the Procedure;

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- 2.57.8 No arbitration award made under the Procedure may include any award for monetary damages;
- 2.58** All arbitration hearings under the Procedure must operate as follows:
- 2.58.1 The conduct of the arbitration hearing will be informal;
- 2.58.2 The rules of evidence will not apply unless the Parties mutually agree that the rules of evidence will be in force;
- 2.58.3 Each of the Parties will be allowed to present relevant documentation, evidence, witnesses and arguments to support its position;
- 2.58.4 The arbitrator may ask questions and all answers to those questions will be directed to the arbitrator;
- 2.58.5 The Parties will present in the following order;
- Energy Safety Canada will present its evidence
  - The auditor will present his or her evidence
  - Energy Safety Canada will present its arguments and final comments
  - The auditor will present his or her arguments and final comments
- 2.59** The Parties are not allowed to cross examine each other unless the arbitrator specifically allows this, in which case the arbitrator will also determine the extent to which any cross examination may be used.
- 2.60** The Parties are not bound to confidentiality with respect to the arbitrator's final decision. This includes details of the Auditor's certification status and any penalties imposed, if applicable,
- 2.61** The arbitrator may uphold, modify or set aside Energy Safety Canada's original decision, or the decision made after the Formal Meeting, in accordance with the Procedure.
- 2.62** In appeals from disciplinary matters, the arbitrator may uphold, reduce, increase, add or substitute penalties, in accordance with the Procedure.
- 2.63** Arbitrators may not order a stay of disciplinary measures ordered by Energy Safety Canada before issuing a final decision, after the arbitration hearing.
- 2.64** The arbitrator must conduct the hearing and issue a signed, written decision to the Parties, including reasons for the decision, no later than 90 days after Energy Safety Canada received the request for appeal by arbitration.
- 2.65** The decision of the arbitrator is final and binding and cannot be appealed.

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### 3.0 ROLES & RESPONSIBILITIES FOR PROCEDURE

<p>Energy Safety Canada</p>	<ul style="list-style-type: none"> <li>○ Investigate any concerns brought forward regarding auditors conduct or quality assurance</li> <li>○ Abide by this Performance Management procedure and the steps laid out within this document and the Visual Guide</li> <li>○ Update information as required within the Auditor Performance Management Program</li> <li>○ Inform governing bodies of any suspensions longer than 6 months</li> </ul>
<p>Auditor</p>	<ul style="list-style-type: none"> <li>○ Conduct audits in an ethical and professional manner</li> <li>○ Abide by the Auditor Agreement and signed Code of Ethics<sup>3</sup></li> <li>○ Participate in the investigation process as outlined within this procedure</li> <li>○ If required, complete all aspects of the disciplinary measures determined</li> </ul>

### 4.0 REFERENCE DOCUMENTS

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- <sup>1</sup> SAC-MNL-001 Department Manual  
SAC-PXP-030 One Year COR  
Alberta Government Reference: [Standard 6.5 Auditor Discipline](#)
- <sup>2</sup> SAC-PXP-030 One Year COR
- <sup>3</sup> SAC-CFT-001 Certified Auditor's Agreement  
SAC-CFT-002 Code of Ethics for Auditors

*Sensitivity Level: Public*