



Chapter 1.1 Legal Compliance

BACKGROUND

Compliance with applicable host country laws is one of the most basic principles of operating a mine, or any activity, in a given jurisdiction. As an international best practice standard IRMA's requirements may also contain provisions that are more stringent or demanding than the minimum legal requirements specified at the national level in a particular country.

This chapter seeks to ensure that the IRMA Standard supports and complements compliance with international and national laws and regulations. It is based on five precepts:

- Compliance with host country laws and permits;
- Compliance with the IRMA Standard and requirements;
- Compliance with the most protective of host country or IRMA requirements;
- Compliance with the host country law when there is a direct conflict with an IRMA requirement; and
- Maintenance of records to document and demonstrate compliance with host country requirements and the IRMA Standard.

TERMS USED IN THIS CHAPTER

Competent Authority ■ Confidential Business Information ■ Contractor ■ Corporate Owner ■ Host Country Law ■ Mine Closure ■ Mining Project ■ Operating Company ■ Remedy ■ Stakeholder ■

These terms appear in the text with a dashed underline. For definitions see the Glossary of Terms at the end of the document.

OBJECTIVES/INTENT OF THIS CHAPTER

To support the application of the laws and regulations of the country in which mining takes place, or exceed host country laws in a manner consistent with best practice.

SCOPE OF APPLICATION

RELEVANCE: This chapter is applicable to all mines applying for IRMA certification.

Legal Compliance Requirements

1.1.1. Compliance with Host Country Laws

1.1.1.1. The operating company shall comply with all applicable host country laws in relation to the mining project.¹

¹ Host country law includes all applicable requirements, including but not limited to laws, rules, regulations, and permit requirements, from any governmental or regulatory entity, including but not limited to applicable requirements at the federal/national, state, provincial, county or town/municipal levels, or their equivalents in the country where the mine is located.

1.1.2. Compliance with Most Protective Requirements

1.1.2.1. The operating company shall comply with whichever provides the greatest social and/or environmental protections of host country law or IRMA requirements.² If complying fully with an IRMA requirement would require the operating company to break host country law then the company shall endeavor to meet the intent of the IRMA requirement to the extent feasible without violating the law.

1.1.3. Response to Non-Compliance

1.1.3.1. If non-compliance with a host country law has taken place, the operating company shall be able to demonstrate that timely and effective action was taken to remedy the non-compliance and to prevent further non-compliances from recurring.

1.1.4. Contractor Compliance

1.1.4.1. The operating company shall demonstrate that it takes appropriate steps to ensure compliance with the IRMA Standard by contractors engaged in activities relevant to the mining project.³

1.1.5. Record-Keeping and Disclosure

1.1.5.1. The operating company shall maintain records and documentation sufficient to authenticate and demonstrate compliance and/or non-compliance with host country laws and the IRMA Standard.

1.1.5.2. Records related to compliance and/or non-compliance with host country laws shall be made available to IRMA auditors, and shall include descriptions of non-compliance events and ongoing and final remedies.⁴

1.1.5.3. Upon request, operating companies shall provide stakeholders with a summary of the mining project's regulatory non-compliance issues that are publicly available.⁵

1.1.5.4. Where the operating company claims that records or documents contain confidential business information, it shall:

- a. Provide to auditors a general description of the confidential material and an explanation of the reasons for classifying the information as confidential;⁶ and
- b. If a part of a document is confidential, only that confidential part shall be redacted, allowing for the release of non-confidential information.

² For purposes of this section, most protective means the law or requirement that will prevent or mitigate the most negative impact(s) to the host state's human health and environment and cause the least risk to the host state's economic resources, such as by posing risks of injury to human health and the environment.

³ The definition of contractors includes relevant subcontractors (i.e., those involved in providing services to the operating company or the company's contractors that are relevant to the mining project).

⁴ As used in this section, "records" includes, but is not limited to, any permit, regulatory, or relevant governmental actions whether pending or resolved. "Ongoing remedies" refers to situations where the operating company is still working on achieving compliance to the satisfaction of the regulatory government entities/competent authorities.

⁵ "Publicly available" means that information is either already accessible by the public (e.g., compliance/non-compliance reports, statistics, inspection or other reports published on a regulatory website, or compliance/non-compliance-related information published by the company), or that information could be accessed through legal public means (e.g., through information requests to regulators).

⁶ IRMA auditors or certification bodies may be required to execute nondisclosure-confidentiality agreements to view confidential information. These agreements shall not be a bar to IRMA auditors disclosing confidential information required by law.

NOTES

This chapter balances the importance of compliance with host country laws with the recognition that laws can greatly vary between countries and regions. Therefore, this chapter establishes minimum legal standards and applicability requirements for other IRMA chapters when comparing host country law with the requirements in the IRMA Standard. As a general rule, and particularly recognizing that participation in IRMA is voluntary, this chapter prioritizes IRMA requirements because IRMA seeks to raise the bar of mining practices globally - and not just codify existing practices (whether considered best or not).

IRMA certification is based on the evidence available to and reviewed by a certification body. Certification does not guarantee that a certificate holder complies with all the legal obligations associated with a certified mining project and may not be used to suggest otherwise or as a defense to claims regarding legal violations.

Where documents and records produced in satisfaction of legal or other company requirements also meet the requirements of the IRMA Standard the operating company is not required to duplicate these. A company may choose to develop summaries and explanations of such documents and records in order to facilitate the IRMA audit process and thereby reduce its cost.

IRMA is developing a Policy on Association that, when finalized, will identify selected, essential international norms and requirements, the breach of which may be grounds for rejection of an operating company and/or its corporate owner from continued IRMA participation. The IRMA Policy on Association will not be put into effect until after the IRMA Launch Phase. IRMA welcomes comments on its draft Policy on Association, which is available on the IRMA website: www.responsiblemining.net.

CROSS REFERENCES TO OTHER CHAPTERS	
CHAPTER	ISSUES
All IRMA Chapters	As per Chapter 1.1, if there are <u>host country laws</u> that pertain specifically to the topics addressed in any IRMA chapter, the <u>operating company</u> is required to abide by those laws. If IRMA requirements are more stringent than <u>host country law</u> , the company is required to also meet the IRMA requirements, as long as complying with them would not require the company to break the <u>host country law</u> .
1.2—Community and Stakeholder Engagement	<u>Stakeholders</u> have access to information on regulatory non-compliances upon request (1.1.5.3). Access to information needs to conform with criteria 1.2.4 in Chapter 1.2. Both Chapters 1.1 and 1.2 include provisions that allow <u>confidential business information</u> to be withheld from auditors (Chapter 1.1) and <u>stakeholders</u> (Chapter 1.2). In both cases, however, companies are expected to redact only the confidential information and release the remaining non-confidential information to auditors and <u>stakeholders</u> .
1.3—Human Rights Due Diligence	If an <u>operating company's</u> legal non-compliance is human rights related, see Chapter 1.3 for IRMA expectations related to effective <u>remedy</u> .
1.5—Revenue and Payments Transparency	In Chapter 1.5, criteria 1.5.2 on disclosure of project-level payments to governments requires <u>operating companies</u> to disclose publicly any fines or other similar penalties that have been issued in relation to the <u>mining project</u> . This information must be made available to <u>stakeholders</u> if requested, as per requirement 1.1.5.3 in this chapter.