

Council of Construction Associations
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How to Challenge a WorkSafeBC OHS Order

It is important for contractors to know their options for challenging a WorkSafeBC health and safety order. An Order is written when the Prevention Officer believes that the employer has violated a section of the *Workers Compensation Act* or the *Occupational Health and Safety Regulation*.

Formal Review of an Order

The employer has 90 days in which to request a formal review of an Order to the Review Division of WorkSafeBC. This time limit also applies in cases where a penalty has been imposed. Information on how to initiate a review is provided with the Order from the Prevention Officer. For further details on the review process, please visit

http://www.worksafebc.com/claims/review_and_appeals/review_division/default.asp.

If a financial penalty was levied and the contractor disagrees with the Review Division's decision, the contractor may appeal to the Workers' Compensation Appeal Tribunal (WCAT). The time limit for appealing a Review Division decision to the WCAT is 30 days. For information on the WCAT appeal process, please visit <http://www.wcat.bc.ca>.

In the case of Review Division decisions that cannot be appealed to the WCAT, the contractor may request a reconsideration. The decision of the Review Division may only be reconsidered if new evidence has become available that is significant and relevant to the review, and has sufficient substance or weight. The Review Division may only conduct a reconsideration within 75 days of the decision being made.

Informal Discussions

The contractor may also wish to discuss the matter with the Worker and Employer Services Division of WorkSafeBC. Enclosed is a list of contact information. It is advisable to begin any discussion with the Prevention Officer or the Regional Prevention Manager as they are closest to the issue and integral to any resolution. However, the contractor may also contact the Regional Director or the Executive Director, Prevention Services.

The discussion can assist WorkSafeBC better understand the workplace situation that gave rise to the Order or penalty, and may result in the original decision being rescinded (cancelled) or modified. The dialogue may also enhance the contractor's understanding of the actions required for compliance.

These discussions can take place either before or during the formal review process. If a review has been initiated within the 90-day time limit, both processes will proceed at the same time. If the informal discussions lead to a resolution of the matter, the contractor can then withdraw the formal review.

Prepare your Evidence

Whether you decide to initiate a formal review or to discuss the matter with the Prevention Officer or Regional Prevention Manager, you will need to bring evidence of your compliance. This may include training records, supervisory notes of workplace safety observations and disciplinary records on the worker involved, if any, to show your due diligence.

If you require assistance with your review or appeal, please contact the Employers' Advisers Office: <http://www.labour.gov.bc.ca/eao>.

References

The *Workers Compensation Act* provides:

Section 196(1):

(1) The Board may, by order, impose an administrative penalty on an employer under this section if it considers that

- (a) the employer has failed to take sufficient precautions for the prevention of work related injuries or illnesses,
- (b) the employer has not complied with this Part, the regulations or an applicable order, or
- (c) the employer's workplace or working conditions are not safe.

Section 196(3):

An administrative penalty must not be imposed under this section if an employer exercised due diligence to prevent the circumstances described in subsection (1).

REGIONAL DIRECTORS & PREVENTION MANAGERS CONTACT INFORMATION

| Name | Position | Region | Address | Telephone |
|-------------------------|---------------------------------------|--|---|------------------|
| Trevor Alexander | Regional Director | Interior/North | 2045 Enterprise Way, Kelowna, BC V1Y 9T5 | 250-717-4376 |
| Shawn Mitton | Prevention Manager | Kelowna/Nelson/Cranbrook | 2045 Enterprise Way, Kelowna, BC V1Y 9T5 | 250-717-4302 |
| Bruce Clarke | Prevention Manager | Prince George/Terrace | 1066 Vancouver St., Prince George, BC V2L 5M4 | 250-561-3708 |
| Peter Gilmour | Prevention Manager | Kamloops/Williams Lake | 321 Battle St., Kamloops, BC V2C 6P1 | 250-314-6090 |
| Jim McCaskill | Regional Director | Vancouver Island | 4514 Chatterton Way, Victoria, BC V8X 5H2 | 250-881-7251 |
| Peter Newman | Prevention Manager | Nanaimo/Courtenay | 4980 Wills Road, Nanaimo, BC V9T 6C6 | 250-751-8050 |
| Grant Laporte | Prevention Manager | Victoria | 4514 Chatterton Way, Victoria, BC V8X 5H2 | 250-740-4218 |
| Chris Hartmann | Regional Director | Fraser Valley | #100 – 5500 – 152nd St., Surrey, BC V3S 8E7 | 604-214-4881 |
| Tom Lauritzen | Prevention Manager | Surrey/Abbotsford | #100 – 5500 – 152 nd St., Surrey, BC V3S 8E7 | 604-232-7071 |
| Ray Roch | Regional Director | Lower Mainland | 6951 Westminster Hwy, Richmond, BC V7C 1C6 | 604-233-4036 |
| Mark Peebles | Prevention Manager | Vancouver South/Richmond/Delta | 6951 Westminster Hwy, Richmond, BC V7C 1C6 | 604-279-7563 |
| Bert Goulding | Prevention Manager | Burnaby/Coquitlam | #450 – 6450 Roberts St., Burnaby, BC V5G 4E1 | 604-232-5976 |
| Al Johnson | Regional Director | L M, Construction & Hospitality | #400 – 224 Esplanade W., N. Vancouver V7M 1A4 | 604-232-1551 |
| Frank Nielsen | Prevention Manager | North Shore | #400 – 224 Esplanade W., N. Vancouver V7M 1A4 | 604-214-4818 |
| Gary McComb | Prevention Manager | LM, Residential Construction | #400 – 224 Esplanade W., N. Vancouver V7M 1A4 | 604-214-4812 |
| David Vince | Prevention Manager | Fort St. John | 9924 – 107 th Ave., Ft. St. John V1J 2P6 | 250-785-1283 |
| Don Dahr | Manager, Forestry Compliance Strategy | | 6951 Westminster Hwy, Richmond, BC V7C 1C6 | 604-214-6960 |