



Environmental Appeal Board

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How to File an Appeal Under the *Mines Act*

This information sheet explains how to file an appeal under the [Mines Act](#) (the “Act”). The requirements to file an appeal can be found there, and in [section 22 of the Administrative Tribunals Act](#). The Board has also created [Rule 5](#), which provides details about how appeals can be filed and when the filing is effective.

What decisions may be appealed?

The *Act* and its regulations allow the Board to consider appeals of decisions issued by the chief inspector under section 36.3. Notice of a decision is given to a person where the chief inspector has concluded that the person did not comply with:

- certain provisions of the *Act*, the regulations, or the Health, Safety and Reclamation Code for Mines in British Columbia;
- a provision of an order made under the *Act*; or
- a term or condition imposed under section 10 (1.1), (2), (2.01), (3), (4) or (7), 17 (5) or 38 (4) of the *Act*.

The notice describes the finding of non-compliance. If an administrative penalty is also imposed, the notice describes the amount of the penalty and when it must be paid.

Who may appeal the decision?

The person given a notice under section 36.3 of the *Act* can appeal the decision in that notice.

How do I start an appeal?

To start an appeal, you must deliver a notice of appeal to the Board’s office **within 30 days** of being notified of the decision you wish to appeal. A notice of appeal has been created as [Form 1](#). If you do not use Form 1, your notice of appeal **MUST** include:

1. your name, address, and telephone number;
2. the name and daytime/business telephone number of your representative, if you are represented;
3. a postal or email address for delivery of all official letters and documents;
4. information to identify the decision being appealed, such as the name of the decision-maker, the date of the decision, and what the decision is about;
5. a description of why you think the decision should be changed;
6. a description of what result you want from the Board when it decides the appeal;
7. a signature by you or your representative; and
8. a cheque, bank draft or money order for \$25 for each decision being appealed, payable to the Minister of Finance. The Board does not have the discretion to waive this appeal fee.

You should also include your email address, the email address of your representative (if any), the date you were notified of the decision, and a copy of each decision you are appealing.

You can send the notice of appeal to the Board by mail, courier, facsimile, email, or hand delivery. The Board's office is open 8:30 am to 4:30 pm, Monday to Friday, excluding public holidays. If the notice of appeal is sent by facsimile or email, the \$25 appeal fee can follow by mail. However you send the notice of appeal, the notice of appeal **must** be received by the Board within 30 days of when you were notified about the decision being made. The Board has no power to extend the time to appeal.

What happens if the notice of appeal is not complete?

If you do not satisfy all of the requirements described above, the Board will send a letter to let you know. The Board will not proceed with the appeal unless those deficiencies are fixed or explained.

An appeal may not act as a stay

If an administrative penalty is appealed, it is not payable until after the appeal is decided.

If the appealed notice only contains a finding of non-compliance, that decision remains effective while the appeal is underway. The Board cannot order the finding of non-compliance to be ineffective.