

Frequently Asked Questions

Revised Employer Review Process

1) WHEN IS AN EMPLOYER REVIEW UNDERTAKEN?

An Employer Review may be triggered if a Certificate of Recognition (COR) holder experiences one of the following situations:

- Fatality, serious injury/incident, multiple Stop Work Orders due to imminent danger, or ongoing OHS Officer activity due to non-compliance.
- An employer has held a COR for four years or longer and has been on the Employer Injury and Illness Prevention Program (EIIPP) list for four years or more.
- Where the Workers' Compensation Board (WCB) determines that a COR holder has knowingly misrepresented the reporting of worker injuries as required under the *WCB Act*.

The occurrence of these situations may indicate that although an employer has successfully completed the certification process, the employer may still have deficiencies in their health and safety management system that require correction.

2) WILL EVERY OCCURRENCE OF A SITUATION AS LISTED ABOVE PROMPT AN EMPLOYER REVIEW?

No, Partnerships in Injury Reduction (Partnerships) will conduct a review of the situations as listed above and determine whether an Employer Review is required. For example, the Employer Review process will not be applied to fatalities that occur due to non-occupational medical conditions (e.g. heart attack) or occupational disease linked to the actions of an employer prior to their achievement of a COR, or non-occupational motor vehicle fatalities.

3) WHY IS THE EMPLOYER REVIEW PROCESS BEING REVISED?

The Employer Review process was first introduced for COR holders in 2000. Beginning in 2009, an extensive process of stakeholder consultation was initiated to review the existing process and discuss improvements to ensure the integrity of the COR. In addition, the Auditor General of Alberta found that the current Employer Review program "is not used systematically and effectively" (Report of the Auditor General of Alberta, April 2010, page 42). Final revisions to the Employer Review process were approved by the Minister of Employment and Immigration, Thomas Lukaszuk, after a final consultation with stakeholders in spring of 2011.

4) AS A COR HOLDER, IS PARTICIPATION IN THE EMPLOYER REVIEW PROCESS MANDATORY?

Yes, once Partnerships has determined that a COR holder will be subject to an Employer Review, the COR holder must participate in the process. Failure to successfully complete the required corrective actions will result in the loss of the COR.

5) WILL PARTNERSHIPS CONTACT ME IF AN EMPLOYER REVIEW IS NECESSARY?

Yes, Partnerships will contact those employers who are required to participate in the Employer Review process. In some cases, Partnerships may request additional information from the employer, including the following:

- A copy of the employer's most recent COR audit report or maintenance audit option.
- A copy of the investigation report if conducted by an agency other than Alberta OHS.
- A copy of the employer's own investigation report.

6) IF AN EMPLOYER REVIEW IS INDICATED, WHAT IS THE NEXT STEP?

Partnerships will arrange for a meeting with the employer to discuss the situation and the actions that the employer may have taken in relation to the incident in question. If further action is required, the employer will be required to complete an action plan.

7) WHAT IS AN ACTION PLAN?

The action plan is a document that is used to develop corrective actions and set timelines and expectations for completion. Partnerships will meet with the employer to review the circumstances and cooperatively develop the required action plan. The plan will be focused on improving the performance of the employer's health and safety management system. The scope of the plan and timelines for completion will be appropriate to the size of the employer and reflect the issues identified.

8) WHAT IF THERE IS A SECOND SITUATION THAT REQUIRES AN EMPLOYER REVIEW WITHIN 24 MONTHS?

If a COR holder experiences a second occurrence of a fatality, a serious incident or injury, or an additional stop work order for imminent danger within a 24-month period, the COR holder may be directed to complete a full external audit. If necessary, an action plan may also be required, based on the results of the external audit.

9) WHAT ARE THE REQUIREMENTS FOR AN EXTERNAL AUDIT?

If an employer is required to undergo a new external audit, it must be conducted by a certified external auditor through the employer's Certifying Partner (CP). The audit must be conducted using a Partnerships approved audit instrument. The employer may select the auditor, but the choice of auditor must be approved by the CP, and the auditor must not have conducted any audits for the employer in the current or previous three calendar years. The audit must be conducted and submitted to the CP by the due date set by Partnerships.

10) WHAT HAPPENS TO MY COR AND ELIGIBILITY FOR PIR REFUNDS DURING AN EMPLOYER REVIEW?

When an Employer Review is initiated with an employer, the COR status will be considered as "Under Review" by Partnerships and any PIR refund will be placed on-hold by the WCB during the period of review. The COR is still considered to be valid during the review period.

11) IF I SUCCESSFULLY COMPLETE ALL THE REQUIREMENTS OF EMPLOYER REVIEW, WHAT HAPPENS?

If the employer successfully completes the required action plan, then Partnerships will remove the employer's "under review" status, and the WCB will be advised and will reinstate the employer's eligibility for PIR refunds.

If the employer successfully completes the required external audit or external audit with action plan, then the employer will be issued a new one-year COR or SECOR, which will be eligible for PIR refunds. The employer will no longer be considered as under review by Partnerships. Subsequent recertification audits will be eligible for the normal three-year certification period.

12) IF I DO NOT COMPLETE ALL THE REQUIREMENTS OF EMPLOYER REVIEW, WHAT HAPPENS?

The employer's COR will be cancelled and the employer will forfeit any PIR refund for that calendar year. The employer will be notified in writing by Partnerships. In the event that the employer has failed the action plan, the employer will be allowed a 60-day grace period before the cancellation becomes effective. If the employer has failed their external audit, the COR will be cancelled once Partnerships has been advised of the audit results.

Where the employer's CP has requested to be involved in the decision process, Partnerships will meet with the CP to discuss the matter before any action is taken.

13) IS THERE AN APPEAL PROCESS IF I DO NOT AGREE WITH THE DECISION TO CANCEL MY COR?

If an employer's COR was cancelled due to failure to successfully complete the action plan, the employer may appeal directly to Partnerships. The employer also has the option to request that the matter be referred to a process of binding arbitration. However, an employer may not appeal external audit results to Partnerships. Any concerns with the audit are dealt with by the employer's CP.

14) IF MY COR IS CANCELLED, HOW CAN I RECERTIFY?

To recertify, employers must contact their CP and arrange for a new external audit. If the employer failed to complete the required action plan, then it must also be completed before Partnerships will grant certification.

15) WHAT HAPPENS IF MY COR IS CANCELLED, AND THEN I SUCCESSFULLY RECERTIFY IN THE SAME CALENDAR YEAR?

If a new COR is issued in the same calendar year in which the employer's original COR was cancelled through the Employer Review process, the employer will be issued a "One-Year Post Review" COR, which is not eligible for PIR refunds.

16) WHAT HAPPENS IF MY COR IS CANCELLED, AND THEN I SUCCESSFULLY RECERTIFY IN THE FOLLOWING CALENDAR YEAR?

If the new COR is issued in the year following the calendar year in which the employer's COR was cancelled, the employer will be issued a regular One-Year COR, which will be eligible for PIR refunds. Note the employer has already forfeited any PIR refund for the year in which the COR was cancelled.

17) WHO PAYS FOR AN ACTION PLAN OR EXTERNAL AUDIT?

The action plan process is conducted with Partnerships and there are no fees for this service. The audit process is administered by the employer's CP, who can provide specific information regarding audit requirements and costs (if applicable),

18) IF I HAVE TO PROVIDE PARTNERSHIPS WITH COPIES OF MY INFORMATION, HOW WILL IT BE KEPT SECURE?

All documents received by Partnerships from the employer will be returned and/or the electronic records deleted within 30 days of receipt. No copies of the documents will be made and no documents will be retained on file. The employer will be provided with a release form which will outline the conditions under which the documents are provided to Partnerships to ensure that the documents remain under the employer's control while they are being reviewed.

The employer can also request that Partnerships review the documents on the employer's premises. In this case, the assigned Partnerships Consultant will make arrangements to meet with the employer to review the documents.

19) COULD AN ACTION PLAN OR EXTERNAL AUDIT BE USED AS EVIDENCE IN A PROSECUTION ACTION UNDER THE OCCUPATIONAL HEALTH AND SAFETY ACT (OHS ACT)?

Any employer information considered relevant to a prosecution may be requested by Crown Prosecutors. Generally speaking, evidence of employer cooperation and documented efforts to improve workplace health and safety will be regarded favorably by the Courts.

20) WHAT IF A COR HOLDER IS CHARGED UNDER THE OHS ACT?

Partnerships will advise the WCB and the COR holder's PIR refund will be placed "on-hold" for the year in which the charges are laid. If the employer is convicted, they will forfeit their PIR refund. If the charges are withdrawn or the employer is found not guilty, the employer will be eligible to receive their PIR refund. Note if the employer has already forfeited their PIR refund for the same matter through the Employer Review process (see question #12), this provision will not apply.

21) WILL MY CERTIFYING PARTNER ASSIST ME WITH THE EMPLOYER REVIEW PROCESS?

The employer's CP will be notified that an Employer Review is taking place and will be informed of the employer's status throughout the process. If requested by the employer, the CP may be involved and provide assistance.

22) WHERE CAN I OBTAIN MORE INFORMATION ABOUT THE EMPLOYER REVIEW PROCESS?

- Your Certifying Partner
- Partnerships in Injury Reduction at (780) 427-8842
- Partnerships Website: <http://employment.alberta.ca/SFW/277.html>