



Environmental Appeal Board

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Practice Directive #1

This practice directive fulfils the Environmental Appeal Board (the “Board”)’s obligation, under section 12 of the *Administrative Tribunals Act*, to issue a practice directive respecting the usual time period for:

- completing an appeal and the procedural steps within an appeal, and
- the release of a final decision and reasons after the hearing of the appeal is completed.

The Board attempts to complete appeals as quickly and efficiently as it can while maintaining a fair and user-focused process. The Board must also operate within operational and fiscal constraints, and this may result in the delayed processing of appeals. The requirements of any given appeal vary, but the usual time periods described in this practice directive apply as a general guideline.

Appeals are broken down into the following phases for the purpose of this practice directive:

- **Procedural Phase:** this begins on the date the appeal is received and ends on the date before:
 - the start of an oral hearing on the merits of the appeal (in the case of an oral hearing),
 - the first date on which submissions on the merits of the appeal are provided (in the case of a written hearing), or
 - whichever of those two dates occurs first (in the case of a written/oral hybrid hearing).
- **Hearing Phase:** this begins on the first date on which written submissions or, in the case of oral hearings, statements of points, are provided on the merits of an appeal (whichever comes first), and ends on the last date of an oral hearing on the merits of an appeal or the last date on which written submissions are provided on the merits of an appeal (whichever comes last).
- **Post-Hearing Phase:** this begins on the day after the last day of an oral hearing on the merits of an appeal or the day after the last date on which written submissions are provided on the merits of the appeal (whichever comes last).

The length of the Procedural Phase varies widely and depends on how extensive and contentious the document production is between the parties, how much evidence the parties need to collect, whether the parties will present expert evidence, whether there are preliminary decisions that the Board needs to adjudicate, and how long the parties need to prepare written submissions or for an oral hearing. The length of this phase depends mostly on the requirements of the parties and of the given appeal.

The length of the Hearing Phase is primarily driven by the issues under appeal, the amount and kinds of evidence to be presented to the Board, how contentious the hearing is, and the complexity and detail of the arguments made to the Board. The length of this phase mostly depends on the nature of the appeal and the conduct of the parties, although the Board endeavours to make this process as efficient as possible, while ensuring a fair process that is as thorough as appropriate for any given appeal.

The length of the Post-Hearing Phase is primarily driven by the nature of the appeal and the extent and quality of evidence and submissions that have been provided, as well as operational constraints that exist for the Board.

The following are the usual time periods for appeals before the Board:

- Procedural Phase: 1–2 years
- Hearing Phase: 3 months (written hearing), 4 months (oral hearing), or 6 months (hybrid oral/written hearing)
- Post-Hearing Phase: 9 months

These times are likely to be longer, particularly where multiple appeals are considered together in a grouped appeal, with one common decision issued, or where the Board must issue one or more preliminary decisions as part of the Procedural Phase.