



Environmental Appeal Board

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How to Appeal Under the *Environmental Management Act*

This information sheet explains how to file an appeal of a decision made under the [Environmental Management Act](#) (the “Act”) with the Environmental Appeal Board (the “Board”). The requirements to file an appeal can be found in the [Act](#) 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?

[Section 99 of the Act](#) says that decisions of a director or district director, made under that Act, can be appealed to the Board. A decision is broadly defined in that section as:

- making a order;
- imposing a requirement;
- exercising a power (except delegating some authority);
- issuing, amending, renewing, suspending, refusing, cancelling or refusing to amend a permit, approval, or operational certificate;
- including a requirement in an order, permit, approval or operational certificate;
- determining to impose an administrative penalty; and
- determining that the terms and conditions of an agreement made under section 115(4), to resolve an administrative penalty, have not been performed.

Who can file an appeal?

[Section 100 of the Act](#) says that a person who is “aggrieved” by a decision of a director or district director can appeal the decision. The word “person” includes an individual, a corporation, a partnership, or a non-profit society. The word “aggrieved” means the person or organization genuinely take issue with the decision because it negatively affects their interests. They must be able to show some evidence of this negative impact.

If the Board is concerned that an appellant does not have the right to appeal a decision, it will give the appellant the chance to convince the Board they have the right. This includes the ability to present evidence. If the Board remains unconvinced, it may dismiss the person's appeal without a hearing.

How do I 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

Generally, when an appeal is filed, the appealed decision remains effective. If you want to ensure the decision is not effective, you must ask the Board to “stay” the decision. For more information, see the Information Sheet, [“Stays Pending a Decision on an Appeal”](#).

You do not need to ask for a stay if the appeal is against an administrative penalty. Administrative penalties are automatically stayed when appealed, under section 8 of the [Administrative Penalties \(Environmental Management Act\) Regulation](#).