



Environmental Appeal Board

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Stays Pending a Decision on the Appeal

An appeal does not prevent the decision from taking effect

Generally, when someone files an appeal with the Environmental Appeal Board (the “Board”), the appealed decision will still take effect. One exception is where the decision imposes an administrative penalty under certain laws. Those are the [Environmental Management Act](#), the [Greenhouse Gas Industrial Reporting and Control Act](#), the [Greenhouse Gas Reduction \(Renewable and Low Carbon Fuel Requirements\) Act](#), the [Integrated Pest Management Act](#), the [Mines Act](#), the [Water Sustainability Act](#), and the [Zero-Emission Vehicles Act](#). In those cases, the penalties will not take effect until the Board decides the appeal.

The other exception is where the Board orders that a decision is suspended while it is being appealed. This is called a “stay”. The Board can stay decisions under most statutes that it can consider. The exception is the [Mines Act](#).

How to get a stay

If you want a decision you have appealed to be suspended while the appeal is underway, you should ask the Board for a stay. [Rule 16](#) sets requirements for these applications. They must be in writing, explain why you want a stay, and indicate whether the other parties agree (if you know). You must include any evidence that supports your application.

When deciding whether to stay a decision, the Board considers three factors. Those are whether the:

- appeal raises a serious issue;
- person applying for the stay will, if the stay is denied, likely suffer “irreparable harm” that cannot be fixed if they succeed in the appeal; and
- irreparable harm that the applicant will suffer is worse than any harm that may occur if the stay is granted.

You may want to look at previous stay decisions made by the Board to understand how this test is applied. There are many examples on the Board’s website under the heading “Decisions”. For each stay decision, “Stay Application” is written beneath the appeal name. For more information, see also [section 7.0 of the Practice and Procedure Manual](#).

What happens when someone asks for a stay?

The Board will share the application with the other parties. Each will have a chance to respond. They can say whether the Board should stay the decision, referring to the three-part test described above.

Normally, an application for a stay is decided in writing, rather than in an oral hearing.

Once it reaches its decision, the Board will inform the parties of its decision and give written reasons.