



Environmental Appeal Board

Fourth Floor, 747 Fort Street, Victoria BC V8W 3E9

Tel: (250) 387-3464

www.bceab.ca

Fax: (250) 356-9923

info@bceab.ca

How to Appeal Under the Greenhouse Gas Industrial Reporting and Control Act

This information sheet explains how to file an appeal under the [Greenhouse Gas Industrial Reporting and Control 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?

[Section 40\(1\) of the Act](#) allows people who have been penalized under the Act to appeal certain determinations. Those determinations are whether, and to what extent, the penalized person did not comply with sections 24 and 25 of the Act.

Section 24 applies where someone fails to accurately report their greenhouse gas emissions as they are supposed to. The section is triggered where the person, because of this failure, does not have enough credits (called “offset units”) to cover their emissions. This can be the basis for an administrative penalty.

Section 25 applies more generally. Where a person contravenes the Act or its regulations, an administrative penalty can be imposed.

Section 40(1) of the Act also allows appeal rights to be granted through regulations. [Section 12 of the Greenhouse Gas Emission Administrative Penalties and Appeals Regulation](#) allows appeals of other decisions to the Board:

- a requirement that someone continue to report emissions using the same way of measuring emissions as they used previously;
- refusal to accept verification by an accredited person, of a report of greenhouse gas emissions, under either the [Greenhouse Gas Emission Control Regulation](#) or the [Greenhouse Gas Emission Reporting Regulation](#);
- suspension or cancellation of a reporting body's account under sections 10(1), 10(3), or 10(4) of the [Greenhouse Gas Emission Control Regulation](#);

- refusal to accept verification of a plan to offset greenhouse gas emissions by a project that will reduce emissions or remove greenhouse gases from the atmosphere; and
- a director's decision whether to grant offset credits, and how many are granted, for a project that reduces emissions or removes greenhouse gases from the atmosphere.

Who can file an appeal?

Anyone who is served with a decision referred to above may appeal it.

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 26\(1\)\(c\) of the *Greenhouse Gas Industrial Reporting and Control Act*](#).