



# Energy Resource Appeal Tribunal

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## How to Start an Appeal

This information sheet explains how to file an appeal with the Energy Resource Appeal Tribunal (the “Tribunal”). The requirements to file an appeal can be found there, and in [section 22 of the \*Administrative Tribunals Act\*](#). The Tribunal has also created [Rule 5](#), which provides details about how appeals can be filed and when the filing is effective.

## Who can file an appeal?

The [Energy Resource Activities Act](#) (the “Act”) gives appeal rights to “eligible persons”. These different classes of people have different appeal rights, discussed later.

“Eligible persons” are those that:

- have applied for a permit under the *Act*,
- hold or have held a permit or authorization under the *Act*,
- are “land owners”, with respect to land on which an energy resource activity is taking place (discussed in more detail below);
- have received an order from the BC Energy Regulator under section 49(1) of the *Act*, or
- have been found, by the BC Energy Regulator, to have contravened the *Act*, its regulations, a permit or authorization, or an order from the BC Energy Regulator, under section 62 of the *Act*.

“Land owners” mean those who are the owners of land surface, registered with the Land Title Office; who are purchasers of land surface under an agreement of sale; or to whom the government has granted them land through a disposition under the [Land Act](#). “Land owners” can appeal certain decisions by the BC Energy Regulator, that relate to an energy resource activity to take place on the land they own. Energy resource activities are:

- geophysical explorations;
- any explorations for or the development of petroleum, natural gas, or both;
- the production, gathering, processing, storage, or disposal of petroleum, natural gas, or both;
- the operation or use of a storage reservoirs;
- the construction or operation of a pipelines;

- the construction or operation of facilities that either convert natural gas into other organic compounds or that refine petroleum;
- the construction or maintenance of roads defined through regulations; or,
- any activities defined through regulation.

## What decisions may be appealed?

The Act gives different appeal rights to “land owners”, from the rights granted to all other “eligible persons”.

“Land owners” can appeal the following decisions by the BC Energy Regulator:

- a permit issued under section 25 of the *Act*, authorizing an “energy resource activity” (discussed above) on the land owned by the “land owner”;
- an amendment, issued under section 31 of the *Act*, to a permit that authorizes an “energy resource activity” on the of the “land owner”; or
- an internal review by the BC Energy Regulator, of one of those permit-related decisions, where the review:
  - changes the effect of the permit on the land of the “land owner”, or
  - issues a permit that authorizes an “energy resource activity” on the land of the “land owner”.

Other “eligible persons” can appeal the following decisions by the BC Energy Regulator:

- the granting of a permit under section 25 of the *Act*;
- the refusal to issue, or the suspension, cancellation, or amendment of, a permit under section 26 of the *Act*;
- a declaration, under section 27 of the *Act*, made on the BC Energy Regulator’s initiative, that a permit or authorization, or a permission granted in a permit, is “spent” because it is no longer needed by the person holding the permit or authorization;
- a refusal to grant an amendment requested by the “eligible person”, under section 31 of the *Act*;
- an order, issued under section 40(f) of the *Act* when a permission granted by the BC Energy Regulator through a permit or authorization ends, to take some actions beyond those required by the *Act* or its regulations, some other specified act or regulations, or the permit or authorization that granted the permission;
- any order issued under Division 2 of Part 5 of the *Act*;
- a finding, made under section 62 of the *Act*, that a person has contravened the *Act*, its regulations, a permit or authorization, or an order of the BC Energy Regulator;
- an administrative penalty imposed under section 63 of the *Act*; or

- any other decision defined in regulations.

An “eligible person”, other than a “land owner”, may also appeal to the Tribunal any review of any of the decisions listed above, undertaken by the BC Energy Regulator under section 71 of the *Act*.

## How do I appeal?

To start an appeal, you should deliver a notice of appeal to the Tribunal’s office within the time limit defined under the *Act*: 15 days from the date of the decision for “land owners” and 30 days from the date of the decision for all other “eligible persons”. Notices of appeal have been created as [Form 1](#) (for “land owners”) and [Form 2](#) (for other “eligible persons”). If you do not use that form, 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 Tribunal when it decides the appeal; and
7. a signature by you or your representative.

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 Tribunal by mail, courier, facsimile, email, or hand delivery. The Tribunal’s office is open 8:30 am to 4:30 pm, Monday to Friday, excluding public holidays. However you send the notice of appeal, the notice of appeal should be received by the Tribunal within the time limit set by the *Act*.

If you miss the time limit set by the *Act* for filing an appeal, you should file it as soon as you can. The Tribunal may extend this deadline in special circumstances. If seeking an extension, you need to explain the reasons for your delay in filing your appeal, and any special circumstances that you think the Tribunal should consider. Failing to promptly file an appeal once you are able to do so may be grounds for the Tribunal refusing to extend the deadline.

### **What happens if the notice of appeal is not complete?**

If you do not satisfy all of the requirements described above, the Tribunal will send a letter to let you know. The Tribunal 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 Tribunal to “stay” the decision.

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 72(4) of the *Act*. The BC Energy Regulator, or another party, could ask the Board to require that an administrative penalty is not stayed automatically, however.

For more information, see the Information Sheet, [“Stays Pending a Decision on an Appeal”](#).