
Mandate and History

The Environmental Appeal Board was created when the *Environment Management Act* was proclaimed in 1981 and has been continued under Part 8 of the *Environmental Management Act* when it came into force in July 2004. It is an independent agency, which hears appeals from administrative decisions made under a variety of statutes. Some of the statutes allowing appeals to the Board have been repealed or repealed and replaced over the years. The Board hears appeals under the:

- *Environmental Management Act*
- *Greenhouse Gas Reduction (Cap and Trade) Act*
- *Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act*
- *Greenhouse Gas Reduction (Vehicle Emissions Standards) Act*
- *Integrated Pest Management Act*
- *Water Act*
- *Wildlife Act*

Origins and evolution of the Board's mandate

- 1981 The Board was established in 1981 to hear appeals under four Acts: the *Pesticide Control Act*, *Waste Management Act*, *Water Act*, and *Wildlife Act*. It replaced the former Pesticide Control Appeal Board (established in 1978) and Pollution Control Board (established in 1956), as well as appeals to Cabinet (under the *Water Act*) and County Court (under the *Wildlife Act*). In creating the Board, the government recognized that it would be more effective and efficient if one tribunal heard all administrative appeals involving environmental issues.
- 1988 In 1988, the *Commercial River Rafting Safety Act* was brought into force, which included a right of appeal to the Board.
- 1994 In September 1994, the *Health Act* was amended, as recommended by the Ombudsman, to allow the Board to hear appeals concerning on-site sewage disposal system permits.
- 1997 In July 1997, the *Environment, Lands and Parks Statutes Amendment Act, 1997* amended most of the appeal provisions found in the various statutes to create a more efficient appeal process, and provide greater consistency among the appeal provisions of these statutes. The amendments eliminated the two-stage appeal process that had existed for decisions under the *Waste Management Act* and many types of decisions under the *Water Act* and *Wildlife Act*. Previously, decisions were first appealed to a senior official within the Ministry, and then to the Board. Eliminating one stage of the appeal process has helped reduce the length of the appeal process. The Board's powers were also clarified and enhanced. For example, to help prevent abuses of the appeal process, the Board was given expanded powers to order a party to pay costs.

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Furthermore, the Board was given broader decision-making powers so that parties could have access to more remedies.

- 1998 In 1998, the *Oil and Gas Commission Act* created the Oil and Gas Commission (“OGC”) to regulate “oil and gas activity and pipelines” throughout the province. At that time, it was decided that the Board would have jurisdiction over appeals from decisions of the OGC under the *Water Act* and *Waste Management Act*.
- 2000 Similarly, when the *Nisga’a Final Agreement Act* came into force in 2000, the Board retained jurisdiction over appeals under statutes that continue to apply to Nisga’a Lands.
- 2004 By Order-in-Council, No. 468, dated May 13, 2004, but retroactive to April 1, 2003, Section 6 of the *Commercial River Rafting and Safety Act* was repealed which meant that the Environmental Appeal Board no longer hears appeals under the *Commercial River Rafting and Safety Act*.

In July of 2004, the *Environment Management Act* and the *Waste Management Act* were repealed. Their provisions were combined into the new *Environmental Management Act*, which was brought into force on the same date in July 2004.

The Board is continued under this new statute and its structure and powers are set out in part 8. The new statute still provides appeals from certain decisions involving contaminated sites and other decisions relating to waste discharge and pollution (decisions formerly made under the *Waste Management Act*).

In December of 2004, the *Pesticide Control Act* was repealed and replaced with the *Integrated Pest Management Act*. The Board now hears pesticide related appeals under the new Act.

- 2005 The Sewerage System Regulation came into force on May 31, 2005. It is enacted under the *Health Act* and replaced the Sewage Disposal Regulation. Under the new regulation, appeals to the Environmental Appeal Board were limited to the issuance or refusal of permits for holding tanks. All other *Health Act* regulated sewage systems no longer require permits, and therefore, were no longer subject to appeal to the Board.
- 2006 On March 30, 2006, section 99(d) of the *Environmental Management Act* was amended to give the Board express jurisdiction to hear appeals of refusals to amend permits, approvals, or operational certificates.

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2008 In May 2008, four new Greenhouse Reduction Acts received royal assent. The first three Acts create new rights of appeal to the Board from certain decisions of a director, including administrative penalties. All of those Acts will come into force by regulation. The *Cap and Trade Act* and *Vehicle Emissions Standards Act* are not currently in force (as of February 12, 2009). However parts of the *Renewable and Low Carbon Fuel Requirements Act* have been brought into force effective January 1, 2010, including sections dealing with appeals to the Board.

The fourth Act (*Emissions Standards Act*) amends certain other statutes, including the *Environmental Management Act* ("EMA").

2009 On March 31, 2009, section 128(1) of the *Public Health Act* came into force. It repealed many sections of the *Health Act*, including section 8 which provided for appeals to the Board. Consequently, the Board no longer hears appeals under the *Health Act*.

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