



Environment and Land Tribunals Ontario

Environmental Review Tribunal

A Guide to Appeals by Members
of the Public regarding
Renewable Energy Approvals
under section 142.1 of the
Environmental Protection Act

This guide provides a general overview of renewable energy approval appeals under [section 142.1 of the *Environmental Protection Act*](#) and should not be relied upon as an authoritative text. Instead, the statute, [Ontario Regulation 359/09](#) and other regulations, and the [Rules of Practice and Practice Directions](#) of the Environmental Review Tribunal prevail. For appeals of renewable energy approvals that are commenced by the applicant for a renewable energy approval, please consult the “Guide on Appeals under the *Clean Water Act 2006*, the *Climate Change Mitigation and Low-carbon Economy Act, 2016*, the *Environmental Protection Act*, the *Nutrient Management Act, 2002*, the *Ontario Water Resources Act*, the *Pesticides Act*, the *Resource Recovery and Circular Economy Act, 2016*, the *Safe Drinking Water Act, 2002*, the *Toxics Reduction Act, 2009*, and the *Waste Diversion Transition Act, 2016*”.

Information about specific cases is available on the [Hearings page](#) and/or [Decisions & Orders](#) page the [Tribunal’s website](#) or by contacting:

Environmental Review Tribunal
Environment and Land Tribunals Ontario
655 Bay Street, Suite 1500
Toronto, Ontario M5G 1E5

Telephone: (416) 212-6349 Toll Free: 1 (866) 448-2248
Fax: (416) 326-5370 Toll Free: 1 (877) 849-2066
TTY: 1-800-855-1155 via Bell Relay
Email: ERTTribunalSecretary@ontario.ca

What is the Environmental Review Tribunal?

The Environmental Review Tribunal (“Tribunal”) is an independent and impartial tribunal established by provincial legislation. The Tribunal holds public hearings on appeals and applications made under various provincial statutes.

This guide deals with appeals brought by members of the general public in relation to an approval granted to a renewable energy project by the Director, Ministry of the Environment and Climate Change under the [Environmental Protection Act](#). Appeals by the applicant for a renewable energy approval are dealt with in a separate process.

The Members of the Tribunal are appointed by the Lieutenant Governor in Council for the Province of Ontario to conduct hearings and make decisions on appeals and applications. The Members have a variety of experience and include environmental lawyers, academics, planners and mediators. The Members of the Tribunal are not employees of the Ministry of the Environment and Climate Change. The Members’ biographies are found on the [Public Appointments Secretariat’s website](#).

What can an appeal deal with?

Under the [Environmental Protection Act](#), there are only two grounds which can be considered on an appeal. They are that proceeding with the project, as approved by the Director will either:

- cause serious harm to human health, or
- cause serious and irreversible harm to plant life, animal life or the natural environment.

A person challenging the Director’s approval of a project must convince the Tribunal, by evidence and argument, that it is more likely than not that one of these two tests has been met. If they do not do so, then the law requires that the Director’s decision must be confirmed.

Who can file an appeal of a renewable energy approval under section 142.1 of the *Environmental Protection Act*?

Any person resident in Ontario (including a corporation), but other than the person to whom the approval is issued, may appeal to the Tribunal a Director’s decision to:

- issue or renew a renewable energy approval;
- impose terms and conditions in issuing or renewing a renewable energy approval;
- alter the terms and conditions of a renewable energy approval;
- impose new terms and conditions on a renewable energy approval; or
- suspend or revoke a renewable energy approval.

This person is referred to as the “Appellant”.

What is the deadline for filing an appeal?

The Appellant must file a Notice of Appeal with the Tribunal, and serve the Director and the person who has been granted approval for the project (the approval holder) with a copy, within 15 days of the notice of the decision respecting the renewable energy project being posted on the [Environmental Registry](#). Proof that the Director and the approval holder have been served in accordance with Rules 86 to 88 of the Tribunal’s [Rules of Practice and Practice Directions](#) must be submitted when the appeal is filed with the Tribunal.

In determining whether a Notice of Appeal has been filed in time, the Tribunal calculates “days” as calendar days. If a Notice of Appeal is submitted late, the Tribunal does not have the legal authority to consider the appeal.

What information must a Notice of Appeal contain?

There is no required form for a Notice of Appeal. Most people send their Notice of Appeal in a letter format.

The Notice of Appeal **must** include:

- the Appellant’s name and address, along with the name and address of anyone representing the Appellant;
- the address to which the Appellant wants notices and other official documents to be delivered;
- the telephone number, fax number and e-mail address where the Appellant can be contacted during business hours;
- a statement that the Appellant is appealing the decision of the Director in relation to a renewable energy project;
- a copy of the decision under appeal;
- an identification of the portions of the renewable energy approval that the Appellant is appealing;
- a description of how engaging in the renewable energy project, in accordance with the renewable energy approval, will cause serious harm to human health or serious and irreversible harm to plant life, animal life or the natural environment;
- a statement of the issues and material facts relevant to the subject matter of the appeal that the Appellant intends to present at the main hearing;
- a description of the relief requested (i.e. what decision the Appellant would like the Tribunal to make); and
- if the Appellant will seek a stay of the decision.

The reasons for the appeal should be specific and describe how engaging in the renewable energy project in accordance with the approval will cause the harm

described above. A reason such as “the Director was wrong to make this decision” is not specific and may result in the dismissal of the appeal. An Appellant is not entitled to appeal any portion of the renewable energy approval that is not set out in the Notice of Appeal without the Tribunal’s permission.

Does filing the appeal result in the decision under appeal not taking effect?

No, filing the appeal does not result in the decision under appeal not taking effect. Decisions of a Director respecting renewable energy projects generally take effect as soon as they are issued, even if a decision is being appealed. The Tribunal may, however, issue a stay order to postpone the legal effect of all or part of a decision.

How is a stay requested?

A person who intends to apply for a stay of a decision of the Director should indicate their intention to do so in the Notice of Appeal. A stay is requested by making a motion to the Tribunal. After the Tribunal hears the motion, it will determine whether to issue a stay or not.

A person seeking a stay shall arrange through the assigned Case Coordinator a teleconference call with the Tribunal, the Director and any other Parties to seek:

- directions as to the form and content of the motion;
- the exchange of necessary supporting materials, including affidavit materials;
- the scheduling of dates for cross-examination of witnesses, if required; and
- the scheduling of the hearing of the motion.

What information is required on a stay motion?

After a date, time, and place for the stay hearing are established, the person requesting the stay must serve the Director and any other Parties with a formal Notice of Motion at least three days before the hearing of the stay motion and file two copies with the Tribunal. The Tribunal may shorten this period if requested. The Notice of Motion must set out the reasons for requesting a stay, and the date, time, and place of the motion hearing. The Notice of Motion must also include evidence and submissions on:

- how the relevant statutory tests that are applicable to the granting or removal of a stay are met;
- if there is a serious issue to be decided by the Tribunal;
- if irreparable harm will ensue if the relief is not granted; and
- if the balance of convenience, including effects on the public interest, favours granting the stay.

What are the timelines?

With certain limited exceptions, the Tribunal is required to issue its decision in these appeals no later than six months after a Notice of Appeal is served on the Tribunal. If it does not, the renewable energy approval is deemed to be confirmed.

Based on this timeline, it is necessary to have an expedited hearing process for these appeals.

Attached to this guide as Appendix A is the timeline for the appeals dealt with in this guide. The Tribunal may change the timeline as appropriate, subject to the requirements of the statute and regulations, including the requirement to issue a decision within six months of the start of the appeal process.

Persons who are considering bringing an appeal should be aware of the limited issues and the tight timelines for these appeals, and should be prepared to work within the expedited procedures outlined in this guide. They should be ready for a pre-hearing conference within 5.5 weeks of starting their appeal, and ready to proceed with the main hearing after another 3.5 weeks.

The Tribunal is committed to making its processes available to all persons who wish to participate in an appeal. However, Parties, Participants and Presenters must meet the obligations set out in the statute, regulations and the Tribunal's [Rules of Practice and Practice Directions](#). They must be prepared to attend on the dates scheduled by the Tribunal and to comply with any other procedural directions ordered by the Tribunal.

How will the hearing process be expedited?

Because the Tribunal is required to issue a written decision within six months, the hearing process will be expedited in the following ways:

(a) Hearings to be peremptory

All pre-hearing conferences and hearing dates are considered “peremptory” to all Parties, Participants and Presenters, which means that once a date has been set, the pre-hearing conference or hearing will proceed on that date, except in exceptional circumstances. If a Party, Participant or Presenter has been notified of the time, date and place of a pre-hearing conference or hearing and fails to attend, the person will not be entitled to any further notice and the Tribunal may, among other things:

- proceed with the pre-hearing conference or hearing;
- deem the person to have accepted all of the material facts set out in the materials of other Parties; and
- make its decision in the absence of that person.

For information on adjournments, please refer to Rules 104 to 107 of the Tribunal's [Rules of Practice and Practice Directions](#).

(b) Approval Holder to provide names and addresses

Within four days of receiving the Notice of Appeal, the approval holder must provide the Tribunal with a list of names and addresses of all persons given notice during the consultation on the renewable energy approval application. This information will ensure that the Tribunal can give notice of the pre-hearing conference and hearing in an expedited fashion.

(c) Disclosure among Parties as stated in Timelines

Parties are required to exchange initial disclosure documents and documents to be relied upon at the hearing in accordance with the requirements and timelines outlined below. Please note that initial disclosure documents do not need to be filed with the Tribunal.

(d) Information Required by the Tribunal

The Tribunal requires witness statements and documents to be relied upon at the hearing be filed within eight weeks of the appeal expiry date as outlined in the timelines below.

(e) Expedited hearing process

Within 5.5 weeks after the appeal expiry date, the Tribunal will hold a pre-hearing conference into the matter.

Within 9 weeks after the appeal expiry date, the Tribunal will begin the main hearing.

How can neighbours and other concerned people participate?

Neighbours and other people who feel that they are affected by the renewable energy approval decision under appeal, in relation to the permitted grounds of appeal noted above, may apply to the Tribunal for permission to participate in the hearing. They may choose to support the Appellant, support the decision of the Director, or advance a different position.

To participate in the hearing as a Party, Participant or Presenter, a person who wishes to be named as either a Party, Participant or Presenter must file a written request with the Tribunal, no later than eight days before the pre-hearing conference, stating:

- if the person is seeking Party, Participant or Presenter status;
- a statement of the issues and material facts relevant to the subject matter of the appeal that the person intends to present at the main hearing;

- if the person's participation is likely to make a relevant contribution to the Tribunal's determination of whether engaging in the renewable energy project in accordance with the renewable energy approval will cause serious harm to human health, or serious and irreversible harm to plant life, animal life or the natural environment;
- if the person's interests may be directly and greatly affected by the hearing or its result; and
- if the person has a genuine interest, whether public or private, in the subject matter of the appeal.

The Tribunal will provide requests for status to the Appellant, Director and approval holder, or will provide their contact information to the person making the request so that the person can serve the request on them. The Appellant, Director and approval holder will be required to provide their responses to the request for status no later than four days before the pre-hearing conference. The [Status Request Form](#) assists individuals in providing all necessary information to the Tribunal in making a request for status. Requests for status must be relevant to the subject matter of the appeal before the Tribunal.

What is the difference between a Party, Participant, and Presenter?

The Tribunal has different levels of participation so that all those interested in the hearing can be involved. The Tribunal encourages participation in its hearings. The three options for participation (i.e. Party, Participant, and Presenter) address different needs and interests.

Requests for status must be relevant to the subject matter of the appeal before the Tribunal, and new issues may not be raised. For example, if the appeals before the Tribunal speak only to human health, a request for status cannot raise issues related to serious and irreversible harm to plant life, animal life or the natural environment.

Who can be a Party?

Persons that are specified as Parties by the [Environmental Protection Act](#), or are otherwise entitled by law to be Parties, are automatically Parties to the proceeding. If a person requests Party status, the Tribunal may also name that person as a Party after considering:

- if the person's interests may be directly and greatly affected by the hearing or its result;
- if the person has a genuine interest, public or private, in the subject matter of the appeal; and
- if the person's participation is likely to make a relevant contribution to the Tribunal's determination of whether engaging in the renewable energy project, in accordance with the renewable energy approval, will cause serious harm to human health, or serious and irreversible harm to plant life, animal life or the natural environment.

What is the role of a Party?

Those who request and receive Party status from the Tribunal assume the fullest range of rights and responsibilities. Most Parties are represented by either a lawyer or another type of representative, but a Party may act on their own behalf by representing themselves. A Party can be either one person (including a corporation) or a group of persons. Generally speaking, unincorporated associations are not considered to be legal persons who can receive status before the Tribunal. Therefore, an individual who can bring forward the interests of an unincorporated association may seek status on behalf of the association.

An added Party may not raise a new issue without permission of the Tribunal.

A Party may:

- be a witness at the hearing;
- be questioned by the Tribunal and the Parties;
- bring motions;
- call witnesses at the hearing;
- cross-examine witnesses called by other Parties;
- make submissions to the Tribunal, including opening statements and final argument;
- receive copies of all documents exchanged or filed by the Parties;
- participate in mediation;
- attend site visits; and
- claim costs and be liable for costs, where permitted by law.

Who can be a Participant?

A person who has an interest in the subject matter of the hearing may be named as a Participant. The Tribunal may decide to name a person as a Participant, rather than as a Party, if the person's connection to the subject matter of the proceeding or issues in dispute is more remote than a Party's would be. A person who may otherwise qualify as a Party may request Participant status.

What is the role of a Participant?

A Participant has the right to observe and present their views at a hearing. They may also:

- be questioned by the Tribunal and the Parties;
- make submissions to the Tribunal, including opening statements and final argument;
- receive a copy of the documents exchanged by the Parties that are relevant to the Participant's interests (upon request); and
- attend site visits.

However, Participants cannot:

- raise issues not already raised by a Party;
- call witnesses;
- cross-examine witnesses;
- bring motions;
- participate in mediation (unless allowed to do so by the Tribunal); or
- claim costs or be liable for costs.

Who can be a Presenter?

A person who has an interest in the subject matter of the hearing may be named as a Presenter. The Tribunal may decide to name a person as a Presenter, rather than as a Party or Participant, if the person's connection to the subject matter of the proceeding or issues in dispute is more remote than a Party's or Participant's would be. A person who may otherwise qualify as a Party or Participant may request Presenter status.

What is the role of a Presenter?

A Presenter only needs to attend the hearing when they are presenting their evidence. In addition to the right to observe and present their views at a hearing, a Presenter may:

- be a witness and present their views either during the regular daytime sessions, or at a special evening session (if scheduled);
- be questioned by the Tribunal and the Parties;
- provide the Tribunal with a written statement to support their oral testimony; and
- receive a copy of documents exchanged by the Parties that are relevant to the Presenter's interests (upon request).

However, a Presenter cannot:

- raise issues not already raised by a Party;
- call witnesses;
- cross-examine witnesses;
- bring motions;
- make submissions to the Tribunal, including opening statements and final argument;
- participate in mediation (unless allowed to do so by the Tribunal);
- claim costs or be liable for costs; or
- attend site visits (unless allowed to do so by the Tribunal).

What is a pre-hearing conference?

The Tribunal will hold a pre-hearing conference 5.5 weeks after the time to file an appeal has expired in order to facilitate preparation for the main hearing. The main hearing will normally start approximately 3.5 weeks after the date of the pre-hearing conference. The Member will normally issue a written order after the pre-hearing conference on what was decided at the pre-hearing conference.

The purpose of the pre-hearing conference is to prepare for the hearing by:

- identifying Parties, Participants and Presenters, and the scope of their participation in the hearing;
- determining the length, schedule and location of the hearing;
- determining whether the hearing will be conducted orally, electronically or in writing;
- hearing preliminary motions;
- identifying, defining or narrowing issues;
- developing an agreed statement of facts and evidence;
- determining whether any or all issues can be settled or withdrawn;
- where applicable, establishing dates for the exchange among all Parties and with the Tribunal of a common document book and a list of all documents in the possession, power and control of the Parties;
- establishing dates for the exchange among Parties and with the Tribunal of all documents relevant to the proceeding, witness lists, witness statements, and resumes of any expert witnesses;
- determining the order of presentation of evidence and submissions; and
- considering any other matters that may assist in the just and efficient adjudication of the appeal.

Is mediation available?

Tribunal-assisted mediation is offered to all Parties and is voluntary. Mediation takes place after the pre-hearing conference. The Member of the Tribunal who conducts the mediation will not conduct the hearing unless all Parties consent.

This service is provided at no cost to the Parties. The mediator may exclude everyone but the Parties from the mediation. All documents submitted and all statements made during the mediation are confidential and without prejudice. Any settlement agreement will be reviewed by the mediator in accordance with Rules 156 to 160 of the Tribunal's [Rules of Practice and Practice Directions](#). If the settlement agreement is accepted by the mediator, a decision dismissing the proceedings will be issued.

How does one prepare for a hearing?

The key to effective participation in a hearing is being well informed and prepared to present your views and evidence. The Tribunal can only consider the information that is presented at the hearing and the grounds for appeal discussed above. The evidence intended to be relied upon should be relevant to the issues before the Tribunal.

Parties, Participants and Presenters are strongly encouraged to review the Tribunal's [Rules of Practice and Practice Directions](#) and the relevant provisions of the [Environmental Protection Act](#), in particular, the limited grounds available on an appeal of a renewable energy project decision.

What are the disclosure requirements?

The Tribunal will provide a schedule for the exchange and filing of documents. The Tribunal must be given two or more hard copies of all documents filed, or as many as the Tribunal directs.

All Parties must provide a copy of every document they are required to provide as outlined in Appendix A to all Parties without charge. Participants and Presenters may make a request to the Tribunal to receive a copy of all documents relevant to their interests. Privileged documents are exempt from disclosure requirements.

The obligation to disclose continues throughout the hearing process. All relevant documents discovered during the course of the hearing must be provided to the other Parties and, if the document is to be relied upon at the hearing, to the Tribunal.

What is a Witness Statement?

Witnesses may be trained professionals, members of the community, academic specialists or individuals with specific knowledge who can give the Tribunal relevant information.

A witness statement is a written statement of the evidence a witness intends to present.

A witness statement should be direct and to the point. It should also be complete, meaning that the witness should not have to add anything new to the evidence at the hearing. However, the witness is entitled to explain more fully anything contained in the statement.

A witness statement should contain the following information:

- the name, address and telephone number of the witness;
- if the evidence will be factual evidence or, if the witness is a qualified expert, opinion evidence;

- a resume of their qualifications and a signed form in accordance with [Form 5, Acknowledgement of Expert's Duty](#), for each proposed expert witness;
- whether or not the witness has an interest in the hearing and, if so, the nature of the interest;
- a summary of the witness' opinions, conclusions and recommendations;
- references to other documents which form an important part of the witness' opinions, conclusions and recommendations;
- a summary of answers to any interrogatories (i.e. pre-hearing examination of the witness) that will be relied on at the hearing;
- a discussion of proposed conditions of approval that are in controversy among the Parties or agreed upon conditions that may be related to issues in dispute (where applicable);
- the date of the statement; and
- the signature of the witness.

If the witness statement does not contain all of the above information, Parties may risk their right to have the evidence admitted or may delay the hearing.

Witnesses will normally attend in person to give oral evidence and be subject to cross-examination. A Party who wishes to have witnesses present opinion evidence must have them accepted as experts by the Tribunal before their evidence can be admitted.

Witness statements should be exchanged among the Parties and filed with the Tribunal within the time prescribed in the timelines attached to this guide.

Can the Tribunal require a witness to attend a hearing?

The Tribunal has the power to summon a witness to attend a hearing to give evidence and to bring relevant documents and material. A summons can be issued because the Tribunal wants to hear from the witness or because a Party has requested that the Tribunal require the person to act as a witness.

The Party calling a witness is responsible for paying for the witness' attendance costs at the same rate that a person summoned to appear before the Superior Court is paid. For more information on attendance costs for summoned witnesses, please see Tariff A of the Ontario [Rules of Civil Procedure](#) under the [Courts of Justice Act](#).

It is the responsibility of the Party calling a witness to obtain and serve the summons ([Form 3, Summons to Witness – Oral Hearing](#) or [Form 4, Summons to Witness – Electronic Hearing](#)) as soon as possible before the start of the hearing. For more information on summons to a witness, please see Rules 191 to 196 of the Tribunal's [Rules of Practice and Practice Directions](#).

How does the Tribunal hear an appeal?

The Tribunal may conduct a hearing by a panel of one, two or three members. An appeal will normally be conducted through an oral hearing. It might sometimes be conducted electronically (i.e. telephone), through written submissions, or a combination.

At an oral or electronic hearing, each Party will have an opportunity to present evidence and submissions, call and cross-examine witnesses and explain their case to the Tribunal.

At a written hearing, all Parties will be provided with the opportunity to make written submissions and to comment on other Parties' written submissions.

What is the order of presentation at a hearing?

Parties and Participants may give brief opening statements stating what they feel are the issues in the case before the Tribunal, a brief summary of the evidence they intend to present, the names of the witnesses that they intend to call, and the amount of time they feel they will need to present their case.

While the Tribunal can direct the order of the presentation of evidence, the Appellant will usually present evidence first. At the conclusion of the examination of each of the Appellant's witnesses, the Parties are given an opportunity to cross-examine the witness. After the cross-examination of each witness, the Appellant can re-examine a witness on any issue that arose for the first time during the cross-examination of the witness.

When the Appellant's evidence has been presented, other Parties, Participants and Presenters supporting the Appellant will have the chance to present their case following the same procedures.

The Director and holder of the renewable energy approval, and any other Parties supporting their position, can then call their witnesses. Cross-examination and re-examination will be allowed of any evidence presented.

The appellant will then have the chance to present any additional evidence that comes out of the evidence of the other Parties. This reply will be limited to evidence that the Appellant could not have reasonably expected during the initial presentation of evidence.

When all the evidence has been heard, each Party and Participant can make a final submission. This submission gives the Parties and Participants a chance to summarize the important facts that they are relying on, to summarize any points of law or policy that they think are relevant for the Tribunal's consideration, and to persuade the Tribunal to accept their argument or position.

At any time during the hearing, the Tribunal may ask questions of Parties, Participants, Presenters, witnesses, counsel or representatives.

What principles govern the Tribunal's hearings?

The Tribunal conducts its hearings to ensure the just, most efficient and cost effective adjudication of the appeal. The Tribunal is committed to open, accessible, and understandable hearing procedures that facilitate and enhance access to justice and public participation.

The Tribunal's objective is to consider all the evidence presented, and make a decision with written reasons in a manner that is consistent with the [Environmental Protection Act](#), and that fulfills the core values of accessibility, fairness, transparency, timeliness, integrity, professionalism and independence.

Who can attend Tribunal hearings?

Tribunal hearings are open to the public, unless ordered otherwise by the Tribunal. The Tribunal may order a hearing closed to the public on its own initiative, or at the request of a Party. The Tribunal will only order a hearing closed to the public when the Tribunal determines that intimate financial, personal or other matters may be disclosed at a hearing.

What type of decisions can the Tribunal make?

On an appeal, the Tribunal is required to review the decision of the Director, and consider only whether engaging in the renewable energy project, in accordance with the renewable energy approval, will cause serious harm to human health, or cause serious and irreversible harm to plant life, animal life, or the natural environment. The burden of proof is on the Appellant to show that it is more likely than not that such harm will be caused.

If the Tribunal determines that engaging in the renewable energy project in accordance with the approval will cause such harm, the Tribunal may:

- revoke the decision of the Director;
- by order, direct the Director to take such action as the Tribunal considers the Director should take in accordance with the Act and regulations; or
- alter the decision of the Director, for which purpose the Tribunal may substitute its opinion for that of the Director.

If the Tribunal determines that no such harm will be caused, the Tribunal must confirm the Director's decision. If the Tribunal finds that the above noted harm will result from the renewable energy project, before revoking the Director's decision, the Tribunal must decide if there are steps that can be taken to fix this harm. The Tribunal's decision must be consistent with any policies issued by the Minister of the Environment and Climate

Change designed to guide decisions of this kind that were in place at the time the Director's decision was made.

When will the Tribunal make a decision?

The Tribunal must issue a written decision on an appeal six months from the day that notice of the appeal is served on the Tribunal. If an appeal is not disposed of by the statutory deadline, the Director's decision is deemed to be confirmed. The Tribunal has brought in new procedures (see Appendix A) designed to ensure that this tight timeframe can be met.

However, this deadline may be extended in limited circumstances. Adjournments that have the effect of extending the six month deadline will be granted only if the Parties allow it, or if the Tribunal determines that an adjournment is necessary for a fair and just proceeding. An application for judicial review also stops the calculation of the six month period, from the day the application is commenced until it is disposed of, if the proceeding before the Tribunal is stayed by the Divisional Court.

A copy of the decision is sent to all Parties, Participants and Presenters. Decisions of the Tribunal are also available on the [Tribunal's website](#), usually within 24 hours of their release, and are also available on the publicly accessible legal database, [CanLii](#).

Can the Tribunal award costs?

Participating in a hearing usually involves some costs. These costs may include:

- fees for lawyers, representatives or agents;
- fees for expert assistance and witnesses;
- travel and accommodation expenses; and
costs for materials used for presentations (e.g. photographs, graphics, etc.).

In rare circumstances, costs may be awarded but only where there has been improper conduct by a Party. For more information on costs, please see Rules 212 to 220 and 225 to 231 of the Tribunal's [Rules of Practice and Practice Directions](#).

Can the Tribunal's decision be appealed or reviewed?

An appeal of the Tribunal's decision may be made in writing to the Minister of the Environment and Climate Change on any matter other than a question of law. The Minister of the Environment and Climate Change will then confirm, alter or revoke the decision of the Tribunal if the Minister considers that it is in the public interest to do so.

The appeal must be made within 30 days after the release of the Tribunal's decision.

An appeal of the Tribunal's decision on a question of law may be made to the Divisional Court. This appeal must be filed in accordance with the Ontario [Rules of Civil Procedure](#).

There is also the chance for a judicial review of the decision by the Divisional Court.

Is a lawyer needed?

You can represent yourself or you can have someone else represent you. If you choose a representative, then you must give your representative signed written authorization. A representative, who can be either a lawyer or non-lawyer, must be authorized under the [Law Society Act](#), which means that they must be licensed or exempt under the Act or by-laws. There is an exemption that allows for persons who are not in the business of providing legal services to occasionally provide assistance to a friend or relative without a fee. For information on licensing and exemptions, please refer to the [Law Society of Upper Canada's website](#).

Given the expedited hearing process for these appeals, it is essential that a Party or representative of a Party be available throughout the proceeding.

How is accommodation provided?

Parties, Participants, Presenters, witnesses and representatives are entitled to accommodation by the Tribunal for needs related to the [Human Rights Code](#), such as a disability. Those requiring accommodation should notify the assigned Case Coordinator or the Tribunal Secretary as soon as possible.

What language services are available?

Those who require the pre-hearing conference or hearing to be translated into French should write to the Case Coordinator immediately at least 25 days before the event to make their request.

Who can access Tribunal documents?

All documents filed with the Tribunal and all communications to and from the Tribunal are part of the Tribunal's Public Record, and are available for reasonable access by the public (unless the Tribunal orders otherwise).

For more information:

For more information, please refer to the [Environmental Protection Act, Ontario Regulation 359/09](#), the Tribunal's [Rules of Practice and Practice Directions](#), and the [Tribunal's website](#).

Appendix A

Appeals of Renewable Energy Approvals Timeline for Appeals under section 142.1 of the *Environmental Protection Act**

Notice of Decision on renewable energy project posted on the Environmental Registry	Appeal period commences on the date of posting
15 days after Notice of Decision is posted	Appeal period expires
Within 7 days after appeal expiry date	<p><i>Approval Holder's Initial Disclosure</i> Approval Holder serves on Appellant and Director a list of documents posted on the Approval Holder's website and copies of all additional documents within Approval Holder's possession, control or power (except privileged documents) relevant to the subject matter of the appeal.</p>
Within 10 days after appeal expiry date	<p><i>Director's Initial Disclosure</i> Director serves on Appellant and Approval Holder copies of all documents within Director's possession, control or power (except privileged documents) relevant to the subject matter of the appeal, excluding the documents posted on the Approval Holder's website.</p>
Within 4 weeks after appeal expiry date	<p><i>Appellant's Disclosure and Documents to be relied on at the Hearing</i> Appellant serves on Director and Approval Holder:</p> <ul style="list-style-type: none"> • copies of all documents within Appellant's possession, control or power (except privileged documents) relevant to the subject matter of the appeal; • copies of documents, organized by witness, within Appellant's possession, control or power on which the Appellant intends to rely at the hearing; • issues list; • list of witnesses to be called at the hearing;

	<ul style="list-style-type: none"> witness statement for each witness to be called at the hearing; area of proposed qualification for expert witnesses.
<p>At least 8 days before the Pre-hearing Conference</p>	<p><i>Requests for Status</i> Requestors file with Tribunal written requests to be added as Party, Participant or Presenter (must set out status sought, how test is met and statement of the issues and material facts). Tribunal will subsequently forward the status requests to the parties or direct the requestors to do so.</p>
<p>At least 4 days before the Pre-hearing Conference</p>	<p><i>Response to Status Requests</i> Appellant, Director and Approval Holder serve on requestors and parties and file with Tribunal responses to status requests.</p>
<p>Within 5.5 weeks after appeal expiry date</p>	<p><i>Pre-hearing Conference</i> Pre-hearing Conference will be held to, among other things:</p> <ul style="list-style-type: none"> finalize issues; give procedural directions; hear preliminary motions. <p>Once issues list is determined by Tribunal, it cannot be changed without Tribunal's permission.</p>
<p>Within 7 weeks after appeal expiry date</p>	<p><i>Respondents' Documents to be relied on at the Hearing</i> Director and Approval Holder serve on other Parties:</p> <ul style="list-style-type: none"> copies of documents, organized by witness, within their possession, control or power on which they intend to rely at the hearing; list of witnesses to be called at the hearing; witness statement for each witness to be called at the hearing; area of proposed qualification for expert witnesses. <p>Added Parties, Participants and Presenters serve on other Parties as applicable:</p> <ul style="list-style-type: none"> copies of documents within their possession, control or power on which they intend to rely at the hearing; list of witnesses to be called at the hearing; witness statement for each witness to be called at the hearing; area of proposed qualification for expert witnesses.

<p>Within 8 weeks after appeal expiry date</p>	<p><i>Appellant's Reply Documents to be relied on at the Hearing</i> Appellant serves on other Parties:</p> <ul style="list-style-type: none"> • list of any supplementary witnesses who will be providing reply evidence; • witness statement for each supplementary witness who will be providing reply evidence; • supplementary witness statement for any previously identified witness who will be providing reply evidence; • copies of all documents, organized by witness, that any of the witnesses will rely on in reply at the hearing; • area of proposed qualification for expert witnesses.
<p>Within 8 weeks after appeal expiry date</p>	<p><i>Filing of Witness Statements and Documents to be relied on at the Hearing</i> Unless otherwise ordered by Tribunal, one electronic copy and the number of hard copies specified by Tribunal of the following shall be filed with Tribunal:</p> <ul style="list-style-type: none"> • all witness statements and documents, organized by witness, to be relied on at the hearing • area of proposed qualification for expert witnesses
<p>Within 9 weeks after appeal expiry date</p>	<p>Hearing commences</p>
<p>Within 6 months after Tribunal receives notice of appeal</p>	<p>Tribunal disposes of the hearing (as required by the <i>Environmental Protection Act</i>)</p>

* Note: the Tribunal may change the timeline as appropriate and issue directions at any stage of the proceeding, subject to the requirements of the statute or regulations, including the requirement to dispose of the hearing within six months.