



# **British Columbia Farm Industry Review Board**

*Rules of Practice and Procedure for Appeals  
under the Natural Products Marketing (BC)  
Act, R.S.B.C. 1996, c. 330*

*Approved by the British Columbia Farm Industry Review Board, December 2007*

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## INTRODUCTION

The British Columbia Farm Industry Review Board (“BCFIRB”) is constituted under section 3 of the [Natural Products Marketing \(BC\) Act](#), R.S.B.C. 1996 c. 330, (“the *NPMA*”). It is a quasi-judicial tribunal with statutory authority to, among other things, hear appeals from decisions of marketing boards and commissions dealing with regulated marketing issues in British Columbia.

Appeals to BCFIRB are governed by section 8 of the [NPMA](#), as well as sections 3.1 and 8.1, which make applicable to BCFIRB certain provisions of the [Administrative Tribunals Act](#), S.B.C. 2004, c. 45 (the “*ATA*”). The *ATA* provisions deal with a number of procedural powers relevant to the hearing of appeals. Section 11(1) of the [ATA](#) gives BCFIRB a general power to make rules “respecting practice and procedure to facilitate the just and timely resolution of the matters before it.”<sup>1</sup>

The purpose of these rules is to encourage clear, consistent and efficient practice concerning appeals under Section 8 of the [NPMA](#).<sup>2</sup> As recognized by section 11(3) of the [ATA](#), BCFIRB may waive or modify any of these rules in any particular case if BCFIRB considers there are exceptional circumstances. Further, BCFIRB reserves the right to generally add to, amend, or repeal any or all of these rules at any time, or to make any other procedural order it considers necessary.

These rules are effective as of December 10, 2007. Persons involved in an appeal must proceed on the basis that these rules apply unless BCFIRB directs otherwise.

For further information regarding BCFIRB including the legislation it applies, its processes and prior decisions, please see [www.firb.gov.bc.ca](http://www.firb.gov.bc.ca)

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<sup>1</sup> There are other provisions of the [NPMA](#) and [ATA](#) that may be relevant to the hearing of an appeal. While an effort has been made to cross-reference relevant provisions from those acts, any person involved in an appeal remains responsible for reviewing and understanding those other acts as well as the matters specifically addressed in these Rules.

<sup>2</sup> BCFIRB also hears complaints under the [Farm Practices Protection \(Right to Farm\) Act](#) and hears appeals under the [Agricultural Produce Grading Act](#). These rules do not apply to BCFIRB proceedings under those Acts.

## DEFINITIONS

(1) Terms used in these Rules are as defined in the [NPMA](#), the regulations established under the [NPMA](#) or the [ATA](#), unless otherwise stated in these Rules.

(2) In these Rules:

**“document”** means any form of recorded information, including information recorded in electronic form.

**“file”** means effective delivery of a communication to BCFIRB under Rule 24

**“General Manager”** means the general manager of BCFIRB and includes any case manager or other staff member the general manager assigns to provide administrative support to BCFIRB or to a panel of BCFIRB.

**“hearing”** means a hearing whether oral or written, as follows:

a) **“oral hearing”** means a hearing involving the parties or their representatives attending in person before a panel, whether in person or by telephone;

(b) **“written hearing”** means a hearing held by means of exchange of documents.

**“intervener”** means a person other than a party who has been granted the right to participate in an appeal by the panel under s. 33 of the [ATA](#).

**“marketing board”** includes a marketing commission under the [NPMA](#).

**“party”** means an appellant, a marketing board whose decision has been appealed, or another person to whom BCFIRB has granted party status, but does not include an intervener.

**“serve” or “service”** means the effective delivery of a document to the party, representative or other person required to be served under the legislation or Rule 24.

**“summons”** means an order requiring a person to attend a hearing to give evidence or produce documents, under s. 34(3) of the [ATA](#).

## **PART I: APPEALS**

### **Rule 1: How to appeal**

- (1) To commence an appeal, a person must file a written notice of appeal with BCFIRB within 30 days of the marketing board's decision ([ATA](#) s. 24). Such written notice may be in the form attached as Appendix A, or any other form, so long as it contains the information required by s. 22(2) of the [ATA](#), and the \$100 filing fee (Payable to the Minister of Finance).
- (2) A person may file a notice of appeal by sending it by mail, courier, fax\* or e-mail\* to the following address:

***By Mail:***

Attention: General Manager  
British Columbia Farm Industry  
Review Board  
PO Box 9129 Stn Prov Govt  
Victoria BC V8W 9B5

***By Courier:***

Attention: General Manager  
British Columbia Farm Industry  
Review Board  
1007 Fort Street, 3rd Floor  
Victoria BC V8V 3K5

***By Fax:***

250 356-5131

***By E-Mail:***

firb@gov.bc.ca

\* If an appeal is filed by fax or e-mail the cheque must be dated and mailed within 2 days of the fax or e-mail notice and received within the 30-day time limit.

- (3) The marketing board whose decision is being appealed is a respondent to the appeal.
- (4) The appellant must serve the respondent with a copy of the notice of appeal at the same time the appellant files it with BCFIRB.
- (5) BCFIRB will notify the appellant and respondent whether the notice of appeal has been accepted for filing under s. 22 of the [ATA](#). If the notice of appeal is deficient or the filing fee is outstanding, the chair or the chair's delegate may allow a reasonable period of time within which the notice may be corrected or the fee may be paid.
- (6) BCFIRB may provide a copy of the notice of appeal to any other person BCFIRB considers may have a direct interest in the outcome of the appeal.
- (7) If an appeal is filed more than 30 days after the marketing board's decision, the person filing the notice of appeal must explain what special circumstances exist that warrant BCFIRB accepting a late appeal ([ATA](#) s. 24).

## **Rule 2: Withdrawing appeals**

- (1) An appellant may withdraw all or part of an appeal by filing a written notice of withdrawal with BCFIRB and serving it on every other party and intervener.
- (2) The notice under subparagraph (1) must identify the appeal and the parties, and be signed by the appellant or its representative.
- (3) If the parties also seek a consent order, or an order including the terms of a settlement ([ATA](#) s. 16 and 17), the parties must:
  - a) set out the particulars of the proposed order; and
  - b) provide proof satisfactory to BCFIRB that the order is consented to by all parties to the appeal.
- (4) The decision whether to issue a consent order under section 16 or 17 of the [ATA](#) is one for BCFIRB's discretion and the board is not required to issue a consent order solely on the basis that the parties have requested one. If BCFIRB has questions or otherwise considers it necessary to hear further from the parties on this question before deciding whether to issue a consent order, it will specify a process for hearing from the parties on the matters at issue.

## **Rule 3: Combining appeals**

- (1) BCFIRB, at its discretion, may combine appeals, where the appeals involve the same or similar questions ([ATA](#) s. 37).
- (2) Before making an order to combine appeals BCFIRB will provide the parties with an opportunity to comment on whether they consider it appropriate for the appeals to be combined.

# **PART II: PRE-HEARING PROCEDURE**

## **Rule 4: Informal dispute resolution**

- (1) At anytime during the appeal process, a party may apply to have BCFIRB conduct an informal dispute resolution process to explore the potential for settlement of all or part of an appeal ([ATA](#), s. 28).

- (2) A person may at a pre-hearing conference request that the BCFIRB conduct an informal dispute resolution process. If the parties agree to such a request, subparagraphs (3) and (4) of this Rule do not apply.
- (3) If a person wishes to apply for an informal dispute resolution process other than in a pre-hearing conference, an application under subparagraph (1) of this Rule must:
  - (a) be made to the General Manager
  - (b) specify what issues are proposed for informal dispute resolution process and the reasons why the party believes that to be appropriate in the circumstances.
  - (c) be copied to the other parties to which the process applies.
- (4) A party receiving a copy of an application under this Rule may provide his or her views on the submission within the time the General Manager allows.
- (5) Where an informal dispute resolution process is to proceed, the General Manager will advise whether the process will be conducted by a staff person, a board member or another person and, as necessary, establish Terms of Reference.
- (6) Any board member participating in an informal dispute resolution process, other than a pre-hearing conference under Rule 5, will not participate as a member of the panel should the matter eventually proceed to a hearing, unless all parties agree.
- (7) Before commencing an informal dispute resolution process, the General Manager or the person responsible for the process will confirm agreement on procedural issues BCFIRB considers necessary for an effective process. These may include:
  - (a) confirming the purpose of the informal dispute resolution process and the specific issues to be addressed;
  - (b) determining who will be present for and represent the parties, and the extent of the representative's authority to enter into a binding agreement;
  - (c) whether written submissions will be used;
  - (d) the extent to which information shared may be used or cited for other purposes or in legal proceedings;
  - (e) whether any third parties will be involved in the process;
  - (f) the process for confirming in writing, any resulting agreement;
  - (g) the process for seeking a consent order from the panel, if applicable;
  - (h) when and how the dispute settlement process may be terminated.

### **Rule 5: Pre-hearing conference**

- (1) BCFIRB may issue written notice directing the parties and interveners to participate in one or more pre-hearing conferences.
- (2) A notice of pre-hearing conference will set out:
  - (a) the date, time, location or phone number for the pre-hearing conference; and
  - (b) the conference agenda.
- (3) BCFIRB may direct one or both parties to file documents or submissions prior to the pre-hearing conference.
- (4) If a board member participates in a pre-hearing conference, the member may issue interim orders or directions regarding any matter arising at the pre-hearing conference. A board member participating in a pre-hearing conference may also participate in the hearing of the matter.
- (5) If a party fails to participate in a pre-hearing conference without satisfactory advance explanation to BCFIRB, the conference may proceed in that party's absence.
- (6) A conference report will be issued recording the orders, directions, agreements and undertakings made at a pre-hearing conference.

### **Rule 6: How to make a pre-hearing application**

- (1) A party or intervener may file with BCFIRB a pre-hearing application to:
  - (a) vary the application of one or more of these Rules;
  - (b) summarily dismiss an appeal ([ATA](#), s. 31)
  - (c) adjourn the hearing of an appeal ([ATA](#), s. 39(2));
  - (d) defer an appeal and request that BCFIRB deal with the matters at issue through its supervisory role ([NPMA](#), s. 8(8));
  - (e) address a jurisdictional issue; or
  - (f) address any other interim or procedural matter.
- (2) All pre-hearing applications must be made in writing unless BCFIRB gives leave for an application to be made orally.
- (3) Notice of a preliminary application does not need to be in any particular form, but the notice must set out the grounds for the application and the relief requested, and be accompanied by any evidence relied upon.
- (4) A pre-hearing application must be served on all other parties and interveners at the same time it is filed with BCFIRB.

- (5) Every party or intervener making a submission on a pre-hearing application must serve their submissions and any evidence on the other parties and interveners at the same time they file them with BCFIRB.
- (6) A pre-hearing application will be decided based only on written submissions unless BCFIRB concludes an oral hearing is appropriate.
- (7) BCFIRB may, in its discretion, defer decision on a preliminary application until a pre-hearing conference, the hearing of the appeal, or issuance of its decision.

### **Rule 7: Applying for a stay**

- (1) An appellant who wishes to apply for a stay of a decision under appeal ([ATA](#), s. 25) must file an application with BCFIRB and specify:
  - (a) whether a stay is sought in relation to the entire decision under appeal or only a portion thereof, and
  - (b) the reasons why the appellant submits a stay should be granted, and in particular:
    - (i) whether the appeal raises a serious issue(s) to be considered,
    - (ii) what harm to the applicant, that cannot be remedied, would occur if a stay is not granted, and
    - (iii) why the harm to the applicant outweighs the harm that would occur to others, or to the public interest, if BCFIRB grants the stay.
- (2) The marketing board will be given 7 days to provide any submission it wishes to make in response to the stay application.

### **Rule 8: Interveners**

- (1) A person may apply to BCFIRB to be added as an intervener to the appeal.
- (2) The application of any person wishing to participate in an appeal as an intervener ([ATA](#), s. 33) must provide BCFIRB with a written submission (copied to the parties to the appeal) describing:
  - (a) the proposed intervener's identity;
  - (b) how the proposed intervener can make a valuable contribution or provide a valuable perspective to the appeal that an existing party cannot provide;
  - (c) how the potential benefits of the intervention outweigh any prejudice or inconvenience to a party;

- (d) the extent of participation that is sought and
  - (e) the date the intervener became aware of the appeal and the reason for any significant delay between that date and the date of the application.
- (3) A party served with an application by a person to be added as an intervener may within 7 days from the date of service advise BCFIRB of its position on the application.
  - (4) A person may participate in an appeal as an intervener only to the extent that BCFIRB determines appropriate.
  - (5) Any person granted intervener status under this Rule must provide BCFIRB with their address of record under Rule 24.

**Rule 9: Statutory production of documents by marketing boards**

- (1) A marketing board must promptly produce to BCFIRB every bylaw, order, rule or other document touching on the matter under appeal ([NPMA](#) s. 8(4)).
- (2) A marketing board complies with subparagraph (1) of this Rule if it carries out its duty within 21 days from the date BCFIRB confirms that an appeal has been validly commenced, or within such other time as BCFIRB directs.

**Rule 10: Document service and confidentiality**

- (1) Parties and interveners should, no less than 30 days before the hearing, file with BCFIRB all documents they intend to rely upon at hearing. In the case of documents previously provided to BCFIRB by a marketing board under Rule 9(1), it is sufficient if the party or intervener identifies for BCFIRB and others parties and interveners those documents it intends to rely upon. (See also Rule 29 for potential consequences of failing to comply with this Rule.)
- (2) A party or intervener must serve all other parties and interveners with documents at the same time it files them with BCFIRB under Rules 9, 10 or 11, unless subparagraphs (3) – (5) of this Rule apply.
- (3) Extraordinary Circumstances:  
A party or intervener who believes a document or portion thereof should not be disclosed to other parties or interveners at the time of filing with BCFIRB must make written application for non-disclosure. The applicant must:

- (a) identify the documents or portions the person believes should not be disclosed, and the reasons for that position; and
  - (b) notify the parties or interveners that an application is being made to BCFIRB respecting non-disclosure of certain documents, and summarize the basis upon which the withholding request is being made (without disclosing the information in question).
- (4) A party or intervener given notice of an application for non-disclosure of documents under subparagraph 3(b) of this Rule may, within 4 days of receiving the notice, provide its position on the application.
- (5) Where BCFIRB decides further disclosure of documents is required, BCFIRB will either provide those documents to the parties and interveners that have not yet received them, or direct the person who made the application for non-disclosure to do so. A person directed to disclose shall do so within 3 days after receipt of BCFIRB's decision directing disclosure.

#### **Rule 11: Board Order for document production**

A party who applies under s. 8(5) of the [NPMA](#) for an order directing another party to produce documents must do so in writing, no later than 21 days before the hearing, and must specify:

- (a) the documents for which the order is requested; and
- (b) the reasons the party considers them necessary for a full and fair appeal hearing.

#### **Rule 12: Summons**

- (1) A party requesting BCFIRB to issue a summons to a witness must specify the following in its application to BCFIRB:
- (a) the name, address and telephone number (if known) of the person for whom the order is requested;
  - (b) why the person's evidence is relevant to the appeal;
  - (c) what if any documents or things the person is asked to produce or bring to the hearing; and
  - (d) what efforts the applicant has made to have the person attend or produce the documents voluntarily.
- (2) An application under subparagraph (1) of this Rule does not have to be served on the witness or on any other party.

- (3) Where a proposed witness lives elsewhere than the place of hearing, BCFIRB may make it a condition of the summons that the applicant pay the witness's reasonable traveling expenses to attend the hearing.
- (4) A person served with a summons may apply to BCFIRB, either in writing prior the hearing, or in person at the hearing, to set aside the summons.
- (5) BCFIRB may set aside a summons order for any reason it considers appropriate, including if it is satisfied that:
  - (a) the summons was not properly served
  - (b) the evidence of the person is not relevant;
  - (c) the evidence may be obtained through some other means;
  - (d) the evidence is protected by privilege;
  - (e) the person is not able to provide the evidence sought; or
  - (f) the attendance of the person will be unduly inconvenient,
- (6) Where BCFIRB sets aside a summons, it may make another order it thinks is fair, including an order changing the date of the witness's appearance at the hearing or providing some other means by which the witness's evidence will be obtained.

### **Rule 13: Expert evidence**

- (1) If a party wishes to qualify a witness as an expert in relation to a matter, the party must, at least 30 days prior to hearing, provide BCFIRB and all parties and interveners with a report setting out:
  - (a) the expert's qualifications; and
  - (b) a summary of the expert's opinion, including the facts and assumptions on which it is based.
- (2) A party who tenders a report under subparagraph (1) of this Rule is required to produce the expert at the hearing for cross-examination as to their qualifications and their report, unless the parties agree such attendance is not necessary.
- (3) A panel may refuse to consider a report where subparagraphs (1) and (2) of this Rule are not complied with.
- (4) A panel may waive the requirements of this Rule where it considers appropriate, and may impose such other requirements regarding the receipt and exchange of expert evidence as it considers appropriate in the circumstances.
- (5) It is not necessary for a person to qualify as an expert in order to provide opinion evidence.

## **PART III: HEARING PROCEDURE**

### **Rule 14: Notice and form of hearing**

- (1) BCFIRB will at the earliest practicable date notify the parties and interveners of the date, time and location for the hearing.
- (2) Hearings will be oral hearings unless BCFIRB orders otherwise.
- (3) If a written hearing is held, BCFIRB will provide directions regarding the process and timeframe for submissions.

### **Rule 15: Public access and recording**

- (1) Hearings will be open to the public unless BCFIRB orders otherwise for all or part of a hearing ([ATA](#), s. 41).
- (2) BCFIRB will determine whether or not a hearing will be officially recorded by BCFIRB and advise the parties in advance of the hearing.
- (3) In any case where a hearing is recorded and a party wishes to obtain transcripts of the hearing, the party will be required to pay the costs of transcription and copying. Arrangements for transcription and copying must be made through staff of BCFIRB who will in turn make necessary arrangements.
- (4) No person may take electronic records or photographs at a hearing.

### **Rule 16: Participation at hearings**

All parties may make submissions on any question of fact, law or policy pertaining to an appeal. A marketing board whose decision is appealed is a party to the appeal. Participation of persons granted intervener status shall be as determined by BCFIRB.

### **Rule 17: Order of presentation at oral hearings**

The order of presentation and related questioning at an oral hearing will be as follows unless the panel specifies otherwise:

### Opening

- (a) Opening statement of appellant
- (b) Opening statement of respondent
- (c) Opening statement of intervener (if applicable)

### Evidence

- (a) Presentation of appellant's witnesses (with questioning of each witness by respondent, the panel and interveners if applicable)
- (b) Presentation of respondent's witnesses (with questioning of each witness by appellant, the panel and interveners if applicable)
- (c) Presentation of intervener's witnesses, if applicable (with questioning of each by appellant, respondent and the panel)

### Closing

- (a) Argument of the appellant
- (b) Argument of the respondent
- (c) Arguments of the intervener, if applicable
- (d) Reply by the appellant.

## **Rule 18: Evidence at hearings**

- (1) Parties may file an agreed statement of facts, which will be determinative of those facts for purposes of the appeal. BCFIRB encourages the parties to explore this possibility as it has the potential to reduce the time, expense and complexity of hearings.
- (2) Evidence will be taken under oath or by affirmation.
- (3) BCFIRB is not bound by the rules of evidence that apply in a court of law. BCFIRB may in its discretion decide whether to admit evidence, its relevance and the amount of weight to be given to it ([ATA](#), s. 40).
- (4) All documents filed with BCFIRB in advance of a hearing will be evidence that BCFIRB may consider in its decision-making process unless a party objects and BCFIRB rules otherwise.
- (5) When presenting documents at the hearing each party will provide copies to:
  - (a) BCFIRB panel members (normally 3)
  - (b) each party with participation status at hearing
  - (c) panel secretary
  - (d) witness table
  - (e) court reporter

Prior to the hearing BCFIRB staff will confirm the number of copies to be made available.

- (6) Documents presented at the hearing but not previously disclosed will not be considered by BCFIRB unless BCFIRB determines otherwise.
- (7) Where a party objects to BCFIRB receiving or considering evidence, BCFIRB may make a decision on that question at the time, or it may receive the evidence and consider the objection in the course of rendering its decision on the case.

#### **Rule 19: Authorities**

- (1) Each party and intervener must, at or before the hearing, provide copies of any authorities (e.g. prior board decisions, court decisions, acts, regulations, policy statements or orders) that it intends to rely on, as follows:
  - (a) one copy to BCFIRB office 3 days prior to hearing,
  - (b) one copy to each member of the panel, delivered at time of hearing,
  - (c) one copy to every other party and intervener participating in the appeal.
- (2) Where practicable, the parties must provide BCFIRB with a joint book of authorities.

#### **Rule 20: Costs**

- (1) BCFIRB may award costs, on BCFIRB's initiative or upon request from any party (s. 47, [ATA](#)).
- (2) Before making any order for costs BCFIRB will provide the parties or interveners who may be affected by such an order with an opportunity to make their views known. This may occur either at the conclusion of a hearing, or following the issuance of a decision.

### **PART IV: POST HEARING MATTERS**

#### **Rule 21: Issuance and publication of decisions**

- (1) BCFIRB will send a complete copy of its decision to all parties and interveners.
- (2) BCFIRB will post a copy of its decision on BCFIRB's website not less than 7 days after the decision is provided to the parties and interveners, and

reserves the right to remove information that would undermine the reasonable privacy interests of parties and third parties.

- (3) A party or person who objects to publication of specified information must advise BCFIRB in writing not more than 6 days after the decision is rendered by describing:
  - (a) the information they request be removed from the decision that is to be posted on the website; and
  - (b) the reasons they believe the information should be excised.
- (4) Unless special circumstances have arisen after a hearing that make early delivery of a decision necessary, inquiries about the timing of delivery of decisions should not be made. If a party believes there are special circumstances that make early delivery of a decision necessary, the party should advise BCFIRB in writing, with a copy to the other parties.

#### **Rule 22: Correction of errors and clarification of decisions**

- (1) A party or intervener who believes there is a clerical, typographical or arithmetical error or accidental omission in a decision ([NPMA](#), s. 8.3(1)) must advise BCFIRB as soon as the matter comes to their attention. BCFIRB will seek the views of other parties or interveners as to whether a correction is required unless, in BCFIRB's view, the application is unfounded or the error is so minor or obvious that there is no need to solicit the views of the parties before correcting the decision. BCFIRB may also make such corrections on its own initiative.
- (2) A party or intervener who believes clarification of a board decision is required may apply to BCFIRB, with a copy to the other parties and interveners, in accordance with s. 8.3(3) of the [NPMA](#). Other parties and interveners will have 7 days from the date of such application to advise BCFIRB of their views on the matter.
- (3) If BCFIRB amends a decision in accordance with s. 8.3 of the [NPMA](#), it will advise the parties and interveners accordingly.

### **PART V: GENERAL**

#### **Rule 23: Address of record**

- (1) In these Rules, "address of record" means a current postal address, and includes a fax number.

- (2) All parties and interveners must provide BCFIRB written notice of their address of record for purposes of service of notices, documents and orders.
- (3) If a person's address of record changes, that person must immediately file notice of the change with BCFIRB and serve a copy of the notice to the other parties and interveners.
- (4) Parties and interveners may, in addition to the address of record, provide an email address if they wish to receive documents electronically.

#### **Rule 24: Service of Documents**

- (1) A party required to serve a document to another party or an intervener must do so by one of the following means:
  - (a) personal delivery;
  - (b) regular, registered or certified mail to the party's address of record;
  - (c) fax transmission for delivery to the address of record of the party, but only if the document, inclusive of the cover sheet, does not exceed 30 pages, or where longer, if the receiving person consents;
  - (d) courier, including Priority Post, to a party's address of record;
  - (e) email if the party or intervener receiving the documents has provided an email address for delivery under Rule 23; or
  - (f) any other means, authorized, permitted or directed by BCFIRB.
- (2) If it is impractical to serve or deliver documents in accordance with subparagraph (1) of this Rule, BCFIRB may give such directions for substituted service or delivery and where necessary, may dispense with service or delivery.
- (3) A party filing documents with BCFIRB must do so:
  - (a) to BCFIRB's address or fax number described in Rule 1(2); and
  - (b) by one of the methods described in subparagraph (1) of this Rule, and for the purposes of filing materials with BCFIRB by email the party may use the following email address: firb@gov.bc.ca.
- (4) A fax document must include a cover page with sufficient information to identify the sender, recipient, number of pages sent, date and time of transmission and a telephone number to call in case of transmission problems.
- (5) Service or delivery is deemed to take place on the date of actual delivery, except as follows:

- (a) where service or delivery is by personal delivery, mail, fax, courier or email, and is not effected before 4:30 p.m. on a business day, the date of service or delivery is deemed to be on the next business day;
- (b) where any other means of service or delivery is authorized or permitted by BCFIRB, on the date and time, or deemed date and time, specified in BCFIRB's direction.

### **Rule 25: Communicating with BCFIRB**

- (1) A notice of appeal, and all other filings and correspondence with BCFIRB, are to be directed to the attention of the General Manager.
- (2) All correspondence and documents other than a notice of appeal may be filed with BCFIRB via email unless BCFIRB directs otherwise. Parties and interveners wishing to file correspondence and documents via email may use the following email address: firb@gov.bc.ca.
- (3) A person must copy all other parties and interveners with all correspondence to BCFIRB regarding an appeal, except where these Rules expressly provide otherwise.
- (4) The General Manager of BCFIRB may communicate BCFIRB's orders, decisions or directions with regard to any matter covered by these Rules.

### **Rule 26: Computing Time (Deadlines)**

- (1) In computing time periods under these Rules or an order of BCFIRB, if a period of less than 7 days is prescribed, statutory holidays do not count.
- (2) If the time for doing an act falls or expires on a Saturday, Sunday or statutory holiday, the time is extended to the next business day.
- (3) If the time for doing an act at BCFIRB's office falls or expires on a day when the office is not open during regular business hours, the time is extended to the next business day.
- (4) In the calculation of time, the first day must be excluded and the last day included.
- (5) When a document is delivered on a Saturday, Sunday or statutory holiday to BCFIRB, or any day after 4:30 pm, it will be deemed to be received on the next business day.

### **Rule 27: Extending or abridging time limits**

Every time limit set out in these Rules is subject to being extended or abridged by BCFIRB, on application or on its own initiative, whether before or after the time limit has expired, as BCFIRB considers fair and appropriate in the circumstances.

### **Rule 28: Adjournments**

- (1) BCFIRB may adjourn a hearing at any time on its own initiative.
- (2) A party may file with BCFIRB an application to request an adjournment of the hearing including reasons as to why the application is being made.
- (3) Any party or intervener receiving a copy of an application for adjournment may file with BCFIRB any submissions it may have on the adjournment application within 3 days of the date of the application.
- (4) In deciding whether or not to grant an application for adjournment, BCFIRB will take into account the following factors:
  - (a) the reason for the adjournment;
  - (b) whether the adjournment would cause unreasonable delay;
  - (c) the impact of refusing the adjournment on the other parties;
  - (d) the impact of granting the adjournment on the other parties;
  - (e) the impact of the adjournment on the public interest.
- (5) If a hearing is adjourned, BCFIRB may order any terms and conditions respecting rescheduling, attendance at settlement conferences, production of documents or reports, or any other matters which may assist with the fair and efficient conduct of the appeal.

### **Rule 29: Failure to comply with the Rules**

- (1) If any party believes it has been adversely affected by the failure of another party or intervener to comply with these rules, the party may file with BCFIRB a submission specifying:
  - (a) the alleged non-compliance,
  - (b) the reasons why it has had an adverse impact on the applying party
  - (c) the remedy sought to address the non-compliance
- (2) Any party or intervener who receives a copy of an application under subparagraph (1) has 7 days to file with BCFIRB a response submission.
- (3) Where BCFIRB finds non-compliance with the rules to have occurred, it may consider that non-compliance in making any further orders it may have the authority to make under the [NPMA](#), the [ATA](#) or the common law.

This includes but is not limited to the power to make awards for costs (see Rule 20)

\* \* \*

# APPENDIX A: APPEAL FORM



## British Columbia Farm Industry Review Board

**BCFIRB**

**Mailing Address:**

PO Box 9129 Stn Prov Govt  
Victoria BC V8W 9B5

**Location:**

3<sup>rd</sup> Floor, 1007 Fort Street  
Victoria BC V8V 3K5

Telephone: 250 356-8945, Facsimile: 250 356-5131

Email: [firb@gov.bc.ca](mailto:firb@gov.bc.ca), Website: [www.firb.gov.bc.ca/](http://www.firb.gov.bc.ca/)

# Notice of Appeal

Please use this form to file with BCFIRB an appeal of an order, decision or determination of a BC marketing board or commission. Appeals must be filed (received by BCFIRB) within 30 days of the order, decision or determination being made. A copy of this Notice of Appeal is to be sent to BCFIRB along with a \$100 cheque or money order payable to the Minister of Finance. (If you send this Notice by email or fax, this filing fee must be sent immediately by mail or courier.) A copy of the Notice and any attachments (less the filing fee) must also be sent to the marketing board or commission concerned.

**A: Appellant Information**

<b>Appellant Name:</b>		
Address:		
City:	Province:	Postal Code:
Telephone: (    )	Fax: (    )	E-Mail:
<b>Mailing Address: if different from above</b>		
City:	Province:	Postal Code:
Telephone: (    )	Fax: (    )	E-Mail:
<b>Agent/Representative Name: (if applicable)</b>		
Address:		
City:	Province:	Postal Code:
Telephone: (    )	Fax: (    )	E-Mail:

**B. Grounds for Appeal**

I am aggrieved or dissatisfied by (Enter Order, Decision or Determination):	Date of Decision:
Of the: ( Name of the marketing board, or commission )	
Specify why the decision should be changed and state the outcome (BCFIRB decision) requested. (If more room is needed please attach a separate sheet and include any relevant documentation).	
Signature: (of Appellant or Agent) <b>X</b>	Date: <input type="checkbox"/> \$100 Filing Fee attached <input type="checkbox"/> Copy to marketing board/commission <input type="checkbox"/> Documentation attached