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## WHAT CAN BE APPEALED AND WHO MAY APPEAL

Part 6 of the *Oil and Gas Activities Act* sets out the decisions made by the Oil and Gas Commission that are appealable to the Tribunal. They include certain orders, declarations, findings of contravention, administrative penalties and permitting decisions in relation to an “oil and gas activity” such as geophysical exploration, the construction or operation of a pipeline, road construction, and the production, gathering, processing, storage or disposal of petroleum, natural gas or both (see further the definition of “[oil and gas activity](#)” in section 1(1) of the Act). Decision made by a review official may also be appealed to the Tribunal.

It is important to note, however, that not everyone has the same right to appeal these decisions. The types of decisions that may be appealed are divided into

- decisions that may be appealed by an “eligible person”, and
- decisions that may be appealed by an owner of land on which an “operating area” is located (a “land owner”).

If a person does not fall within the group of persons allowed to appeal a certain type of decision under the *Oil and Gas Activities Act*, the Tribunal cannot accept the appeal. It is said that the person does not have “standing” to appeal.

### What can be appealed by Eligible Persons

An “[eligible person](#)” is defined in section 69(1) as: an applicant for a permit, a permit holder or former permit holder, a person named in an order for non-compliance issued by an official under section 49(1) and a person who is subject to a finding of contravention by the Oil and Gas Commission under section 62.

For some purposes, an eligible person also includes a land owner. However, land owners cannot appeal the same decisions as the other eligible persons and their right of appeal will be discussed separately below.

The decisions that are appealable to the Tribunal are set out in the definition of “[determination](#)” in section 69(1) of the Act. Additional appealable determinations are prescribed in [section 9](#) of the *Oil and Gas Activities General Regulation*, B.C. Reg. 274/2010.

The appealable determinations include the following:

- issuance of a permit,
- refusal to issue a permit,
- suspension or cancellation of a permit or a permission specified in a permit,
- an amendment to a permit or refusal to amend,
- the suspension or cancellation of an authorization for an activity related to oil and gas activity permitted by a permit,
- a declaration that a permit, a permission specified in a permit, or an authorization held by the permit holder, is spent,
- decisions regarding the transfer of a permit or authorization,

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### OIL AND GAS APPEAL TRIBUNAL

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- an order to carry out actions for the purposes of restoration or the protection of public safety in relation to a permit, a permission in a permit, or an authorization that is cancelled, expired, or declared spent,
- an order issued by an official or the Oil and Gas Commission to address risks to the environment, safety and/or resource conservation under Division 2 of Part 5,
- a finding of contravention under section 62, and
- an administrative penalty.

According to section 72(1)(a) of the Act, an eligible person may also appeal a review decision made under section 71 if the eligible person was a party to the review.

### What can be appealed by Land Owners

An owner of land on which an operating area is located may appeal fewer types of decisions (see section 69(1)(b) of the Act). An “[operating area](#)” is defined in section 1(1) of the Act as: an area, identified in a permit, within which a permit holder is permitted to carry out an oil and gas activity.

A land owner may appeal the following decisions of the Oil and Gas Commission:

- a decision under section 25 of the Act to issue a permit that locates an operating area on the land of the land owner,
- a decision under section 31 of the Act to amend a permit, if the amendment changes the effect of the permit on the land of the land owner.

A land owner may also appeal a decision made by a review official under section 71 of the Act to vary a decision of the Oil and Gas Commission so that:

- a permit is amended, if the amendment changes the effect of the permit on the land of the land owner, or
- a permit is issued that locates an operating area on the land of a land owner.