

**Agricultural Land Commission Rules of Practice and Procedure for Appeals
under section 55 of the *Agricultural Land Commission Act*
(ALC Appeal Rules)
January 1, 2019**

BACKGROUND

Section 55 of the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36 (the “**ALCA**”) provides that a person who is the subject of a determination, a decision, an order or a penalty under section 50 (stop work orders), section 52 (determinations and remediation orders) or section 54(1) (penalties) of the ALCA may appeal the determination, decision, order or penalty to the Provincial Agricultural Land Commission (the “**Commission**”) by serving the Commission with a notice of appeal.

Appeals under section 55 of the ALCA are subject to certain enactments (each, an “**Applicable Enactment**”) including the ALCA, the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, B.C. Reg. 171/2002 (the “**Regulation**”), and the sections of the *Administrative Tribunals Act*, S.B.C. 2004, c. 45 (“**ATA**”) that are set out in sections 5.1 and 55.01 of the ALCA.

Appeals are also subject to these rules (the “**ALC Appeal Rules**”), which are made pursuant to section 11(1) of the ATA and section 37(3) of the Regulation, and to the Practice Directive on Appeals (the “**ALC Appeal Practice Directive**”), which is made pursuant to sections 12 and 13 of the ATA. In the event of conflict between the ALC Appeal Rules or the ALC Appeal Practice Directive and an Applicable Enactment, the Applicable Enactment governs.

RULES

Purpose

1. The purpose of the ALC Appeal Rules is to assist in the fair, just and timely resolution of appeals.

Effective date

2. (1) These rules may be cited as the ALC Appeal Rules and will come into effect on January 1, 2019 superseding all rules or practice directives made by the Commission in relation to appeals before that date.

(2) Unless otherwise ordered, the ALC Appeal Rules apply to all appeals made to the Commission whether commenced before or after January 1, 2019.

Definitions

3. In the ALC Appeal Rules:

“**ALCA**” means the *Agricultural Land Commission Act*;

“**ALC Appeal Practice Directive**” means the version of the practice directive on appeals that will come into effect on January 1, 2019;

“**ALC Appeal Rules**” mean the rules set out in this document;

“**appeal**” means an appeal under section 55 of the ALCA;

“**appellant**” is a person who is the subject of a determination, a decision, an order or a penalty under section 50, section 52 or section 54(1) of the ALCA and who initiates an appeal by serving the Commission with a notice of appeal;

“**Appellant’s Written Appeal Package**” means the package described in Rule 26(1)(b);

“**argument**” means a participant’s submission, with reference to evidence and legal authorities as applicable, about why the Commission should make a particular decision. An argument is not evidence;

“**business day**” means a day other than a Saturday, Sunday, or statutory holiday in British Columbia;

“**Commission**” means the Provincial Agricultural Land Commission, and includes any subset of commissioners that is empowered to hear and decide an appeal but for the purpose of the ALC Appeal Rules does not include the respondent;

“**day**” means a day, whether or not it is a business day;

“**document**” includes a letter, email, application, notice, photograph, chart, report, plan, sound recording, video recording, or other thing in which information is communicated or recorded;

“**Earlier Record**” means the evidence that was before the respondent in making the determination, decision, order or penalty being appealed together with the determination, decision, order or penalty being appealed;

“**evidence**” means information on the basis of which a participant wishes to establish facts that it believes are relevant to the Commission in making its decision;

“**intervener**” means a person granted intervener status by the Commission on an application under Rule 21;

“**legal authorities**” means decisions of a court or administrative tribunal, enactments, legal texts or legal articles, but do not include evidence or argument;

“**oral hearing**” may include a hearing that is conducted in-person or by telephone or videoconference;

“**participant**” means:

- a. a party;
- b. an intervener;
- c. a person who is applying to become a party or intervener;
- d. any other person who is the subject of the determination, decision, order or penalty under appeal; or
- e. any person invited by the Commission to participate in an appeal;

“**party**” means an appellant or a respondent in an appeal;

“**Regulation**” means the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*;

“**respondent**” means the person who made the determination, decision, order or penalty being appealed; and

“**Respondent’s Written Appeal Package**” means the package described in Rule 26(1)(b).

Compliance with ALC Appeal Rules

4. (1) Other than where the rule restates a mandatory requirement of an Applicable Enactment, the Commission may waive or modify one or more of the ALC Appeal Rules. It may do so only in exceptional circumstances.

(2) All participants must comply with the ALC Appeal Rules unless the Commission orders otherwise under subrule (1).

(3) If a participant fails to comply with the ALC Appeal Rules or with any order made by the Commission during an appeal, including any time limits specified for taking any actions, the Commission may, after giving notice to that participant, do one or more of the following:
 - a. schedule a written, electronic or oral hearing;

- b. continue with the appeal and make a decision based on the information before it, with or without providing an opportunity for participants to provide evidence or argument;
 - c. dismiss the appeal.
- (4) The ALC Appeal Rules do not apply to matters other than an appeal.

Notice of appeal

5. (1) An appeal is commenced when a person who is the subject of a determination, a decision, an order or a penalty under section 50, section 52 or subsection 54(1) of the ALCA serves a notice of appeal in writing on the Commission.
- (2) The appellant is responsible for ensuring that the notice of appeal is served on the Commission in the time provided for in subrule (3) and that the notice of appeal includes all required information, including:
- a. identification of the determination, decision, order or penalty under appeal;
 - b. a statement of the property at issue;
 - c. a statement of why the determination, decision, order or penalty should be changed;
 - d. a statement of the outcome requested;
 - e. the appellant's address for delivery under Rule 9;
 - f. information about a representative, if any, referred to under Rule 13; and
 - g. the signature of the appellant or the appellant's representative.
- (3) There is an apparent discrepancy between the deadline for serving the notice of appeal specified in the ATA and the deadline for serving the notice of appeal specified in the Regulation. Pending any future amendment which addresses this issue, other than in exceptional circumstances the Commission will resolve this issue by extending the time for which the ATA provides to serve a notice of appeal to not more than 60 days after the determination, decision, order or penalty is personally served on the subject of the determination, decision, order or penalty.

Providing specified documents to the Commission

6. Where an enactment, rule or order requires or permits filing of a document with the Commission, serving a document on the Commission, delivering a document

to the Commission, or sending a document to the Commission, any of the preceding may be accomplished on an appeal as follows:

- a. by personal service upon the Commission. Personal service is defined in Rule 8;
- b. by mailing the document by ordinary mail or by registered mail to #201 – 4940 Canada Way, Burnaby, British Columbia, V5G 4K6. Where a notice of appeal is mailed by ordinary mail or registered mail to the Commission, the date of filing with and service upon the Commission is deemed to be the date of actual receipt of the notice of appeal by the Commission; or
- c. in any other way if the Commission or Commission staff have advised that service will be accepted in that other way.

Providing specified documents to a participant

7. Where an enactment, rule or order requires or permits serving a document on a participant, delivering a document to a participant, or sending a document to a participant, any of the preceding may be accomplished on an appeal as follows:
 - a. by personal service upon the participant. Personal service is defined in Rule 8;
 - b. by mailing the document by ordinary mail or registered mail to the address for delivery provided by the participant. Where the document is sent by ordinary mail, the document is deemed to be served or delivered on the fifth day after the day it is mailed, unless that day is not a business day, in which case the document is deemed to be served or delivered on the next day that is a business day;
 - c. if the address for delivery provided by the participant includes a facsimile number, by faxing the document to that facsimile number. Where the document is faxed, the document is deemed to be served or delivered on the day after it was sent, unless that day is not a business day, in which case the document is deemed to be served or delivered on the next day that is a business day;
 - d. if the address for delivery provided by the participant includes an email address, by emailing the document to that email address. Where the document is emailed, the document is deemed to be served or delivered on the day after it was sent, unless that day is not a business day, in which case the document is deemed to be served or delivered on the next day that is a business day; or
 - e. if the participant has not provided an address for delivery and if the service, delivery or sending obligation rests with the Commission, by:

- i. mailing the document by ordinary mail or registered mail to the last known address of the participant. Where the document is sent by ordinary mail, the document is deemed to be served or delivered on the fifth day after the day it is mailed, unless that day is not a business day, in which case the document is deemed to be served or delivered on the next day that is a business day;
- ii. faxing the document to the last known facsimile number of the participant. Where the document is faxed, the document is deemed to be served or delivered on the day after it was sent, unless that day is not a business day, in which case the document is deemed to be served or delivered on the next day that is a business day;
- iii. emailing the document to the last known email address of the participant. Where the document is emailed, the document is deemed to be served or delivered on the day after it was sent, unless that day is not a business day, in which case the document is deemed to be served or delivered on the next day that is a business day; or
- iv. if the Commission makes an order permitting service, delivery or sending by an alternative method, in accordance with that order.

Personal service

8. Personal service may be effected as follows:

- a. a document may be personally served on the Commission by leaving a copy with a member of Commission staff at the Commission's office;
- b. a document may be personally served on the respondent by leaving a copy addressed to the respondent with a member of Commission staff at the Commission's office;
- c. a document may be personally served on an individual by leaving a copy of the document with him or her;
- d. a document may be personally served on a corporation, not including the Commission but including a municipality or regional district, by doing one of the following, as applicable:
 - i. leaving a copy of the document with any director, president, mayor, or other senior or chief officer, liquidator, or receiver manager of the corporation;
 - ii. delivering the document to the delivery address shown for the registered office of the corporation in the corporate register;

- iii. mailing it by registered mail to the mailing address shown for the registered office of the corporation in the corporate register;
- iv. leaving a copy of the document with the city clerk or municipal clerk; or
- v. leaving a copy of the document with the manager, cashier, superintendent, treasurer, secretary, clerk or agent of the corporation or of any branch or agency of the corporation in British Columbia;

and, for purposes of subrule (d)(v), if the chief place of business of the corporation is outside British Columbia, every person who, within British Columbia, transacts or carries on any of the business of, or any business for, that corporation is deemed to be an agent of the corporation; or

- e. a document may be personally served on any person by any other means permitted for personal service by the Supreme Court Civil Rules.

Address for delivery

- 9. (1) The notice of appeal must contain the appellant's address for delivery.
- (2) Other parties or interveners must provide an address for delivery.
- (3) Other participants may provide an address for delivery.
- (4) An address for delivery must include a mailing address and may also include a facsimile number and/or an email address.
- (5) If a participant is represented by a lawyer, the address for delivery may be the mailing address of the lawyer, and may also include a facsimile number and/or an email address for the lawyer.

Acknowledgement of receipt of notice of appeal

- 10. Commission staff, on behalf of the Commission, will acknowledge receipt of a notice of appeal by sending the appellant written confirmation of receipt at the appellant's address for delivery.

Adding or removing parties or participants to the appeal

- 11.(1) This rule does not apply to the granting of intervener status on an appeal, which is addressed in Rule 21.
- (2) Subject to subrule (1), the Commission has discretion, on application or on its own motion, to add, substitute or remove a person as a party or other participant to an appeal.

(3) Subject to subrule (1), an application to be added as a party or other participant must include the following information:

- a. the applicant's full name, address for delivery, telephone number and email address (if any);
- b. an explanation of how the applicant will be impacted or affected by the subject matter of the appeal and/or what information the applicant can provide on an issue in the appeal;
- c. the reasons why the applicant should be added as an appellant or respondent or otherwise allowed to participate in the appeal; and
- d. the manner and extent to which the applicant wishes to be heard on the appeal.

(4) If the application is allowed, the Commission will advise of any terms, conditions or limitations placed on the person's involvement or status in the appeal.

(5) The Commission will not substitute a person as an appellant without the consent of the person to be named.

(6) An application to remove a party or other participant must explain why the person to be removed is not, or has ceased to be, a proper or necessary party or other participant to the appeal.

Notification by Commission

12.(1) Commission staff may send notification of an appeal, along with copies of the notice of appeal and the confirmation of receipt, to any person.

(2) The notification may be sent to the person's last known address, facsimile number, or email address.

(3) The Commission has discretion, on application or on its own motion, to notify additional persons at any time.

(4) The Commission will send the notice of appeal to the respondent and to any other participants (other than the appellant) who are known to the Commission at the time it receives the notice of appeal.

Representation before the Commission

13.(1) If a participant appoints a representative, the following information for the representative must be provided to the Commission:

- a. the full name of the representative;

- b. the name of the participant that the person is representing;
 - c. the representative's address for delivery, daytime telephone number and email address (if any).
- (2) If a participant has a representative, the address for delivery of the representative is the address for delivery of the participant.
- (3) A representative who withdraws or ceases to represent a participant must immediately notify the Commission, in writing.

Decisions accessible to the public

- 14.(1) All Commission decisions issued in the appeal will be made available for viewing by the public at the Commission's office.
- (2) The Commission's final decision on the appeal will also be posted online at the Commission's website. Other Commission decisions may also, but need not, be posted online.

Access to other materials in appeal file

- 15.(1) If a member of the public requests access to the Earlier Record, the Appellant's Written Appeal Package, the Respondent's Written Appeal Package or other materials available to the appellant and respondent in an appeal file, the Commission will normally presume members of the public are entitled to access. The Commission may decide to impose one or more restrictions on that access if it considers that:
- a. the restriction is necessary in order to prevent a serious risk to the administration of justice because reasonably alternative measures will not prevent the risk; and
 - b. the salutary (beneficial) effects of the restriction outweigh the deleterious effects of the restriction on the rights and interests of the parties and the public, including the effects on the right to free expression, the right of the appellant to a fair and public hearing, and the efficacy of the administration of justice.
- (2) Nothing in this rule is intended to remove, reduce or limit any rights available under the *Freedom of Information and Protection and Privacy Act*, R.S.B.C. 1996, c. 165.

Withdrawal of appeal

16. If an appellant withdraws all or part of an appeal, the Commission must order that the appeal or the part of it is dismissed.

Pre-hearing conferences

- 17.(1) On its own initiative, or at the request of a party, the Commission may schedule a pre-hearing conference.
 - (2) A request by a party for a pre-hearing conference must be in writing, provide the reasons for the request and include in it a list of items proposed to be discussed.
 - (3) If the Commission decides that a pre-hearing conference is warranted in the circumstances, it will notify the parties (and, in its discretion, other participants) of the time, date and place for the pre-hearing conference, or the dial-up instructions (if conducted by telephone), and will advise of any terms or conditions that apply.
 - (4) Where notice of a pre-hearing conference has been properly given and a participant fails to participate without advance written notice, the Commission may proceed in that participant's absence.

Pre-hearing applications

- 18.(1) All pre-hearing applications must be made to the Commission in writing. The potential topics of pre-hearing applications include, but are not limited to, the following matters:
 - a. stays of the operation of the determination, decision, order or penalty under appeal;
 - b. adjournments or extensions of time;
 - c. intervention;
 - d. participant status;
 - e. form of hearing.
- (2) All pre-hearing applications must include:
 - a. a statement of the grounds (the reasons) for the application and the relief requested (the nature of the order requested);
 - b. any evidence to be relied upon. If the evidence to be relied upon is already contained in the Earlier Record, the Appellant's Written Appeal Package or the Respondent's Written Appeal Package and those materials have already been provided to the Commission, it is sufficient to cross-reference to the applicable portions of those other materials as long as the location of the information is clear; and

- c. any argument that the participant making the application wishes the Commission to consider.

(3) Subject to any order the Commission makes regarding the deadline for party material on a pre-hearing application, each party other than the applicant must file any documents responding to the application with the Commission and deliver copies to the applicant and to all other parties within 10 business days of the date the application was filed with the Commission.

Appeal does not operate as a stay or suspension

19.(1) The commencement of an appeal does not operate as a stay of or suspend the operation of the determination, decision, order or penalty being appealed unless the Commission orders otherwise.

(2) An appellant may apply for a stay or suspension of the operation of the determination, decision, order or penalty being appealed by filing the material specified in Rule 18(2).

(3) The Commission may order that the operation of the determination, decision, order or penalty being appealed be stayed or suspended pending the resolution of the appeal. In determining whether or not to make this order, the Commission will consider whether:

- a. there is a prospect that the appeal will succeed;
- b. the appellant will suffer irreparable harm by the need to comply with the determination, decision, order or penalty if the stay or suspension is not granted; and
- c. the balance of convenience favours granting a stay or suspension rather than favouring compliance with the timeline for which the determination, decision, order or penalty provides.

Adjournment or extension of time

20.(1) A step or event on an appeal may be adjourned or the time extended by the Commission on its own motion or on an application by any participant if the applicant shows to the satisfaction of the Commission that the adjournment or extension is required to permit an adequate hearing to be held.

(2) In considering whether a step or event on an appeal should be adjourned or the time extended, the Commission must have regard to the following factors:

- a. the reason for the adjournment or extension;
- b. whether the adjournment or extension would cause unreasonable delay;

- c. the impact of refusing the adjournment or extension on the parties;
- d. the impact of granting the adjournment or extension on the parties; and
- e. the impact of the adjournment or extension on the public interest.

Application to intervene

21.(1) The Commission may allow a person’s application to intervene on an appeal if the Commission is satisfied that:

- a. the person can make a valuable contribution or bring a valuable perspective to the appeal; and
- b. the potential benefits of the intervention outweigh any prejudice to the parties caused by the intervention.

(2) The Commission may set deadlines by which a person interested in becoming an intervener in an appeal must file with the Commission and deliver to all parties an application for intervener status.

(3) Subject to any order the Commission makes regarding the deadline for party material on an application to intervene, each party must file any documents responding to an application to intervene with the Commission and deliver copies to the person applying to intervene and to all other parties within 10 business days of the date the application to intervene was filed with the Commission.

Interveners

22.(1) An intervener is not a party to the appeal. The Commission on granting intervener status may determine the extent of an intervener’s participation, including with regard to arguments and evidence. Further, if two or more applicants for intervener status have the same or substantially similar views or expertise, the Commission may require them to file joint material.

(2) An intervener must file with the Commission and deliver to all parties and other interveners a document providing the intervener’s address for delivery.

Summary dismissal

23.(1) At any time after an appeal is filed, the Commission may dismiss all or part of the appeal on its own motion or on the application of any party if the Commission determines that any of the following apply:

- a. the appeal is not within the jurisdiction of the Commission;
- b. the appeal was not filed within the applicable time limit described in Rule 5(3);

- c. the appeal is frivolous, vexatious or trivial or gives rise to an abuse of process;
- d. the appeal was made in bad faith or filed for an improper purpose or motive;
- e. the appellant failed to diligently pursue the appeal or failed to comply with an order of the Commission; or
- f. the substance of the appeal has been appropriately dealt with in another proceeding.

(2) Before dismissing all or part of an appeal under subrule (1), the Commission must give the appellant an opportunity to be heard in writing or as the Commission otherwise directs.

(3) If the Commission dismisses all or part of an appeal under subrule (1), the Commission must inform the parties and interveners of its decision in writing and give reasons for that decision.

Expert evidence

24. (1) If a participant wishes to present expert evidence on an appeal in circumstances where introduction of evidence by that participant is permitted under the ALC Appeal Rules or by order of the Commission, this must be done in the form of a written report of the expert.

(2) In making a report, an expert under this Rule has a duty to assist the Commission with an objective expert opinion and is not in the report to be an advocate for any participant.

(3) An expert report must include the following:

- a. the expert's name, address and area of expertise;
- b. the expert's qualifications and employment and educational experience in his or her area of expertise;
- c. the instructions provided to the expert in relation to the appeal;
- d. the nature of the opinion being sought and the issues in the appeal to which the opinion relates;
- e. the expert's opinion respecting those issues;
- f. the expert's reasons for his or her opinion, including
 - i. a description of the factual assumptions on which the opinion is based;

- ii. a description of any research conducted by the expert that led him or her to form the opinion; and
- iii. a list of every document, if any, relied on by the expert in forming the opinion.

(4) A written statement of an expert's qualifications is proof that the expert has those qualifications, unless there is evidence to the contrary and the Commission finds otherwise.

Form of hearing(s)

25. Subject to these ALC Appeal Rules including Rules 18, 23 and 26, the Commission may hold any combination of written, electronic and oral hearings.

Written hearings

26.(1) Unless the Commission orders otherwise, an appeal will proceed:

- a. in writing; and
- b. according to the following schedule:
 - i. Within 10 business days of the Commission's provision to the respondent of the notice of appeal under Rule 12(4), the respondent must deliver to the appellant and the Commission:
 - I. the Earlier Record; and
 - II. to the extent not already contained in the Earlier Record:
 - (a) a recent airphoto, if accessible to the respondent, of the property or properties to which the appeal relates;
 - (b) an ALC context map in relation to the property or properties to which the appeal relates;
 - (c) CLI or BCLI soil capability map related to the property or properties to which the appeal relates; and
 - (d) previous decisions of the Commission and previous determinations, decisions, orders or penalties under section 50, 52 or 54(1) of the ALCA in relation to the property or properties to which the appeal relates.
 - ii. Within 20 business days of the appellant's receipt of the Earlier Record, the appellant must deliver 6 copies to the Commission and 1 copy to the respondent of:

- I. any additional evidence, including expert evidence under Rule 24, that the appellant wishes the Commission to consider in the appeal. Subject to an order by the Commission to the contrary and unless it is expert evidence under Rule 24, that evidence must be in the form of one or more affidavits or statutory declarations from the appellant and/or one or more other witnesses. If the appellant wishes any evidence filed on a pre-hearing application to be considered on the merits of the appeal, the appellant must specifically advise that is the case; and
- II. any argument that the appellant wishes to make in relation to the appeal, together with a copy of any legal authorities on which the appellant relies

(together, the “**Appellant’s Written Appeal Package**”).

- iii. Within 10 business days of the respondent’s receipt of the Appellant’s Written Appeal Package, the respondent must deliver 6 copies to the Commission and 1 copy to the appellant of:
 - I. any additional evidence, including expert evidence under Rule 24, that the respondent wishes the Commission to consider in the appeal. Subject to an order by the Commission to the contrary and unless it is expert evidence under Rule 24, that evidence must be in the form of one or more affidavits or statutory declarations from the respondent and/or one or more other witnesses. If the respondent wishes any evidence filed on a pre-hearing application to be considered, the respondent must specifically advise that is the case; and
 - II. any argument that the respondent wishes to make in relation to the appeal, together with a copy of any legal authorities on which the respondent relies

(together, the “**Respondent’s Written Appeal Package**”).

- iv. For greater clarity, a party may advise the Commission that it wishes to rely on the Earlier Record on the appeal without making the filings in subrules (1)(b)(ii) and (1)(b)(iii). In that event, however, if the Commission determines to hold an oral hearing on the appeal pursuant to Rule 27, the Commission may determine that that party is also not able to provide any further evidence or argument on the appeal orally.

- v. The Commission may provide an opportunity for the appellant to deliver written reply evidence, written reply argument and/or reply legal authorities in response to the Respondent's Written Appeal Package.

(2) If there are any other participants in the appeal, the Commission may order that they receive and/or file written material as well on a schedule that the Commission will set.

(3) Each of the Appellant's Written Appeal Package and the Respondent's Written Appeal Package must be organized as follows:

- a. with a table of contents; and
- b. with tabs organizing the contents in chronological order.

(4) If a party wishes to cross-examine a person who has sworn or affirmed an affidavit or made a statutory declaration or who has prepared an expert report in the appeal on the contents of that affidavit, statutory declaration or expert report, that party must apply to the Commission for an order permitting same.

(5) If a party otherwise wishes to have an oral evidentiary hearing or oral argument phase, that party must apply to the Commission for an order permitting an oral hearing pursuant to Rule 27.

Oral hearings

27. (1) The Commission need not hold an oral hearing but may, on application or its own initiative, order that there be an oral hearing for the purpose of:

- a. cross-examination of persons who have sworn or affirmed an affidavit or made a statutory declaration or who have prepared an expert report;
- b. presenting further evidence beyond that provided under Rule 26;
- c. presenting further argument beyond that provided under Rule 26; and/or
- d. another purpose.

(2) If the Commission orders an oral hearing to be held:

- a. the Commission will send a notice of the oral hearing and the scope of the oral hearing to the parties and interveners at least 40 business days before the date of the oral hearing setting out the location, date and time of the oral hearing;
- b. the Commission may give such further directions as to the form and content of the oral hearing as it considers to be appropriate;

- c. subject to an order by the Commission to the contrary, a person who gives evidence at the oral hearing must give that evidence under oath or affirmation;
 - d. the respondent must provide versions of the materials referred to in subrule 26(1)(b)(i)(II) suitable for projection onto a screen at the oral hearing.
- (3) The Commission does not have the power to issue a summons to a prospective witness but it may take into account in weighing the evidence the fact that a witness who has provided an affidavit, statutory declaration or expert report does not attend the oral hearing if cross-examination of that witness is sought.
- (4) The Commission may determine the process to be followed at an oral hearing but, subject to an order to the contrary, the parties or their representatives are expected to attend.
- (5) Subject to an order of the Commission to the contrary, which may be made on the basis set out in Rule 15(1) for restricting access or otherwise for reasons of health and safety, an oral hearing is open to the public.
- (6) The Commission may transcribe or tape record the proceedings at an oral hearing and may provide a copy of a transcript or recording to participants on their request upon payment to the Commission of any associated cost.
- (7) Audiorecording, videorecording or other electronic recording of the Commission's proceedings other than as stated in subrule (6) is prohibited without the permission of the Commission sought in advance of the oral hearing.

Final decision

28. The Commission may make a final decision on the appeal with written reasons to follow.

Reasons for final decision

29. The Commission must give written reasons for its final decision on the appeal.

Notice of final decision

30. The Commission must serve upon each party and intervener a copy of the final decision on the appeal. Where the Commission is of the opinion that because there are so many parties and interveners to an appeal or for any other reason that it is impracticable to send its final decision to each, the Commission may give reasonable notice of its decision by public advertisement or otherwise as the Commission directs.

Amendment to final decision

- 31.(1) If a party applies or on the Commission's own initiative, in accordance with section 53 of the ATA the Commission may amend a final decision to correct any of the following:
- a. a clerical or typographical error;
 - b. an accidental or inadvertent error, omission or other similar mistake;
 - c. an arithmetical error made in a computation.
- (2) Unless the Commission determines otherwise, an amendment under subrule (1) must not be made more than 30 days after all parties have been served with the final decision.
- (3) Within 30 days of being served with the final decision, a party may apply to the Commission for clarification of the final decision and the Commission may amend the final decision only if the Commission considers that the amendment will clarify the final decision.
- (4) The Commission may not amend a final decision other than in those circumstances described in subrules (1) to (3), but this rule must not be construed as limiting the Commission's ability, on request of a party, to reopen an appeal in order to cure a jurisdictional defect.
- (5) An application under this rule must be brought using the process for pre-hearing applications set out in Rule 18 above.