



BRITISH
COLUMBIA

BC Farm Industry Review Board

Rules of Practice and Procedure for Appeals under the
Prevention of Cruelty to Animals Act, R.S.B.C. 1996, c. 372

Approved by the BC Farm Industry Review Board – May 2020

Contents

- Introduction**4
 - What these Rules do.....4
 - About BCFIRB4
- PART I: Definitions and Computing Time (Deadlines)**5
 - Computing Deadlines6
 - Important Note:6
- PART II: Filing an Appeal**7
 - RULE 1: Filing an Appeal**7
 - Perfected Notice of Appeal8
 - Deficient content in Notice of Appeal8
 - Filing Fee: Deadline9
 - Filing Fee: Extension of Deadline9
 - RULE 2: Delivery of Filed Appeal to Society and Proof of Service**9
 - RULE 3: Status of Society on Appeals** 10
- PART III: Hearing Procedures** 10
 - RULE 4: Standard Appeal Process**..... 10
 - Disclosure of Documents/Submissions 10
 - Hearing Date 11
 - Hearing Process..... 11
 - RULE 5: Other Appeal Procedures**..... 11
 - Pre-Hearing Application 12
 - Pre-Hearing Conference 12
 - Knowledgeable Person 13
 - Expert Witness 13
 - Witnesses 14
 - Summoning Witnesses 14
 - Confidential Evidence 15
 - Adjournment 15
 - RULE 6: Party Non-Attendance at a Hearing** 16
 - RULE 7: Recording**..... 16

PART IV: Decision and Costs	17
RULE 8: Decision	17
RULE 9: Errors and Clarifications	17
RULE 10: Costs	17
PART V: Resolution Without a Hearing	18
RULE 11: Facilitated and/or Mandatory Facilitated Settlement	18
RULE 12: Settlement	18
RULE 13: Withdrawing an Appeal	19
PART VI: General	19
RULE 14: Address of Record	19
RULE 15: Service of Documents	20
RULE 16: Communicating with BCFIRB	21
RULE 17: Failure to Comply with These Rules	21
APPENDIX A: Notice of Appeal Form	23
Appeal Time Limits	25
Contact Information:	27
British Columbia Farm Industry Review Board	27
BC Society for the Prevention of Cruelty to Animals	27

Introduction

These Rules are tailored to the unique circumstances of [Prevention of Cruelty to Animals Act](#) (PCAA) appeals and, in particular, the need to ensure the appeal process is fair, accessible, efficient, timely, cost-effective, and responsive to the well-being of the animal(s) subject to an appeal.

What these Rules do

These Rules govern practices and procedures before The British Columbia Farm Industry Review Board (BCFIRB) in appeals filed under [s. 20.3 of the PCAA](#), R.S.B.C. 1996, c. 372.

The PCAA contains specific provisions that set out the appeal rights ([PCAA s. 20.3](#)), interim stays pending appeal ([PCAA s. 20.4](#)), the hearing procedure ([PCAA s. 20.41](#)), and BCFIRB's power to grant remedies ([PCAA s. 20.6](#)). These Rules are not intended to repeat those provisions but rather to complement them.

About BCFIRB

BCFIRB is an administrative tribunal that exercises legal authority under several statutes: the [Natural Products Marketing \(BC\) Act](#), R.S.B.C. 1996, c. 330 (NPMA), the [Farm Practices Protection \(Right to Farm\) Act](#), R.S.B.C. 1996, c. 131 (FPPA), and the [Prevention of Cruelty to Animals Act](#), R.S.B.C. 1996, c. 372 (PCAA).

Sections 1 to 10, 27 to 30, 45, 46, 46.2, 48, 57, 58 and 61 of the [Administrative Tribunals Act](#) (ATA) apply to BCFIRB in all its functions under those statutes, except where otherwise specified: [NPMA s. 3.1](#). For appeals under [PCAA s. 20.3](#), the additional ATA powers set out in [PCAA s. 20.41](#) apply.

BCFIRB's ATA powers include the power to make rules of practice and procedure to facilitate the just and timely resolution of PCAA appeals: [ATA, s. 11\(1\)](#). BCFIRB may waive or modify these Rules in exceptional circumstances: [ATA, s. 11\(3\)](#) and may add to, amend, or repeal any or all of these Rules at any time, or make other procedural orders it considers necessary.

Persons involved in an appeal must proceed on the basis that these Rules apply unless BCFIRB directs otherwise. Where there is a discrepancy between these Rules and the legislation, the legislation applies.

For further information regarding BCFIRB, including applicable legislation, its processes, and prior decisions, please see www.gov.bc.ca/BCFarmIndustryReviewBoard.

PART I: Definitions and Computing Time (Deadlines)

(1) Terms used in these Rules are as defined in the PCAA, NPMA, regulations established under these Acts and general law unless otherwise stated in these Rules.

(2) In these Rules:

“address of record” means a current postal address and can include an email address and/or fax number if available.

“agent” includes a representative and is a person who, subject to BCFIRB’s discretion to order otherwise, is authorized to represent the appellant on the appeal.

“appellant” means the person who has filed an appeal.

“business day” means any working day, not including weekends or statutory holidays.

“calendar day” means any day of the week and includes weekends and statutory holidays.

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

“file” means effective delivery of a communication to BCFIRB under [Rule 14](#).

“Executive Director” means the Executive Director of BCFIRB and includes any case manager or other staff member the Executive Director assigns to provide support to BCFIRB or a BCFIRB panel.

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

“oral hearing” means a hearing involving the parties or their representatives attending before a panel, whether by telephone, videoconference, teleconference, or in person.

“electronic hearing” means a hearing held by telephone, teleconference or other electronic means.

“written hearing” means a hearing held by means of exchange of written documents.

“order” means a directive or written decision setting out directions to be followed by parties or by a person.

“panel” means the BCFIRB member(s) hearing an appeal.

“**party**” includes the appellant (person who filed an appeal) and the respondent (Society).

“**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.

“**Society**” means the British Columbia Society for the Prevention of Cruelty to Animals (BC SPCA).

“**summons**” means an order requiring a person to attend a hearing to give evidence or to produce documents, under [s. 34\(3\) of the ATA](#) and [Rule 5](#).

Computing Deadlines

- (1) Statutory deadlines, (e.g. the deadlines for filing an appeal) are calculated using calendar days. To calculate the number of days allowed for submitting an appeal and the required filing fee, see [Rule 1](#).
- (2) BCFIRB’s procedural deadlines, (e.g. the deadline to file or respond to an application and disclose documents) are calculated using business days.
- (3) If the calculation of calendar days results in the time for doing an act falling or expiring on a Saturday, Sunday or statutory holiday, the time is extended to the next business day.
- (4) In the calculation of business days or calendar days, 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.
- (6) 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.

Important Note:

There is **no discretion** in the PCAA for BCFIRB to extend the time for filing a notice of appeal. A Notice of Appeal received **after** the deadline for filing an appeal will not be accepted by BCFIRB.

If a Notice of Appeal is filed on time, [section 22\(4\) of the ATA](#) gives BCFIRB the discretion to allow a reasonable period of time to correct any deficiencies.

PART II: Filing an Appeal

RULE 1: Filing an Appeal¹

- (1) To start an appeal under [PCAA s. 20.3](#), a person must file a Notice of Appeal with BCFIRB within the prescribed deadlines as follows:
- (a) Where the Society has issued a review decision under [section 20.2 of the PCAA](#), a person must file a written Notice of Appeal **within 4 calendar days of receiving the review decision and/or demand for payment of costs** from the Society. To calculate 4 calendar days, begin counting the day after the review decision or demand for payment of costs is received. The Notice of Appeal **must be received by BCFIRB at or before 4:30 p.m. of the 4th day**. If the 4th day falls on a Saturday, Sunday or Statutory holiday, then the Notice of Appeal will be deemed to be received on the next business day.
 - (b) Where the Society has not issued a review decision, a written Notice of Appeal may be filed **no earlier than 28 calendar days after a request for a review has been made to the Society**². To calculate 28 calendar days, begin counting the day after the review was requested and count 28 days.³ The appeal may be filed on the following business day.
- (2) A Notice of Appeal may be filed with BCFIRB by mail, courier, fax or email as follows:

Mail:

Attention: Executive Director
British Columbia Farm Industry Review Board
PO Box 9129 Stn Prov Govt
Victoria BC, V8W 9B5

Courier:

Attention: Executive Director
British Columbia Farm Industry Review Board
2975 Jutland Road
Victoria BC, V8T 5J9

Fax: 250-356-5131

E-Mail: firb@gov.bc.ca

¹ PCAA s. 20.3(2)

² PCAA s. 20.3(2)(a)

³ To be a “request for review” to the Society, the request must be made in accordance with the form and time limits set out in s. 20.2(2) of the PCAA.

- (3) A Notice of Appeal must be accompanied by payment of the prescribed fee of **\$100.00**, payable to the Minister of Finance.⁴
- (4) Parties may contact BCFIRB staff for information on other payment options including paying filing fees through FrontCounter BC or by credit card through Ministry of Finance.
- (5) A person filing a Notice of Appeal may use the attached [Form "A"](#), or a document of their own, so long as it is signed by the appellant or the appellant's agent and contains the following information ([ATA s. 22\(2\)](#)):
 - (a) the Society decision being appealed (provide a copy if possible);
 - (b) a statement of why the Society decision is wrong, why the decision should be changed and what outcome is wanted;
 - (c) the name, address, telephone number and email (if any) of the appellant;
 - (d) the name of any agent acting on the appellant's behalf and an address, telephone number and email (if any) to contact the agent during regular business hours; and
 - (e) an address for delivery of any notices in respect of the appeal, including any email and fax address at which notices can be delivered.
- (6) If the Notice of Appeal is not received within the deadline set out in [section 20.3\(2\) of the PCAA](#)⁵, the Notice of Appeal will not be accepted for filing by BCFIRB (see also [Rule 1\(1\)](#)).
- (7) An appeal is filed when BCFIRB date stamps the Notice of Appeal.

Perfecting Notice of Appeal

- (8) A Notice of Appeal is perfected once it has been date stamped by BCFIRB, any deficiencies identified under [Rule 1\(8\)](#) are corrected, and the filing fee has been received within the time required under [Rule 1\(9\)-\(12\)](#).

Deficient content in Notice of Appeal

- (9) If the Notice of Appeal is deficient because it fails to include necessary information (see [Rule 1\(4\)](#) above), BCFIRB may allow a reasonable period of time within which the Notice may be corrected.

⁴ The \$100 fee is prescribed in [the Prevention of Cruelty to Animals Regulation, B.C. Reg. 231/95, s. 3.](#)

⁵ To determine how time limits are calculated for the different types of appeals, see page 6 above.

Filing Fee: Deadline

- (10) If the appeal is under section [20.3 of the PCAA](#), and the Notice of Appeal is not accompanied by the mandatory \$100 filing fee (for example, because the Notice of Appeal has been filed by fax or e-mail), the \$100 filing fee must be dated and received by BCFIRB no later than **6 calendar days** after the appellant received the Society's review decision that is the subject of the appeal.
- (11) If the appeal is under section [20.3\(a\) of the PCAA](#) (the appellant asked the Society to conduct a review under [section 20.2](#) and no action has been taken by the Society), and the Notice of Appeal is not accompanied by the mandatory \$100 filing fee, the filing fee must be dated and received by BCFIRB no later than **2 calendar days** after the filing of the Notice of Appeal (see [Rule 1\(1\)](#)).

Filing Fee: Extension of Deadline

- (12) Given the animal welfare considerations involved, the very tight legislated timelines and the ongoing care costs, an extension of the time to pay the mandatory \$100 filing fee will be granted in limited circumstances, considering the following factors:
 - (a) When the Notice of Appeal was filed;
 - (b) What steps the appellant has taken to ensure on time payment of the fees (see for example [Andrusek v. BC SPCA](#), BCFIRB September 5, 2014);
 - (c) Whether the application for an extension was made before the deadline for filing an appeal provided in the PCAA; and
 - (d) Any other factors the Executive Director or a panel considers relevant.
- (13) If an extension of time is not granted, the appeal will not proceed. If an extension of time is granted but the filing fee is not received within the required time period, any late filing fee received will be returned and the appeal will not proceed.

RULE 2: Delivery of Filed Appeal to Society and Proof of Service

- (1) The appellant must deliver a copy of the filed Notice of Appeal to the Society immediately upon receiving a filed copy from BCFIRB.
- (2) The appellant must provide BCFIRB with proof that it has delivered a copy of the filed Notice of Appeal to the Society.

RULE 3: Status of Society on Appeals

- (1) The Society is a party to every appeal, and has full party status, including standing to lead evidence and to make submissions on all questions of fact, law, policy and discretion.
- (2) The Society must provide BCFIRB and the appellant with notice of its address of record and contact information for service of notices, documents and orders.

PART III: Hearing Procedures

RULE 4: Standard Appeal Process

- (1) The following procedures apply to all appeals except where BCFIRB considers it appropriate to modify the procedures for a particular appeal.
- (2) In addition to any case management processes undertaken by BCFIRB staff, BCFIRB may make any interim direction or order appropriate for the efficient conduct of an appeal.
- (3) On receiving a perfected appeal (see [Rule 1\(7\)](#)), BCFIRB will issue a process letter to the parties which will set out a schedule for disclosure of documents, lists of witnesses, receipt of initial and reply submissions, the date for hearing and the date the written decision will be released.
- (4) The time from which a perfected appeal is received to the issuance of BCFIRB's written decision is 29 days unless BCFIRB finds exceptional circumstances warranting either an extension or abbreviation in the usual timeframe.

Disclosure of Documents/Submissions

- (5) The Society must provide BCFIRB with every bylaw and document in relation to the matter under appeal (the record) and a list of witnesses. The Society must provide the record and list of witnesses to the appellant at the same time it is given to BCFIRB unless the Society applies for a non-disclosure order under [s. 42 of the ATA](#) (see [Rule 5](#) below).
- (6) The appellant must deliver to BCFIRB and the Society any responsive documents, a list of witnesses the appellant intends to rely on at the hearing, and any written submission.
- (7) The Society must deliver to BCFIRB and the appellant any evidence on which the Society intends to rely, over and above the record, and any written submission.

- (8) The appellant must deliver any reply submission to the Society and BCFIRB.
- (9) In the case of documents previously provided to BCFIRB and the other party, it is sufficient if the party who provided the documents identifies for BCFIRB and the other party those documents it intends to rely upon.
- (10) In the usual case, disclosure of documents and receipt of submissions will conclude in 20 days.

Hearing Date

- (11) In the usual case, BCFIRB will conduct an electronic (telephone) hearing no later than 3 business days after the close of submissions.

Hearing Process

- (12) An electronic (telephone) hearing will normally proceed as follows:
 - (a) The panel will introduce the appeal and deal with any preliminary matters;
 - (b) The appellant will present his or her position, requested remedies and witnesses;
 - (c) The Society will present its position, requested remedies and witnesses;
 - (d) In steps (b) and (c), each party will have the opportunity to question the other party's witnesses, and any witness called by BCFIRB;
 - (e) The panel may question the parties and their witnesses with regard to their evidence, positions and requested outcomes; and
 - (f) The parties will make closing arguments either orally or in writing, at the discretion of the panel.
- (13) Witnesses at a hearing will be required to testify on oath or affirmation.

RULE 5: Other Appeal Procedures

- (1) The following procedures may form part of the appeal process where one or more procedures contained in [Rule 4](#) are added to, varied, replaced, or waived by BCFIRB.

Pre-Hearing Application

- (2) A party 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) obtain a summons for a witness; ([ATA s. 34\(3\)](#));
 - (d) adjourn the hearing of an appeal ([ATA s. 39\(2\)](#));
 - (e) receive evidence in confidence ([ATA s. 42](#));
 - (f) address a jurisdictional issue; or
 - (g) address any interim or procedural matter including the form of hearing.
- (3) All pre-hearing applications must be made in writing unless BCFIRB allows an application to be made orally.
- (4) Notice of a pre-hearing 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.
- (5) A pre-hearing application must be served on the other party at the same time it is filed with BCFIRB, unless the application is being made ex parte (see [Rule 5 \(26\)](#))
- (6) Each party making a submission on a pre-hearing application must deliver the submissions and any evidence to the other party at the same time it is filed with BCFIRB.
- (7) A pre-hearing application will be decided based only on written submissions unless BCFIRB concludes an electronic or oral hearing is appropriate.
- (8) BCFIRB may, at its discretion, defer decision on a pre-hearing application until such time as BCFIRB deems appropriate.

Pre-Hearing Conference

- (9) At a pre-hearing conference (PHC), BCFIRB may issue interim orders or directions regarding any matter relevant to the conduct of the appeal, including but not limited to those matters identified in [Rule 5\(2\)](#).
- (10) A board member(s) participating in a PHC may participate in the hearing of the matter, unless that board member also participated in settlement discussions, in

which case the member may participate in the hearing only with the consent of the parties.

- (11) BCFIRB will issue a PHC Report detailing the orders, directions, agreements and undertakings made at the PHC.

Knowledgeable Person

- (12) In the interest of resolving the appeal, BCFIRB may, at its discretion, engage one or more persons who are knowledgeable about animal health and welfare or other matters relevant to the appeal ([PCAA, s. 20.5\(4\)\(a\)](#)).
- (13) A party may request BCFIRB engage a knowledgeable person. The request must be made in writing, copied to the other party, and explain why the requesting party believes a knowledgeable person may assist with the resolution of the appeal and, if a specific person is proposed, why that person is considered appropriate.
- (14) Where time allows, the knowledgeable person may submit a report to BCFIRB which will be provided to the parties and may be submitted as expert opinion evidence at a hearing, on the following conditions:
 - (a) the parties and the panel will have the right to question the knowledgeable person regarding any report, and
 - (b) the opinions expressed in the report will not be binding and the panel will ultimately decide what weight, if any, to give to such opinions.
- (15) Whether or not a report is prepared, BCFIRB may require the knowledgeable person to testify at a hearing on his or her opinion and answer questions from the parties and the panel.

Expert Witness

- (16) If a party wishes to rely on an expert witness in relation to a matter, the party must provide BCFIRB and the other party with notice which must include the following:
 - (a) the expert's qualifications; and
 - (b) a brief summary of the expert's opinion.
- (17) A party is required to produce the expert at the hearing for cross-examination as to their qualifications and their opinion, unless BCFIRB orders otherwise.

- (18) BCFIRB may refuse to allow an expert witness to testify where subparagraph (16) of this Rule is not complied with.
- (19) BCFIRB may waive the requirements of this Rule and may impose such other requirements it considers appropriate in the circumstances.

Witnesses

- (20) The parties must arrange for the attendance of their witnesses at a hearing, including production of documents and other evidence. It is up to the parties to ask their witness to voluntarily provide certain documents and evidence and/or attend a hearing.

Summoning Witnesses

- (21) Where a witness will not voluntarily attend the hearing, and/or voluntarily provide documents, a party may apply to BCFIRB for a summons ([ATA, s. 34\(3\)](#)). The application must specify the following:
 - (a) the name, address, telephone number and email of the person for whom the order is requested;
 - (b) how the person's evidence is relevant to the appeal;
 - (c) the documents or things the person is asked to produce or bring to the hearing; and
 - (d) any efforts made to have the person attend or produce the documents voluntarily.
- (22) An application under subparagraph (21) of this Rule does not have to be served on the witness or the other party.
- (23) A person served with a summons may apply to BCFIRB, either in writing prior to the hearing or in person at the hearing, to set aside the summons.
- (24) BCFIRB may set aside a summons 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.
- (25) On an application to set aside a summons, BCFIRB may make any order it deems to be fair in the circumstances.

Confidential Evidence

- (26) Where a party believes that a document, or portion thereof, which has been or is required to be disclosed to BCFIRB should be received by BCFIRB in confidence and not disclosed to the other party, that party must make written application for non-disclosure under [s. 42 of the ATA](#).⁶ The applicant must:
- (a) identify the documents or portions the party believes should not be disclosed, and the reasons for that position; and either
 - (b) notify the other party 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), or
 - (c) make an *ex parte* application⁷.
- (27) Where a party is given notice of an application for non-disclosure of documents under this Rule, the party may provide his or her position on the application within the time specified by BCFIRB.
- (28) Where BCFIRB denies in whole or in part the application to receive a document in confidence, BCFIRB will direct the party who made the application for non-disclosure to disclose the documents or parts thereof.

Adjournment

- (29) BCFIRB may adjourn a hearing at any time on its own initiative.
- (30) A party may file with BCFIRB an application to request an adjournment of a hearing including reasons as to why the application is being made. ([ATA, s. 39\(2\)](#)).

⁶ [Section 42 of the ATA](#) states: “The tribunal may direct that all or part of the evidence of a witness or documentary evidence be received by it in confidence to the exclusion of a party or parties or any interveners, on terms the tribunal considers necessary, if the tribunal is of the opinion that the nature of the information or documents requires that direction to ensure the proper administration of justice.”

⁷ An *ex parte* application is made without notice being given to the opposing party.

- (31) Where a party is given notice of an application for adjournment under this Rule, the party may provide his or her position on the application within the time specified by BCFIRB.
- (32) In deciding whether or not to grant an adjournment, BCFIRB balances the interests of the parties, the public and the animal waiting for a final disposition pending the outcome of an appeal, and considers 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.
- (33) If a hearing is adjourned, BCFIRB may order any terms and conditions which may assist with the fair and efficient conduct of the appeal.

RULE 6: Party Non-Attendance at a Hearing

- (1) Where a party receives notice of a hearing and the party does not attend or participate at the hearing, BCFIRB may:
 - (a) proceed in the absence of the party;
 - (b) adjourn the hearing;
 - (c) decide the matter solely on the material before it; or
 - (d) make any direction or order BCFIRB considers necessary for the conduct of the appeal or a just and timely resolution of the matter.

RULE 7: Recording

- (1) In the usual course, BCFIRB will record the audio portion of an oral hearing (including an electronic hearing).
- (2) Whether or not a hearing is recorded under subsection (1), no party or person may make any electronic recording of a hearing except as directed or ordered by BCFIRB, and any such recording is subject to any conditions imposed by the panel.

- (3) In any case where the hearing is recorded under subsection (1) or (2) and a party to the appeal wishes to obtain transcripts of the hearing, the party will be required to pay the costs of transcription and copying. Parties are to make arrangements for transcription and copying directly with the court reporter.
- (4) No person may take photographs at a hearing or film the hearing.

PART IV: Decision and Costs

RULE 8: Decision

- (1) BCFIRB will send a complete copy of its decision, with reasons, in writing to both parties ([ATA, s. 51](#)).
- (2) The decision is effective on the date it is issued, unless otherwise specified in the decision.
- (3) BCFIRB will post a copy of its decision on its website not less than 5 business days after the decision is issued to the parties, and at its discretion, may remove information that would infringe on the reasonable privacy interests of the parties or a third party.

RULE 9: Errors and Clarifications

- (1) A party who believes there is a clerical, typographical or arithmetical error or accidental omission in a decision, or who seeks a clarification of a matter addressed in the decision ([ATA, s. 53](#)), may apply to BCFIRB, with a copy to the other party, as soon as practicable and not later than 2 business days after receiving the final decision.
- (2) If BCFIRB is satisfied that the request raises a reasonable concern, it will provide the other party with an opportunity to respond before deciding whether to make the requested amendment or clarification.

RULE 10: Costs

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

PART V: Resolution Without a Hearing

RULE 11: Facilitated and/or Mandatory Facilitated Settlement

- (1) At any time during the appeal process and on its own initiative or at the request of a party, BCFIRB may, where it is satisfied it would be in the best interests of the animal, require the parties to participate in a mandatory facilitated settlement process to resolve one or more issues in dispute on the appeal ([ATA, s. 28](#)).
- (2) If a party wishes to apply for a facilitated settlement process at any time during the appeal process, an application under subsection (1) of this Rule must:
 - (a) be made to the executive director;
 - (b) specify what issues are proposed for the facilitated settlement process and the reasons why the party believes that to be appropriate in the circumstances; and
 - (c) be copied to the other parties to which the process applies.
- (3) A party receiving a copy of an application under this Rule may provide his or her views on the submission within the time the Executive Director allows.
- (4) Where facilitated settlement or mandatory facilitated settlement proceeds, the Executive Director will advise whether the settlement process will be conducted by a staff person, board member or other person.
- (5) A board member participating in a facilitated settlement process, other than a PHC under [Rule 5](#), will only participate in the hearing with the consent of the parties.

RULE 12: Settlement

- (1) Any time after an appeal has been filed, the parties may engage in confidential, without prejudice, settlement discussions, and may apply to BCFIRB to defer the appeal process pending the outcome of those discussions.
- (2) BCFIRB may make its staff or a member available to facilitate settlement discussions under this Rule as time, priorities and resources permit.
- (3) If the parties arrive at a settlement of all or part of the appeal, the appellant must advise BCFIRB as to whether all or part of the appeal will be withdrawn (in which case BCFIRB must order that part of the appeal dismissed ([ATA, s. 17](#))) or whether the parties are seeking a consent order, in which case BCFIRB will

advise the parties as to whether it is prepared to make the consent order sought ([ATA, s. 16](#)).

- (4) If the parties seek a consent order including the terms of a settlement, they 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.
- (5) The decision whether to issue a consent order is in the sole discretion of BCFIRB and BCFIRB is not required to issue a consent order solely on the basis that the parties have requested one. Where BCFIRB declines to make a consent order, it will provide the parties with reasons.

RULE 13: Withdrawing an Appeal

- (1) An appellant may withdraw all or part of an appeal at any time by filing a written Notice of Withdrawal with BCFIRB, copied to the Society, in which case BCFIRB must order the appeal or that portion of the appeal dismissed ([ATA, s. 17](#)).
- (2) The Notice of Withdrawal must identify the appeal and the parties and be signed by the appellant or appellant's agent.
- (3) Where the Society does not agree to the appellant's withdrawal of the appeal on a "without costs" basis, it may apply for an order for costs "thrown away" ([ATA, s. 47](#) and [Rule 10](#)).

PART VI: General

RULE 14: Address of Record

- (1) All parties must provide BCFIRB with written notice of their address of record as defined in [Rule 1](#) for purposes of service of notices, documents and orders.
- (2) 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 on the other parties.

RULE 15: Service of Documents

- (1) Although BCFIRB's preferred method of service is by email, a party required to serve a document on another party may 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, the receiving person consents;
 - (d) courier, including Priority Post, to a party's address of record;
 - (e) email if the party receiving the documents has provided an email address for delivery under [Rule 1](#); or
 - (f) any other means, authorized, permitted or directed by BCFIRB.
- (2) If it is impractical to serve or deliver documents in accordance with subsection (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 send the documents:
 - (a) to BCFIRB's address, fax number or email described in [Rule 1](#), or
 - (b) by one of the methods described in subsection (1) of this Rule.
- (4) A fax document must include a cover page with sufficient information to identify the sender, intended 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 received** by the BCFIRB office **before 4:30 p.m.** on a 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 not included in subsection (5)(a), on the date and time, or deemed date and time, specified in BCFIRB's direction.

- (6) BCFIRB's Document Disclosure Practice Directive, issued pursuant to BCFIRB's common law authority to control its own processes, ([ATA, S.13](#)), outlines document disclosure practices for PCAA appeals.

RULE 16: 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 Executive Director.
- (2) All correspondence and documents may be filed with BCFIRB via email unless BCFIRB directs otherwise using the following email address: firb@gov.bc.ca
- (3) A party must copy the other party with all correspondence provided to BCFIRB regarding an appeal, except where these Rules expressly provide otherwise.
- (4) The Executive Director may communicate BCFIRB's orders, decisions or directions with regards to any matter covered by these Rules.

RULE 17: Failure to Comply with These Rules

- (1) Where there has been failure to comply with a requirement in these Rules or a direction or an order of BCFIRB ([ATA, s.18](#)), BCFIRB may, on its own motion, after giving notice to the parties, do one or more of the following:
 - (a) schedule a hearing;
 - (b) continue with the appeal and make a decision based on the information before it, with or without providing an opportunity for submissions; and/or
 - (c) dismiss the appeal.
- (2) If a party believes it has been adversely affected by the failure of the other party to comply with these Rules, the party may apply to BCFIRB in writing setting out:
 - (a) the alleged non-compliance;
 - (b) the nature of the adverse impact; and
 - (c) the remedy sought to address the non-compliance.
- (3) A party who receives a copy of an application under subsection (2) must file a response within the time specified by BCFIRB.

- (4) Where BCFIRB finds non-compliance with the Rules, it may consider that non-compliance in making any further orders it has the authority to make under the [PCAA](#), [NPMA](#), the [ATA](#) or at common law. This includes but is not limited to the power to make awards for costs (see [Rule 10](#)).

APPENDIX A: Notice of Appeal Form – Prevention of Cruelty to Animals Act



BC Farm Industry Review Board

Mailing Address (Canada Post):

PO Box 9129 Stn Prov Govt

Victoria BC, V8W 9B5

Street Address (Courier or in-person):

2975 Jutland Road

Victoria BC, V8T 5J9

Telephone: 250 356-8945,

Facsimile: 250 356-5131

Email: firb@gov.bc.ca

Website: www.gov.bc.ca/BCFarmIndustryReviewBoard

Notice of Appeal

You can use this form to file an appeal with the British Columbia Farm Industry Review Board (BCFIRB) about the seizure of your animal by the BC Society for the Prevention of Cruelty to Animals (BC SPCA) and/or related costs. Please read the following instructions carefully. BCFIRB **cannot hear appeals** of BC SPCA review or costs decisions submitted **outside of the time limits** set out in this form.

- (1) The notice of appeal must be made **in writing and received** by BCFIRB by the deadline set on page 3 of this form.
- (2) A **\$100.00** (one hundred dollars) filing fee (cheque or money order payable to the Minister of Finance) must be **received** by BCFIRB **by the deadline** set on page 3 of this form.
- (3) **A copy** of the completed notice of appeal and any attachments (not including the filing fee) must be submitted **to the BC SPCA**.

Please note that BCFIRB may use the contact information below for the purpose of conducting surveys to evaluate and improve services as per ([ATA s 59.1](#)).

A: Appellant Information

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

Complete next page

B. Options for Appeal – Please check one or more of the options below

<input type="checkbox"/> Decision of the BC SPCA following a request for review (notice given that animal will be destroyed, sold or otherwise disposed of). See #1 below for time limits.	Date BC SPCA Decision Received:
<input type="checkbox"/> No decision received from BC SPCA 28 days following a request for a review. See #2 below for time limits.	Date Review Requested:
<input type="checkbox"/> Payment of costs. See #3 below for time limits.	Date BC SPCA Invoice Received:

C. Grounds for Appeal

I am appealing (enter the BC SPCA Decision):	Date of Decision:
Specify why the decision should be changed (explain how the Society's decision to take animal(s) into custody was wrong, why the Society's costs calculation was unreasonable and/or why animal(s) should be returned).	

State the outcome requested from BCFIRB (remedy/decision).

If more room is needed please attach a separate sheet and include any relevant documentation.

Signature: (of Appellant or Agent/Representative)

Date:

- \$100 Filing fee attached**
- Copy to BC SPCA**
- Documentation attached**

X

Appeal Time Limits

Notices of appeal must be made **in writing** and **received** by BCFIRB within the following time limits. Under the Prevention of Cruelty to Animals Act, BCFIRB **cannot** hear appeals of BC SPCA review or costs decisions submitted **outside of the time limits** set out on page 3 (next page).

Situation #1:

I asked the BC SPCA to review the seizure of my animal. The BC SPCA reviewed the seizure and told me they will not return my animal. I am appealing their review decision to not return my animal:

- Appeal must be received by BCFIRB **within four (4) calendar days** of you getting the BC SPCA decision.
- Filing fees for these appeals must be received by BCFIRB **within six (6) calendar days** of you getting the BC SPCA decision.
 - To calculate the four (4) days, start counting on the day after you receive the BC SPCA decision. If BCFIRB is not open on the 4th day (e.g. weekend or holiday) the time is extended to the next day the office is open. The same method is used to calculate the six (6) days for the filing fee.

Situation #2:

I asked the BC SPCA to review the seizure of my animal. The BC SPCA has not provided a decision. I want to appeal the original decision to take my animal:

- Appeal must be in writing and **received** by BCFIRB **no earlier than 28 calendar days** following your request to the BC SPCA for a review.
- Filing fees for these appeals must be received by BCFIRB **within two (2) calendar days** of the written Notice of Appeal.
 - To calculate the 28 days, start counting on the day after you requested a review. You can file an appeal on or as soon as possible after the 29th day.

Situation #3:

I am appealing the amount of costs the BC SPCA has told me I must pay:

- Appeal must be received by BCFIRB **within four (4) calendar days** of you receiving the BC SPCA decision.
- Filing fees for these appeals **must be received by BCFIRB within six (6) calendar days** of you receiving the BC SPCA decision.
 - To calculate the four (4) days, start counting on the day after you receive the BC SPCA decision. If BCFIRB is not open on the 4th day (e.g. weekend or holiday) the time is extended to the next day the office is open. The same method is used to calculate the six (6) days for the filing fee.

Contact Information:

British Columbia Farm Industry Review Board

Mailing Address (Canada Post):

PO Box 9129 Stn Prov Govt

Victoria BC V8W 9B5

Street Address (Courier or in-person):

2975 Jutland Road

Victoria BC V8T 5J9

Telephone: (250) 356-8945

Facsimile: (250) 356-5131

Email: firb@gov.bc.ca

Website: www.gov.bc.ca/BCFarmIndustryReviewBoard

BC Society for the Prevention of Cruelty to Animals

Mailing Address:

1245 East 7th Avenue

Vancouver, BC V5T 1R1

Telephone: (604) 681-7271

Facsimile: (604) 681-7022

Email: mmoriarty@spca.bc.ca