

Board rules of practice and procedure

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A. General

Definitions

In these rules,

“Act” means the Passenger Transportation Act;

“appellant” means a licensee who has initiated an appeal of a decision of the Registrar to impose an administrative penalty on the licensee;

“applicant” means a person who has made application to the Registrar for:

- a) a licence, a transfer of a licence, additional vehicles or an amendment to a licence,
- b) a change of rates, or
- c) a temporary operating permit, and

who seeks, or has, a special authorization to operate inter-city buses or passenger directed vehicles;

“Board” means the Passenger Transportation Board and includes a member, panel or Chair of the Board and may include Board staff;

“Branch” means the Passenger Transportation Branch and includes the Registrar and officers and employees of the Registrar;

“Board staff” includes the Director to the Board, the Policy, Programs and Communications Manager, Financial, Appeals and Operations Coordinator, the Research and Administrative Coordinator, other officers and employees required to allow the Board to perform its functions, and persons contracted on behalf of the Board to provide services to the Board;

“bulletin” means the Weekly Bulletin;

“Chair” means the Chair of the Passenger Transportation Board as designated by the Lieutenant Governor in Council;

“courier” includes Priority Post;

“crew transportation” includes transportation of marine, railway, airline or postal workers

“day” means calendar day unless otherwise specified;

“fees” means fees payable to the Board and includes submission fees and appeal fees but does not include application fees;

“hearing chair” means the member designated by the Chair as chair for a hearing and may be the Chair.

"holiday" includes:

- a) Sunday, Christmas Day, Good Friday and Easter Monday,
- b) Canada Day, Victoria Day, British Columbia Day, Labour Day, Remembrance Day and New Year's Day,
- c) December 26, and
- d) a day set by the Parliament of Canada or by the Legislature, or appointed by proclamation of the Governor General or the Lieutenant Governor, to be observed as a day of general prayer or mourning, a day of public rejoicing or thanksgiving, a day for celebrating the birthday of the reigning Sovereign, or as a public holiday;

"licence" means a passenger transportation licence with a Special Authorization unless otherwise specified;

"member" means a person appointed by the Lieutenant Governor in Council to the Passenger Transportation Board and includes the Chair;

"panel" means a member or members, including the Chair, appointed by the Chair to exercise some or all of the powers and duties of the Board;

"participant" means an applicant and persons who, pursuant to 27(4) of the Act, are permitted to make submissions at a hearing, but does not include a witness or a "Guest of the Board" under Rule 24;

"person" includes a corporation, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to law;

"proceeding" means an investigation conducted under section 7 (1) (b), any application made or forwarded to the board, any reconsideration, appeal or other hearing conducted by the board;

“published” means any document posted on the Board’s website and includes those in the Weekly Bulletin

“registrar” means the Registrar of Passenger Transportation;

“submitter” means a person, other than the applicant, permitted by the Board, pursuant to Section 27 (2) and (4) of the Act, to make submissions on an application.

Rule 1: Compliance with these rules

1. All persons must comply with these Rules unless the Board orders or directs otherwise.
2. The Board may exercise any power under these rules on the Board's own initiative or on the request of a participant.
3. Where appropriate given the circumstances, the Board may waive or vary these rules and may shorten or lengthen any time limits in these rules, other than time limits prescribed by the Passenger Transportation Act or the Administrative Tribunals Act.

Rule 2: Communications with the Board

1. Communication to the Board must be initiated through Board staff except in the following circumstances:

- a) applications made to the Registrar pursuant to sections 24, 30, 31, 32, and 35 of the Act,
 - b) communications at proceedings chaired by a panel of the Board, or
 - c) advisory committees established by the Board.
2. Communications at advisory committees established by the Board will be of a general nature relating to the regulation of commercial passenger transportation.
3. Pursuant to Rule 2.2, matters relating to specific proceedings before the Board are prohibited from being discussed at advisory committees established by the Board.
4. Where participants are represented by counsel or an agent, Board staff will communicate with them through their counsel or agent unless direct communication is necessary.

Rule 3: Sending of notices and responses

1. The Board may send notices, responses, correspondence or other communications:
- a. by ordinary mail
 - b. by personal delivery

c. by courier

d. by electronic mail and

e. by registered or express mail

to the most recent street address, post office box, or email address applicable.

2. The Board will communicate primarily by email unless there is no email address or the Board considers another form of communication is appropriate in the circumstances.

3. Notices, responses, correspondence or other communications given to the Board may be sent:

a. by ordinary mail

b. by personal delivery

c. by courier

d. by registered or express mail; or

e. by electronic mail

to the Board's post office box, street address, or email as is applicable.

4. Email is the preferred method of communication.

5. If a notice is sent to the Board by personal delivery, it is deemed received:
 - a. on the day of delivery if Board staff accepts it at any time that day and
 - b. on the next day if it arrives after 4:30 p.m. and Board staff are unable to accept it, unless the next day is a Saturday or holiday, in which case the day of delivery is the next day that is not a holiday.
6. If a notice or response is sent by ordinary mail, it is deemed to be received pursuant to Section 55(3) of the Act.
7. If a notice or response is sent by registered mail, it must be sent to the most recent address known to the sender and is deemed received
 - a. on the day it was delivered according to Canada Post's mail tracking system; or
 - b. on the fifth day after it is mailed if Canada Post does not deliver it within 5 days, or if the fifth day is a Saturday or holiday, on the next day that is not a holiday.
8. If a notice or response is sent by electronic transmission, it is deemed to be received pursuant to Section 55(4) of the Act.
9. All documents sent to the Board must state the:

- a. date of the document;
 - b. full name of sender;
 - c. title and position of the sender, if applicable;
 - d. application number or name, if any, applicable to the document sent.
10. A document that is sent by electronic mail must include sufficient information to identify the sender, recipient, date and time of transmission, and a telephone number to call in case of transmission problems.
11. All documents being filed to replace or supersede documents previously sent to the Board must clearly identify the documents being replaced by stating the document name, date of original document and page numbers of original document.
12. If the Board is of the opinion that because the participants to any proceeding before it are so numerous or for any other reason it is not practical to give notice of the hearing to all or any of the participants individually, the Board may give notice of any aspects of the proceeding to participants by posting a notice in the Bulletin or public advertisement or otherwise as the Board may direct.

Rule 4: Bulletin

1. The Board will publish a Bulletin that provides notice of Board related matters, including, but not limited to, applications for special authorization that have been received by the Board, decisions on applications for special authorizations, hearing notices, Board determinations pursuant to Section 25(5) of the Act and inquiries held by the Board.
2. The Bulletin will be posted at a minimum, on the Board's website every Wednesday except for Wednesday, January 1st, Wednesday, July 1st; Wednesday, November 11th; Wednesday, December 25th; or the first Wednesday following December 25th. The Board may publish the Bulletin on additional days if circumstances warrant.
3. Board staff will provide a print copy of a specific Bulletin to any person who makes a request for a copy.
4. Notwithstanding Rule 4.3, Board staff will not provide print copies to any person on a regular basis or establish a weekly mail out of print copies of the Bulletin.

B. Applications relating to special authorization licences

I. Publication, submissions and withdrawals

Rule 5: Information required by the Board

1. Applicants may be required to provide the following information to the Board:
 - a) public information about their application;
 - b) documentation supporting the public need for the service requested;
 - c) business plans outlining such matters as service plans, business goals, success indicators; market analysis and break-even analysis;
 - d) financial information, such as cash flow statements, balance sheets, and net income statements or personal net worth statement;
 - e) information on the business experience or work experience of the applicant; and
 - f) other information requested by the Board that it considers relevant to the application.
2. If an applicant is required to provide supporting information, the applicant must collect this information and provide it to the board as part of its application package.
3. Any unsolicited supporting information, such as statements of support, received directly from a supporter will not be considered by the Board.

Rule 6: Incomplete applications

1. If the Board receives an incomplete application from the Branch, Board staff will write to the applicant indicating
 - a) the information that is outstanding
 - b) a date by which the information must be supplied and;
 - c) if the information is not received within specified timeframe, the Board may dismiss the application as being abandoned.

Rule 7: Applications unlikely to succeed

1. If the Board receives an application that it thinks that there is no reasonable prospect that the application will succeed, the Board will:
 - a) notify the applicant that it intends to dismiss the application.
 - b) provide the applicant with an opportunity to make submissions.
 - c) review the submissions, if any, and notify the applicant of the Board's decision.

Rule 8: Application summary

1. Subject to Section 26(3) of the Act, Board staff will prepare an “Application Summary for Publication” for applications relating to special authorization licences received from the Registrar.
2. The application summary referred to in Rule 8.1 is deemed by the Board to meet the requirements of section 26(2) of the Act.
3. Board staff will send applicants a copy of the “Application Summary for Publication” referred to in Rule 8.1 and applicants must, before the date specified by Board staff:
 - a) sign and return the “Application Summary for Publication” to the Board, with corrections, if any; or
 - b) request more time to return the “Application Summary for Publication”.
4. If more time is requested to return the “Application Summary for Publication” pursuant to Rule 8.3.b, Board staff may grant or refuse the request and:
 - a) if granted, establish a new date by which the summary of the application must be received by the Board; and
 - b) if refused, send the application forward to the Board for direction or disposition.

Rule 9: Public explanation of application

1. The Board may require applicants for a passenger directed vehicle service to provide a “Public Explanation of the Application” with their application materials.
2. Any document required under Rule 9.1 above will be published with the application summary.

Rule 10: Notice and publication of applications

1. An “Application Summary for Publication” that has been signed by the applicant pursuant to Rule 8.2.a will be published in the Bulletin.
2. Board staff will provide print copies of published summaries to any person who makes a request for a specific application, provided that Board staff have enough information to determine the specific application being requested.
3. Prior to publication, Board staff will not disclose, or acknowledge the receipt of an application to anyone other than an applicant or his or her agent, any person authorized by the applicant to make an inquiry on his or her behalf, or the Branch, unless disclosure is authorized under an enactment or in the public interest.
4. Notwithstanding Rule 10.3, Board staff may confirm receipt of an application that includes a claim of urgent and public need.

Rule 11: Revision of published applications

1. If an applicant requests a revision to its published application, it must notify the Board in writing, or, if the applicant is at an oral hearing, it must notify the hearing chair.
2. If the Board is satisfied that the revision requested pursuant to Rule 11.1 does not significantly change the fact and nature of the published application, the Board may not require re-publication but may require that notice be provided to persons who have made submissions or otherwise have an interest in the application.
3. If an application revision referred to in Rule 11.1 results in the withdrawal of submitters from an oral hearing, the Board may order that the oral hearing is discontinued and conducted by another means and with no further participation of submitters.
4. If the Board is satisfied that the revision requested pursuant to Rule 11.1, significantly changes the fact and nature of the published application, the Board may
 - a) stop processing the application, and
 - b) re-publish the application
5. Pursuant to Rule 11.4, submitters who made submissions on the original published application, may, at no additional fee, amend their submissions to reflect the re-published application.
6. The Board may require an applicant to supply additional information to support its application revisions.

1. Applicants wanting to have an application processed on the basis of “urgent public need” pursuant to Section 26(3) of the Act must submit a letter to the Board asking that the application be processed on the basis of urgent public need and explain the specifics of the “public need” and “urgency”.
2. Applicants may be required to supply independent documentation to support the request for the urgent public need.
3. Upon receipt of a request to process an application on the basis of urgent public need, the Board will review the application to determine whether or not the application will be processed on the basis of urgent public need.
4. If the Board processes the application on the basis of “urgent public need”, the Board may grant or refuse an application, and in such cases, the Board’s decision is final.
5. Subject to Section 31 of the Administrative Tribunals Act and Rule 7, if the Board refuses to process the application on the basis of “urgent public need”, the Board will:
 - a) notify the applicant of the Board’s decision
 - b) continue processing the application according the Act, Regulations and these Rules.

6. If the Board refuses to process the application on the basis of “urgent public need” and
 - a) the application has not been published, the Board may place it back in the application queue so that it is processed in the order in which it would have been if the urgent public need request had not been made; or
 - b) the application was published, the Board will withdraw the publication of the application and it will be re-published in the next bulletin following the Board’s refusal of the urgent public need request.
7. If the Board receives a submission on an unpublished urgent public need application, the Board may accept the submission and forward it to the applicant for comment if, in the opinion of the Board, the person’s submission is
 - a) likely relevant to the Board’s consideration of the application as outlined in sections 26(3) and 28(1) of the Act, and
 - b) could assist the Board in its decision-making process.

Rule 13: Submissions

1. Submissions on applications published pursuant to Rule 10.1 must be:

- a) in writing; and
 - b) received by the Board within the submission due date specified in the Bulletin.
2. Subject to Section 27(6) of the Act, the \$50 submission fee must be received by the Board:
- a) within the submission due date specified in the Bulletin; or
 - b) no later than 5 days after the Board receives a written submission pursuant to Rule 13.1.b.

Rule 14: Applicant's reply to submissions

1. Board staff will forward submissions filed pursuant to Rule 13 to applicants who will be given a due date for a reply to the Board.
2. Applicants may
 - a) reply to the submissions in the time set by the Board
 - b) request more time to reply
 - c) notify the Board if a reply is not coming

3. If an applicant fails to respond to the Board by the due date, Board staff may forward the file to the Board for direction or disposition.

Rule 15: Late submissions

1. A person who wants to make a submission after the submission due date has expired must make a late submission request to the Board and:
 - a) explain why the submission was not filed in time and
 - b) include the submission,
2. The Board may accept a submission from a person who did not file a submission in accordance with Rule 13 if, in the opinion of the Board, the submission is:
 - a) likely relevant to the Board's consideration of the application as outlined in section 28(1)(a)-(c); and
 - b) could assist the Board in its decision-making process.
3. Subject to Section 27(6) of the Act, a late submission must be accompanied by the \$50 submission fee.
4. Any late submission that is not accepted by the Board will be returned to the submitter.

5. Any late submission accepted by the Board will be forwarded to the applicant pursuant to Rule 13.

Rule 16: Supplemental submissions

1. A submitter who wants to make a supplemental submission must make a request to the Board and
 - a) explain why a supplemental submission is necessary,
 - b) include the supplemental submission, and
 - c) copy the applicant on the request.
2. Within 10 days of receiving the supplement submission request, the applicant may make a submission to the Board on whether the Board should accept the request.
3. The Board may accept a supplemental submission if, in the opinion of the Board, the supplemental submission is:
 - a) likely relevant to the Board's consideration of the application as outlined in section 28(1)(a)-(c), and
 - b) could assist the Board in its decision-making process.

4. If the Board accepts the supplemental submission, applicant will have an opportunity to make a reply on its merits.

Rule 17: Confidential information from an applicant

1. Information submitted by an applicant pursuant to Board application requirements that contains:
 - a) private financial information in the form of balance sheets, current or historical financial statements, personal financial information of an applicant/licensee or principals of an applicant/licensee or income or personal net worth statements;
 - b) private business details such as specific customer account information, information on identifiable customers other than a contractor of passenger transportation services, specific number of trips made by a commercial passenger vehicle, trade secrets or other information that the Board considers,
 - i. by its nature exclusive to a company and
 - ii. has the potential, if disclosed, to significantly harm the competitive position of a company;
 - c) information received in a criminal record check that is not public will be considered confidential information of the applicant and will not be subject to disclosure in any proceedings before the Board unless disclosure is necessary to ensure the proper administration of justice.

2. Information other than that referred to in section 17.1 is not considered confidential and may be disclosed at the Board's discretion at any stage in proceedings before the Board.

Rule 18: Confidential information from a submitter

1. If a submitter wishes to submit evidence to the Board in confidence pursuant to S.42 of the Administrative Tribunals Act, he or she must make a request to the Board and copy the applicant on any such request.
2. The Board may require a submitter to provide proof that this request was served on the applicant.
3. A request made under Rule 18.1 must include:
 - a) a summary of the type of evidence the submitter is proposing to submit in confidence; and
 - b) a rationale as to why the proper administration of justice requires that the evidence be submitted in confidence.
4. Unless the Board specifies an earlier date, an applicant, if it chooses, must make any submissions to the Board on a request received pursuant to Rule 18.1 within 7 days of receipt of the submitter's request to submit evidence in confidence.

5. In determining whether or not to accept evidence in confidence, the Board will be guided by Rule 18.1.
6. The Board will notify a submitter and the applicant of any decision or orders it makes with regard to a request received pursuant to Rule 17.1.

Rule 19: Withdrawals

1. At any time before the date of the Board's decision, an applicant may withdraw an application for a special authorization by giving notice of withdrawal to the Board or the Registrar.
2. A notice of withdrawal must:
 - a) clearly state the intention to withdraw from the application process
 - b) include the applicant's application number and legal business name
 - c) be signed by an individual with signing authority for the business
3. If a notice under Rule 19.1 is received by the Registrar, it will be forwarded immediately to the Board and vice versa.
4. If a notice of withdrawal is filed with the Board or the Registrar under Rule 19.1, the Board will publish the application as "withdrawn".

II. Board reviews of applications

Rule 20: Board decision-making processes

1. After the timelines for receipt of submissions and the applicant's replies have elapsed, Board staff complete an overview of the application file.
2. After the overview of the application file is complete, Board staff notify the Board Chair who appoints a panel of one or more members to review the file.
3. The panel may do one or more of the following:
 - a) direct Board staff to conduct an investigation into any matter relating to the application, including contacting an applicant, submitter or another person who may have information pertinent to the application;
 - b) direct the Registrar to conduct an investigation into any matter relating to the application, including contacting an applicant, submitter or another person who may have information pertinent to the application, and to provide, in writing, the results of the investigation to the Board
 - c) make a decision on the application; or

- d) recommend to the Chair that the application be set down for an oral hearing.
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- 4. Subject to any decision of the Board pursuant to Section 42 of the Administrative Tribunals Act, if an investigation is conducted pursuant to Rule 20.3.a), Board staff will provide the applicant with a copy of any information that has the potential to negatively impact the application or applicant and provide the applicant with a timeframe in which to respond to such information.
 - 5. Subject to any decision of the Board pursuant to Section 42 of the Administrative Tribunals Act, the written results of a Registrar's investigation provided to the Board under Rule 20.3.c will be forwarded to the applicant to reply within specified timelines.
 - 6. If the Chair accepts a panel recommendation pursuant to Rule 20.3.d, the Chair will appoint a hearing panel of one or more members.
 - 7. If the Chair does not accept the panel recommendation pursuant to Rule 20.3.d, the Chair may refer the application back to the original panel member, or to another board member, for further review, investigation or decision.

Rule 21: Types of hearings

- 1. The Board may direct that a hearing be conducted by:

- a) an oral hearing;
- b) a telephone conference;
- c) written materials and submissions delivered to the Board;
- d) combination of (a), (b) or (c); or
- e) any other electronic or digital means, including video chat platforms, the Board determines is appropriate.

C. Oral Hearings

I. Notice, submissions, evidence, adjournments

Rule 22: Notice of oral hearing

1. The Board will serve notice of the date, time and place of an oral hearing to applicants and any persons who filed submissions under Rule 13.
2. The Board will publish notice of the date, time, and place of an oral hearing in the Bulletin.

3. Subject to Section 27(6) of the Act, any person, including those who have filed a submission under Rule 13, wishing to be a submitter at a hearing must, within the time specified in the oral hearing notice
 - a) pay to the Board the prescribed fee of \$50; and
 - b) provide to the Board and applicant a written summary of the assertions and evidence that the submitter intends to present at a hearing.
4. The Board may require persons to provide proof that the applicant was served the documents referred to in Rule 22.3.b.
5. If the Board does not receive any requests to make submissions at the oral hearing, the Board may
 - a) order that an oral hearing be discontinued, and
 - b) conduct a hearing by another means as set out in Rule 21.1.
6. If a hearing is adjourned after notice of the hearing is published, the Board is not obligated to:
 - a) extend the timelines for accepting submissions; or
 - b) accept additional submitters

when any subsequent hearing notices are published.

Rule 23: Addition of a late submitter to an oral hearing

1. A person, who has not met the requirements of Rule 22.3, may make a request in writing to the Board that the Board accept the person as a late submitter.
2. Any request made to the Board pursuant to Rule 23.1 must include:
 - a) a summary of the assertions and evidence that the submitter intends to make at the hearing if accepted as a late submitter;
 - b) a statement of how the evidence is relevant to the Board's consideration of the application as outlined in section 28(1)(a)-(c) of the Passenger Transportation Act; and
 - c) an explanation as to why the submission was not filed in accordance with the timelines set out in the notice of hearing referred to in Rule 22.3
3. The Board may
 - a) disclose information received pursuant to Rule 23.1 and Rule 23.2 to the applicant or to any or all submitters who have filed submissions in accordance with the timelines outlined in Rule 22.3; and
 - b) accept submissions on the request made under section 23.1

4. The Board may accept a person, who makes a request pursuant to in Rule 23.1, as a submitter at an oral hearing, if in the opinion of the Board, the person's submission is:
 - a) likely relevant to the Board's consideration of the application as outlined in section 28(1)(a)-(c); and
 - b) could assist the Board in its decision-making process.
5. If the Board accepts a late submission, the submitter must pay the \$50 submission fee within 5 days of receiving the decision of the Board.

Rule 24: Disclosure and confidentiality

1. Subject to any orders made by a panel at a hearing or pre-hearing conference, Rules 17 and 18 apply to oral hearings.
2. If a submitter is making a request pursuant to Rule 18, with respect to evidence at a public hearing, this request must be made as soon as possible and no later than 14 days prior to the date scheduled for the start of the hearing.

Rule 25: Guests of the Board

1. The Board may invite a person to make representations, as a guest of the Board, to the hearing panel on a matter relevant to the application.
2. A guest of the Board may be asked to swear an oath or affirmation.
3. Board staff will ask the guest of the Board a set of questions, and then the hearing chair may allow some or all participants to ask questions, through the panel, of the guest of the Board.
4. Guests of the Board are not submitters and are not required to pay the prescribed submission fee.
5. The Board will advise participants in advance of an oral hearing of any guests of the Board who will appear at the hearing.

Rule 26: Use of audio visual or media equipment

1. A person who wishes to use audio visual, media or other equipment at a hearing must:
 - a) make any such arrangements through Board staff;
 - b) pay any and all costs associated with the equipment; and
 - c) ensure that copies of the presentation are available for the Board and all participants.

Rule 27: Oral hearing management procedures

1. At any time after publishing an oral hearing notice, the Board may require participants to:
 - a) provide additional information on the issues related to the application and submissions;
 - b) prepare and produce statements of issues, evidence and arguments and supporting documents within a specified time; and
 - c) attend a pre-hearing conference as outlined in Rule 33.
2. Subject to Rules 17, 18 and 24, if an oral hearing has been set, any communications to the Board from participants about any hearing matter must be in writing and copied to all known participants.
3. The Board may prohibit a person who fails to comply with a requirement or an order of the Board from further participating in the hearing.

Rule 28: Oral hearing - notification of counsel or agent

1. Participants must provide notice to the Board and any other known participants if, at any time during the hearing process, a participant is, or becomes, represented by counsel or an agent.
2. If there are any changes to participant contact information or representation, a notice with updated contact information must be sent promptly to the Board and any known participants.

Rule 29: Disclosure of evidence prior to a hearing

1. At a pre-hearing conference or, in writing if there is no pre-hearing conference, the Board will establish dates on which participants must provide to the Board and other participants:
 - a) the name of the witness,
 - i. the organization, if any, that the witness represents and the witness' position in the organization,
 - ii. a telephone number for the witness,
 - iii. an e-mail address for the witness, if available, and
 - iv. a brief statement of the nature of the evidence that the witness will provide to the Board; and
 - b) copies of any written or media presentations that will be introduced in evidence at the hearing unless the information is available on the internet, in which case a website that takes a person to specific location of the information is acceptable.
2. Witness lists may be submitted electronically.
3. If a witness list provided pursuant to 29.1 appears unreasonable or to contain witnesses that will provide unduly repetitive testimony, the Board may order a participant to provide a revised witness list.

4. If a witness not listed on the witness list appears at a hearing, the Board may permit the witness to give evidence if the Board is satisfied that:
 - a) the witness has relevant information for the Board:
 - b) the witness was omitted from the witness list due to inadvertence or oversight or any other reason beyond the control of the participant calling the witness; and
 - c) no participant would be unduly prejudiced by the appearance of the witness.
5. If the Board hears from a witness pursuant to Rule 29.3, other participants may be permitted to call a rebuttal witness.
6. Unless otherwise ordered by the Board, participants must provide a minimum of 2 copies of written and media presentations to the Board in accordance with Rule 29.1.
7. If pursuant to Rule 29.1.b, a website is provided rather than an actual document, the actual document must be produced at the hearing if it is to be introduced as evidence and participants must bring enough copies of any such document for the panel members and all other participants.
8. If a participant does not provide evidence in advance in accordance with Rule 29.1.b, the panel will decide whether or not to accept the evidence in accordance with Rule 29.10.

9. At a hearing, a participant may request that the Board accept evidence that was not provided to the Board or other participants in advance as required by Rule 29.1.b.
10. A participant who makes a request under Rule 29.8 must show the Board that the evidence is:
 - a) likely relevant to the Board's consideration of the application as outlined in section 28(1)(a)-(c);
 - b) could assist the Board in its decision-making process; and
 - c) that the failure to disclose the information in time was due to inadvertence or oversight or any other reason beyond the control of the participant seeking to introduce the evidence.
11. Other participants may be permitted to make submissions to the Board on whether or not the Board should accept the evidence offered pursuant to Rule 29.9.
12. The Board may refuse to accept the evidence offered pursuant to Rule 29.9 if the Board is satisfied that:
 - a) the evidence is not likely relevant;
 - b) the evidence would not assist the Board in its decision-making process;

- c) there has been a wilful or recurring failure to comply with the Act, these Rules or orders of the Board; or
 - d) the acceptance of the evidence would unduly prejudice other parties or otherwise result in a breach of natural justice.
13. If the Board accepts the evidence offered, other participants will be given an opportunity to review the evidence prior to its being entered.
14. If a participant provides written submissions at a hearing, the participant must provide one copy of the submission for each panel member, the hearing officer and one copy each for all other participants.
15. If required copies of any documents or materials are not provided as set out in Rule 29.14 above, or additional copies required, the participant wishing to submit the material must reproduce it at their own cost.

Rule 29.1: Disclosure of records, information and reports by the Board prior to a hearing

1. At a pre-hearing conference or, in writing if there is no pre-hearing conference, the Board will advise if it intends to produce any records, information or reports at an oral hearing and the dates on which any records, information or reports will be provided to participants.

Rule 30: Expert evidence

1. Unless the Board otherwise orders, a participant may not present expert evidence except in accordance with these Rules.
2. Expert evidence may be admissible if, in the opinion of the Board, it is reasonably necessary to assist the Board in deciding a relevant issue.
3. An "expert" is someone who is qualified by education, training or experience in a particular subject, to give an opinion on that subject.
4. Witnesses who are not "experts" may not be entitled to give opinions on matters outside common everyday experience.
5. If the opinions of "non-expert" witnesses are admitted pursuant to Rule 30.4, these opinions may be given less weight by the hearing panel.
6. Objections to a person's qualifications as an expert will not generally cause a panel to exclude the evidence but may affect the weight given to the evidence.
7. Unless the Board orders otherwise, not more than 21 days after the notice of hearing is published, participants must provide to other participants and to the Board, notice of intent to produce an expert witness or an expert report or both.

8. The notice referred to in 30.7 must indicate the name or organization of the expert and the type of opinion or report to be entered.
9. Subject to Rule 30.7, at least 21 days before the first day of the hearing, the participants must, unless the Board orders otherwise, provide to other participants and to the Board, copies of any expert reports which will be submitted as evidence at the hearing, or if a participant intends to call an expert witness without a report, the participant must produce a written statement of the opinion to be given, the facts upon which the opinion is based, and the qualifications of the expert witness.
10. Any replies or rebuttals to expert witness reports may be accepted at the discretion of the Board.

Rule 31: Compelling witnesses, documents or other materials

1. A participant may make a request to the Board, not less than 14 days before the first day of the hearing, for an order requiring another person:
 - a) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in the hearing; or
 - b) to produce for the Board or another participant a document or other thing in the person's possession or control as specified by the Board that is admissible and relevant to an issue in the hearing.

2. The request must be in writing and include:
 - a) the name and address of the witness;
 - b) the reason the person's attendance is required;
 - c) a description of the documents or other items which the witness is requested to bring to the hearing;
 - d) the reason why such materials are relevant; and
 - e) details of any attempts made to have the witness voluntarily attend.
3. The participant requesting the order must deliver a copy of the request made, pursuant to Rules 31.1 and 31.2, to the other participants within 2 days of filing the request with the Board.
4. If the Board grants the order, it may make an order requiring the participant applying for the order to pay reasonable witness fees and expenses associated with the witness' attendance at the hearing.
5. If an order is issued, the participant who applied will be required to serve the order within a reasonable time before the witness is required to appear.

6. A person who is summoned to appear at a hearing may make a request in writing to the Board, before the hearing, or in person at the hearing, for the order to be set aside or modified.
7. The Board may cancel or vary an order to appear, if it is satisfied that the evidence of the person is:
 - a) not likely relevant;
 - b) may be obtained through some other means;
 - c) is protected by legal privilege;
 - d) the person is not able to provide the information sought; or
 - e) any other circumstance which, in the opinion of the Board, would excuse the person from attending the hearing.

Rule 32: Adjournments

1. A participant may ask the Board to adjourn a hearing.

2. Unless the request is made at a pre-hearing conference or hearing, all requests for adjournments must be:
 - a) in writing; and
 - b) copied to other known participants at the same time the request is made to the Board.
3. The Board may require participants to prove that other participants were served the documents referred to in Rule 32.2.b.
4. Unless otherwise ordered by the Board, a participant copied on an adjournment request under Rule 32.2.b will have no more than 7 days from date of the request to provide a written response to the Board.
5. The Board may request further information or submissions from the participants, conduct a pre-hearing conference to address the request, and allow or disallow the request whether or not the other participants have consented to the adjournment.
6. If a hearing is adjourned, the Board may order:
 - a) terms and conditions respecting rescheduling;
 - b) attendance at a pre-hearing conference;

- c) production of documents or reports; or
 - d) any other matters which may assist with the fair and efficient conduct of the application.
7. If a hearing is adjourned, the Board may order that the oral hearing be discontinued and conducted by another means as set out in Rule 21.

II. Pre-hearing conferences

Rule 33: Conducting pre-hearing conferences

1. Pre-hearing conferences will be conducted by a panel and may be held in person, by telephone conference or by some other method such as video chat platforms or digitally.
2. The panel conducting a pre-hearing conference may make any order considered appropriate for the efficient conduct of the hearing and, without limitation, may do one or more of the following:
 - a) canvass the issues and assist the participants to clarify the issues;
 - b) consolidate all or part of the hearing with another hearing;

- c) require a participant to produce for the Board or another participant, or allow the Board or another participant access to, any documents or other information which may be relevant to an issue or that may be submitted as evidence in the hearing;
- d) require a participant to prepare and produce for the Board and other participants a list of witnesses and a written summary of the witnesses' evidence;
- e) require a participant to prepare and produce for the Board and other participants Notice of an Expert Witness and a written summary of the evidence to be given by an expert witness;
- f) require the experts who have been retained by the participants to confer, on a without prejudice basis, to determine issues, facts and opinions on which they agree and do not agree,
- g) require participants to prepare and produce an agreed statement of facts;
- h) require one or all participants to prepare and produce statements of issues, evidence and supporting argument and documentation, written summaries of evidence, expert reports or written submissions, or to produce documents, in advance of other participants;
- i) require the participants to prepare and produce written submissions;
- j) impose time limitations and terms and conditions on the production of documents, expert reports, agreed statements of facts, written submissions or any other process necessary for the fair and efficient management of the hearing;
- k) schedule or reschedule dates for a hearing;

- l) require the attendance of a witness at a hearing; and
 - m) record the results of the pre-hearing conference including a summary of the issues.
3. A member who presides at one or more pre-hearing conferences may also be a panel member at the subsequent hearing.

III. The hearing

Rule 34: Panel controls process and procedure at hearings

1. The Board has discretion to determine the location for an oral hearing.
2. The panel conducting an oral hearing has discretion in the manner in which the hearing will be conducted and, without limitation, may:
 - a) determine the order of proceeding;
 - b) require witnesses to swear an oath or affirmation;
 - c) add participants, including late submitters and guests of the Board, and provide direction regarding their participation at the hearing;

- d) make determinations on the admissibility of evidence;
 - e) require the production of evidence;
 - f) require the attendance of witnesses;
 - g) proceed in a participant's absence or in the absence of any submissions from a participant where the participant has had notice of the proceeding;
 - h) ask questions of participants and witnesses;
 - i) provide direction on the questioning of witnesses or presentation of opening or closing submissions;
 - j) require participants to present written submissions; and
 - k) adjourn a hearing.
3. Subject to any orders from the Board, if a participant intends to refer to legal authorities in a submission to the panel at a hearing, the participant must produce for the panel and the other participants, copies of the legal authorities, and must highlight those passages of the authorities intended to be referred to.

Rule 35: Exhibits

1. Subject to section any orders made pursuant to sections 43 and 42 of the Administrative Tribunals Act or Rules 17, 18 or 24, exhibits or documentary evidence tendered at a hearing are

part of the public record of the hearing.

Rule 36: Recording Board proceedings

1. If a participant wants an official written transcript of the proceeding, he or she must, at least two weeks before the date of the hearing, make a request to the Board and identify:
 - a) the type of transcription that will be used;
 - b) who will be providing the transcription and their qualifications; and
 - c) other proceedings in which the transcription service provider has been used.
2. If the Board is satisfied that the type of transcription is accurate and comprehensive and the person providing the transcription services is qualified and reputable, then the Board may permit him or her to transcribe the hearings.
3. Participants requesting transcription services under Rule 36.1 are responsible for payment of this service.
4. The Board and any participant may obtain copies of a transcription and must pay all associated costs to the transcription services provider.

5. Any information heard by a panel in confidence pursuant to Section 42 of the Administrative Tribunal's Act will be excluded from any transcription of proceedings.
6. The Board, at its discretion, may digitally record a hearing.
7. The Board may allow participants to obtain a transcript of the Board's recording, or to obtain a copy of the recording that is not subject to alteration.
8. In the case of a dispute regarding a recording made pursuant to 36.6, the recording in the Board office is the official recording.

Rule 37: Electronic devices at hearings

1. No radio, television, filming, tape or digital recording, smartphone, other recordings than those authorized under Rule 36.2 or 36.6, is permitted at a hearing without the express permission of the hearing chair.
2. All requests to record proceedings must be directed to the hearing chair before a hearing begins.
3. The hearing chair may permit journalists to audio record proceedings for the limited purpose of verification of notes and upon the journalists signing an undertaking that the recording will not be used for any other purpose, such as broadcast.

4. Any person using a recording device at a hearing for which permission had not been requested or granted may be asked to forfeit the recording device or copies of recordings and leave the hearing.

Rule 38: Receipt of evidence after the hearing ends

1. Evidence submitted after the hearing will not be considered by the Board unless the Board is satisfied that:
 - a) the evidence is necessary for the Board to make a determination on the application; and
 - b) the acceptance of the evidence would not unduly prejudice other parties or otherwise result in a breach of administrative fairness.
2. If the Board accepts the evidence after a hearing is concluded, other participants will be given an opportunity to review and comment upon the evidence prior to its being considered.

D. ICB applications to reduce a route or minimum route frequency

Rule 39: Minimum notice requirements

(Rescinded November 24, 2023)

Rule 40: Rationale for applications for publication

(Rescinded November 24, 2023)

Rule 41: Responses to public notices

(Rescinded November 24, 2023)

Rule 42: Public meetings

(Rescinded November 24, 2023)

E. Applications to change a rate or rule

Rule 43: Information required by applicants

1. Applicants may be required to provide the following information to the Board:
 - a) Documentation supporting the need for a rate change;
 - b) Financial information, such as cash flow statements, balance sheets and net income statements; and

- c) Other information requested by the Board that it considers relevant to the application.

Rule 44: Application summary

1. If a rate and rule application is received with a new licence application, the Board will include the rate and rule application in the “Application Summary for Publication” referred to in Rule 8.1.
2. Board staff will prepare an “Application Summary for Publication” for rate and rule change applications received from the Registrar.
3. Subject to Rule 44.1 and 44.2, if a proposed rate or rate change pertains to a contract, the rates and the specific terms of the contract will not be included in the “Application Summary for Publication” or published pursuant to Rule 45.1.
4. Board staff will send applicants a copy of the “Application Summary for Publication” referred to in Rule 44.1 or 44.2, and applicants must, before the date specified by Board staff:
 - a) sign and return the “Application Summary for Publication” to the Board, with corrections, if any; or
 - b) request more time to return the “Application Summary for Publication”.

5. If more time is requested to return the “Application Summary for Publication” pursuant to Rule 44.4(b), Board staff may grant or refuse the request and:
 - a) if granted, establish a new date by which the summary of the application must be received by the Board; or
 - b) if refused, send the application forward to the Board for direction or disposition.

Rule 45: Notice and publication of applications

1. An “Application Summary for Publication” that has been signed by the applicant pursuant to Rule 44.4.a will be published in the Bulletin.
2. Board staff will provide print copies of web published application summaries to any person who makes a request for a specific application summary provided that Board staff have enough information to determine the specific application being requested.
3. Prior to publication, Board staff will not disclose, or acknowledge the receipt of, an application to anyone other than an applicant or his or her agent, any person authorized by the applicant to make an inquiry on his or her behalf, or the Branch unless disclosure is authorized under an enactment.

Rule 46: Submissions

1. Submissions on applications published pursuant to Rule 45.1 must be
 - a) in writing; and
 - b) received by the Board by the submission due date published in the Bulletin.
2. Subject to Section 27(6) of the Act, the \$50 submission fee must be sent to the Board within 5 days of the date that the application is published in the Bulletin.

Rule 47: Applicant's reply to submissions

1. Submissions filed pursuant to Rule 46 will be forwarded by Board staff to applicants and applicants will be given a specified time in which to respond.
2. Applicants may
 - a) reply to the submissions in the time set by the Board
 - b) request more time to reply
 - c) notify the Board if a reply is not coming
3. If an applicant fails to respond to the Board by the due date, Board staff may forward the file to the Board for direction or disposition.

1. The Board may accept a submission from a person who did not file a submission in accordance with Rule 46 if, in the opinion of the Board, the person's submission could assist the Board in making a determination on the application.
2. Subject to Section 27(6) of the Act, a late submission must be accompanied by the \$50 submission fee.
3. Any late submission accepted by the Board will be forwarded to the applicant pursuant to Rule 47.
4. Rules 17- 38 above apply mutatis mutandis to rate or rule change applications.

Rule 49: Approval of crew transport contract rates not required

1. Notwithstanding Rule 44, the Board will not require submission, publication or approval of contracted rates for crew transportation services as long as:
 - a) there is a valid, current written contract for crew transportation between a licensee and a company or its agent; and
 - b) the licensee's terms and conditions of licence have a service limitation specifying that crew transportation service may only be provided if there is a current, valid contract between the licensee and, or on behalf of, a specified organization.

F. Reconsideration

Rule 50: Reconsideration

1. A person who seeks a reconsideration of a decision on an application, pursuant to Section 21(4) of the Act, must, within 30 days of the date of publication of the Board's decision:
 - a) submit a reconsideration request form to the Board:
 - b) state the reasons for the request; and
 - c) describe grounds for the reconsideration, including:
 - i. the new information and why it could not have been provided to the Board before the Board made its decision, or
 - ii. any alleged errors in procedure.
2. If the person seeking reconsideration is not the applicant, then that person must copy the applicant on any reconsideration request.
3. Pursuant to Rule 50.2, the Board may seek submissions from an applicant before deciding whether grounds for reconsideration are established.

4. If the Board refuses a request for reconsideration, it will notify the applicant and any other person making the request for reconsideration.
5. If the Board grants a request for reconsideration, it will notify the applicant and submitters and establish procedures governing the reconsideration.
6. If the Board reconsiders an application, it will publish its final decision in the Bulletin.

G. Decisions

Rule 51: Preliminary decisions

1. The Board may issue a preliminary decision on any part of an application pending a final determination on the application.
2. A preliminary decision will not become final until the Board issues a final decision.
3. Should any matter arise in the Board's review of the whole application that relates to any of the orders in a preliminary decision, the Board may reconsider any or all of aspects of the preliminary decision.

4. Subject to any order of the Board, an applicant may act, at its own risk, on a preliminary decision.

Rule 52: Notification of final decisions

1. Board decisions on applications will be signed by the panel chair and sealed and entered by the Director to the Board.
2. The original, sealed application decisions will be kept on file in the Board office.
3. The Board's decision on an application will be emailed to the applicant, unless email is not available, in which case the decision will be mailed to the applicant.
4. The Board's decision on applications will be published in the Bulletin either in the first or second Bulletin following issuance of the decision.
5. A summary of the Board's decisions pursuant to section 21(3) of the Act will be posted in the Bulletin.

H. Appeals

Rule 53: Filing an appeal

1. An appeal notice must:
 - a) be filed by a licensee;
 - b) be in writing; and
 - c) contain the information required in section 50(3) of the Passenger Transportation Act.
2. An appeal notice must be filed with the Board within 30 days of the licensee's receipt of the Registrar's decision to impose an administrative penalty.
3. A licensee may use the Board's "Notice of Appeal" form (available on the Board's website or from the Board office) or the licensee write a letter that serves as an appeal notice.
4. An appeal notice must be accompanied by a fee in the amount of \$150.
5. A licensee who files a notice of appeal after the 30-day period in Rule 53.2 above must:
 - a) provide the Board with an explanation of any special circumstances that prevented the licensee from filing of an appeal notice within the 30-day timeline; and
 - b) describe the injustice that would result if the Board dismissed the appeal for being late.

6. If an appeal notice does not contain the information required in Rule 53.1, the fee required in Rule 53.4 or the explanations required in Rule 53.5, if applicable, Board staff will notify the licensees and give the licensee 10 business days to provide the required information or payment.
7. If a response is received pursuant to Rule 53.6, the Board will review the response and determine whether or not the appeal may proceed.
8. If no response is provided pursuant to Rule 53.6, or the response is not complete, the Board may dismiss the appeal.

Rule 54: Processing appeals

1. When the filing requirements specified in the Act and Rule 53 have been met, Board staff will send the appeal notice and all documents provided by the licensee appellant to the Registrar.
2. Subject to the Freedom of Information & Protection of Privacy Act, the Registrar will have 10 business days to:
 - a) provide the Board and the appellant copies of all documents relevant to the appeal other than those filed by the appellant; or
 - b) notify the Board and appellant that there are no other documents relevant to the appeal other than those filed by the appellant.

3. When the information from the Registrar is received by the Board, the Board chair will appoint an appeal panel.
4. The panel will review the file and may do one or more of the following:
 - a) proceed on the basis of a file review; or
 - b) hold an oral hearing.
5. If the Board proceeds by way of a file review, the Board will seek further comments from both the appellant licensee and registrar and set timelines for responses.
6. If a party is not able to meet the timelines set by the Board pursuant to Rule 54.5, a party may make a written request to the Board for an extension of timelines.
7. A written request pursuant to Rule 54.6, for an extension of timelines must state:
 - a) the reasons for the extension;
 - b) the length of the extension; and
 - c) whether the other party to the appeal has consented to the extension.

8. If a hearing proceeds by way of an oral hearing, the Board will provide parties with the date, time and place of the hearing.
9. Any information exchanged between the Registrar, the appellant and the Board as part of the Board processes prior to an oral hearing will form part of the hearing material and be entered as an exhibit at the hearing.
10. Prior to an oral hearing, the Board may require parties to provide, within specified timelines, the following information to the Board and to each other:
 - a) the substance of the appellant's objections to the administrative penalty imposed by the Registrar;
 - b) the substance of the Registrar's claims for confirming the administrative penalty;
 - c) the arguments which the appellant licensee or Registrar will make at the hearing;
 - d) the names of the people the appellant licensee or the Registrar intends to call as witnesses at the hearing;
 - e) the author and title of any additional documents the appellant or respondent intends to introduce as evidence at the hearing; and
 - f) any authority supporting the appellant's or respondent's position,

1. The Board may arrange an appeal management conference to discuss the issues, potential evidence and format for the appeal (written submissions, telephone hearing or full oral hearing).
2. Appeal management conferences will be conducted by a panel and may be held in person, by telephone conference or by some other method.
3. The panel conducting an appeal management conference may make any order considered appropriate for the efficient conduct of the appeal and, without limitation, may do one or more of the following:
 - a) review and clarify the issues in an appeal;
 - b) consolidate all or part of the appeal with another appeal;
 - c) require the licensee appellant or the registrar to produce documents, or allow the Board and the registrar or appellant licensee, access to documents or other information relevant to the appeal;
 - d) require a party to prepare and produce for the Board and other parties a list of witnesses and a written summary of the witnesses' evidence that may be presented at an appeal hearing;
 - e) require parties to prepare and produce an agreed statement of facts;

- f) require one or all parties to prepare and produce statements of points, evidence and supporting argument and documentation, written summaries of evidence, expert reports or written submissions, or to produce documents, in advance of an appeal hearing or at the appeal hearing;
 - g) impose time limitations and terms and conditions on the production of documents, agreed statements of facts, written submissions or any other process necessary for the fair and efficient management of the appeal;
 - h) schedule or reschedule dates for an appeal hearing;
 - i) require the attendance of a witness at an appeal hearing; and
 - j) record the outcomes of the appeal management conference.
4. A member who presides at one or more appeal management conferences may also be a panel member at the subsequent hearing.

Rule 56: Applicable Board rules

1. Rules 29, 30, 31, 33, 34, 35, 36, 37 and 38 apply with the necessary changes having been made to appeals.

Rule 57: Request to suspend administrative penalties

1. An appellant licensee may request that the Board suspend an administrative penalty, except for an administrative fine, imposed by the Registrar.
2. The Board will not process any requests referred in Rule 57.1 unless the filing requirements and timelines specified in the Act and Rule 53 have been met.
3. An appellant must submit a Request to Suspend Administrative Penalties form to the Board office and provide all the information requested on the form.
4. If a Request to Suspend Administrative Penalties form is incomplete, Board staff will notify the licensee and give the licensee 10 business days to provide the required information.
5. The Board will provide a copy of any Request to Suspend Administrative Penalties form and accompanying documents to the Registrar and specify a time for the Registrar to respond.
6. The Board may arrange a teleconference with the appellant and respondent before making a decision on a Request to Suspend.
7. A decision on a suspension of administrative penalties may be made of a panel member other than the member assigned to hear the appeal.

Rule 58: Withdrawals

1. At any time before the date of the Board's decision, an appellant may withdraw an appeal by delivering a notice of withdrawal to the Board.
2. A notice of withdrawal must:
 - a) clearly state the intention to withdraw from the appeal process
 - b) include the appellant's application number and legal business name
 - c) be signed by an individual with signing authority for the business
3. If a notice under Rule 58.1 is received by the Board, it will notify the Registrar immediately.
4. If a notice is filed with the Board under Rule 57.1, the Board will make an order dismissing the appeal as having been withdrawn and will send this order to the appellant and the Registrar.

Rule 59: Decisions

1. At the conclusion of an appeal, the Board will issue a decision confirming or rescinding the administrative penalty imposed by the Registrar.
2. Board decisions on appeals will be signed by the hearing chair and sealed and entered by the Director to the Board.

3. The original, sealed application decisions will be kept on file in the Board office.
4. The Board's decision on an appeal will be e-mailed to the appellant and Registrar unless e-mail is not available, in which case the decision will be faxed or mailed to the applicant.
5. The Board's decision, or a summary of the decision, on appeals will be published either in the first or second Bulletin following issuance of the decision.

I. Fees

Rule 60: Fees

1. Any fees payable to the Board must be in the form of:
 - a) cash;
 - b) cheque or money order payable to the Minister of Finance; or
 - c) credit card.

J. PDV fleet size reviews

Rule 61: Reviews for passenger directed vehicles

1. If the Board, pursuant to section 31(4) of the Act, is considering reducing the fleet size of a passenger directed vehicle licence, the Board will:
 - a. advise the licensee in writing of this review;
 - b. provide an opportunity for the licensee to comment on the outcome of the review; and
 - c. consider the licensee's comments, if any, in reaching its final decision.
2. As result of the fleet size review, the Board may:
 - a. take no action with respect to the licence; or
 - b. direct the Registrar to amend the licensee's licence to reduce the maximum fleet size to a level the Board considers appropriate.
3. The licensee will be notified in writing of the Board's decision on the fleet size review.