

Safety Standards Appeal Board

Rules of Practice and Procedure

Safety Standards Appeal Board

Rules of Practice and Procedure

CONTENTS	PAGE
PART 1 GENERAL	4
Rule 1 - Purpose	4
Rule 2 - Effective Date	4
Rule 3 - Definitions	4
Rule 4 - Application of Rules and Board Powers	5
Rule 5 - Effect of Non-Compliance	5
PART 2 COMMUNICATIONS WITH THE BOARD, PARTIES AND INTERVENERS	5
Rule 6 - Communications with the board	5
Rule 7 - Service Of Documents	5
Rule 8 - Filing documents with the board	7
Rule 9 - Interpreters for other languages	7
PART 3 COMMENCEMENT OF AN APPEAL	7
Rule 10 - Starting an appeal	7
Rule 11 - Notice of Appeal	7
Rule 12 - Deficient notice of appeal	8
Rule 13 - Validity of appeal	8
Rule 14 - Notice to Parties	8
Rule 15 - Addition of parties	8
Rule 16 - Interveners	9
Rule 17 - Responding to an Appeal	9
Rule 18 - Consolidating appeals	10
PART 4 MANAGEMENT OF APPEALS	10
Rule 19 - Appeal management procedures	10
Rule 20 - Appeal management conferences	10
Rule 21 - Statements of Issues, Evidence and Legal Principles	11
PART 5 DISPUTE RESOLUTION AND SETTLEMENT OF APPEALS	11
Rule 22 - Settlement conferences	11
Rule 23 - Mediation	12
Rule 24 - Confidentiality of settlement discussions and mediation	13
Rule 25 - Confidentiality agreement	13

PART 6 APPLICATIONS FOR INTERIM ORDERS	13	
Rule 26 - Applications	13	
Rule 27 - Requirements before making an application	13	
Rule 28 - How to make an application	13	
Rule 29 - Schedule for submissions	13	
PART 7 HEARINGS	14	
Rule 30 - Composition of Panel	14	
Rule 31 - Types of Hearings	14	
Rule 32 - Public Proceedings	15	
Rule 33 - Recording board proceedings	15	
Rule 34 - Evidence	15	
Rule 35 - Order to compel a witness and order disclosure	16	
Rule 36 - Costs	17	
Rule 37 - Adjournments	17	
Rule 38 - Settlements of all or part of an appeal	18	
Rule 39 - Withdrawals	18	
PART 8 POST-HEARING MATTERS	19	
Rule 40 - Decisions, Orders and Rulings of the Board	19	
Rule 41 - Enforcing final decisions	19	
Rule 42 - Disposal of board records	19	
SCHEDULES		
Schedule 1	Guidelines for Determining Party Costs	Rule 36
Schedule 2	Estimate of Board Costs	Rule 36

RULES OF PRACTICE AND PROCEDURE

Effective December 1, 2004

PART 1 GENERAL

Rule 1 - Purpose

1. The purpose of these rules is to facilitate the just and timely resolution of appeals to the board under the Safety Standards Act.
2. To assist parties in using these rules the board will publish practice directives and guidelines, including practice directives respecting the usual time period for completing an application and the procedural steps in an appeal, and the usual time period within which the board's final decision is released.

Rule 2 - Effective Date

1. These rules will come into effect on December 1, 2004.

Rule 3 - Definitions

1. In these rules:

"Act" means the Safety Standards Act, SBC 2003 c. 39 and amendments and includes all regulations made under the Act;

"appeal" means an appeal to the board under section 51 of the Act or a request for review that is referred directly to the board by a safety manager under section 48(5) of the Act.

"appellant" means a person who has the right to appeal under section 51 of the Act or whose request for review is referred to the board under section 48(5) of the Act;

"ATA" means the Administrative Tribunals Act, SBC 2004, c. 45.

"board" means the Safety Standards Appeal Board established under the Act, and for the purposes of these rules, includes the chair, vice-chairs and members;

"dispute resolution process" means a confidential and without prejudice process established by the board to facilitate the settlement of one or more issues in dispute in an appeal;

"file" means the effective delivery to the board in accordance with these rules;

"intervener" means a person who the board allows to participate in an appeal under section 33 of the ATA [interveners are not parties, and section 51(4)(b) of the SSA was repealed and replaced by the ATA provision.];

"member" means a member of the board, the member designated as chair or a panel of members;

"participant" means an appellant, respondent and intervener;

"party" means an appellant or a respondent;

"registrar" means the registrar of the board;

"respondent" means the safety officer or safety manager whose decision is the subject of the appeal and any person that the board adds as a respondent;

Rule 4 - Application of Rules and Board Powers

1. All parties and interveners must comply with the board's rules and practice directives unless the board orders or directs otherwise.
2. A member may exercise any power under these rules on the member's own initiative or on the application of a party.
3. In exceptional circumstances, a member may waive or vary these rules and may shorten or lengthen any time limits in these rules, other than time limits prescribed by the Act or the ATA.

Rule 5 - Effect of Non-Compliance

1. If a party fails without reasonable excuse to comply with an order of the board or these rules, including any time limits specified for taking any actions, a member may, after giving notice to that party, do one or more of the following:
 - (a) schedule a written, electronic or oral hearing;
 - (b) continue with the appeal and make a decision based on the information before it, with or without providing an opportunity for submissions;
 - (c) dismiss the appeal.

PART 2 COMMUNICATIONS WITH THE BOARD, PARTIES AND INTERVENERS

Rule 6 - Communications with the board

1. All communications with the board shall be made through the office of the registrar.
2. Where a party or intervener is represented by counsel or an agent the registrar will communicate with them through their counsel or agent.

Rule 7 - Service Of Documents

1. In these Rules, "service" of any document means the effective delivery to the person or their counsel or agent.
2. For the purpose of Rule 7.1 "person" means anyone required to be served under these Rules.
3. Service may be given by delivering the document:
 - (a) by personal delivery;
 - (b) by ordinary, registered or certified mail to the last known address of the person;

(c) by electronic transmission, including e-mail to the last known e-mail address of the person and fax to the last known fax number of the person;

(d) by courier, including Priority Post, to the last known address of the person; or

(e) by any other means authorized or permitted by the Board that allows proof of receipt.

4. Service is deemed to be effective, when delivered:

(a) by personal delivery before 4:00 p.m., on the day of delivery, and after that time, on the next day;

(b) by mail, on the fifth day after the day of mailing unless that day is a holiday, in which case service is deemed to be effective on the next day that is not a holiday;

(c) by e-mail or fax, on the day after it was sent unless that day is a holiday, in which case service is deemed to be effective on the next day that is not a holiday;

(d) by courier, on the second day after the document was given to the courier unless that day is a holiday, in which case service is deemed to be effective on the next day that is not a holiday; or

(e) by any means authorized or permitted by the board, on the date specified by the board in its direction.

5. Rule 7.4 does not apply if, through absence, accident, illness or other cause beyond the party's control, a party who acts in good faith does not receive a document until a later date than the date provided under Rule 7.4.

6. A document that is served or filed by fax must include a cover page with sufficient information to identify the sender, recipient, number of pages sent, date and time of transmission and a telephone number to call in case of transmission problems.

7. If the board is of the opinion that because the parties to any proceeding before it are so numerous or for any other reason, it is impracticable to give notice of the hearing to all or any of the parties individually, the board may, instead of doing so, cause reasonable notice of the hearing or of its decision to be given to such parties by public advertisement or otherwise as the board may direct.

8. If it is impractical to give service in accordance with Rule 7.3 the board may give such directions for substituted service as it considers appropriate (or, where necessary, may dispense with service).

9. If a notice or document is not served in accordance with Rule 7.3 the proceeding is not invalidated if

(a) the contents of the notice or document were actually known by the person to be served within the time required for such service,

(b) the person consents, or

(c) the failure to serve does not result in prejudice to the person or any prejudice can be satisfactorily addressed by an adjournment or other means.

Rule 8 - Filing documents with the board

1. Documents may be filed by any of the methods of delivery set out in Rule 7.3 and shall be directed to the registrar, unless otherwise directed by the board.
2. Documents are deemed to be filed as of the date they are received by the board or the date specified in Rule 7.4, whichever is later.
3. A person who serves or files a document shall include with it a statement of the person's address, telephone number and the name of the proceeding to which the document relates.

Rule 9 - Interpreters for other languages

1. If a party or a party's witness requires an interpreter in a language other than English the party shall notify the board, and provide an interpreter at their own expense.
2. An interpreter shall be competent and independent and shall swear or affirm that they will interpret accurately.

PART 3 COMMENCEMENT OF AN APPEAL

Rule 10 - Starting an appeal

1. A Notice of Appeal must be filed within 30 days of the decision being appealed
2. The board may extend the time limit for filing an appeal even if it has expired if the board is satisfied that special circumstances exist.

Rule 11 - Notice of Appeal

1. The notice of appeal may be in the board's Form 1, or otherwise must be in writing, signed by the appellant, and must contain:
 - (a) the appellant's name, address for delivery, daytime telephone number and, if any, fax number and e-mail address;
 - (b) a copy of the decision or order that is being appealed;
 - (c) the grounds of the appeal, identifying (if applicable) specific provisions of the Act, associated regulation(s) and/or adopted code(s) and standard(s) which support the appeal;
 - (d) a statement identifying the requested outcome;
 - (e) if applicable, the address of the property or installation relating to the appeal;
 - (f) if applicable, a description of the regulated equipment relating to the appeal;
 - (g) if applicable, the name and contact information of the owner of the property, installation or regulated equipment relating to the appeal;
 - (h) if applicable, the name, telephone number and, if any, fax number and e-mail address of the person or company who performed regulated work under appeal, if other than the appellant;

- (i) if applicable, a facsimile of the certificate, license, registration or qualification under appeal;
 - (j) the signature of the appellant or the appellant's counsel or agent.
- 2. If a party retains counsel or appoints an agent subsequent to delivering the notice of appeal, that party must promptly deliver written notice to the board containing the name, address, daytime telephone number, facsimile transmission number, if any, and e-mail address, if any, of the counsel or agent.
- 3. A party or a party's counsel or agent must promptly deliver to the board and the other parties, written notice of any change in their address for delivery, daytime telephone number, facsimile transmission number or e-mail address.

Rule 12 - Deficient notice of appeal

- 1. If the board is of the opinion that the notice of appeal does not conform with section 22 of the ATA or Rule 11, the registrar may deliver a written notice of deficiencies to the appellant, with a copy to the other parties, requiring the appellant to provide the required information within a reasonable and specified time.
- 2. If the appellant does not provide the required information within the specified time, the board may make an order dismissing the appeal.

Rule 13 - Validity of appeal

- 1. If the board is concerned that it does not have jurisdiction in an appeal the board may request submissions from the parties on whether the board has jurisdiction and require the parties to provide the requested information within a reasonable and specified time
- 2. If, upon review of the submissions, the board determines it does not have jurisdiction in the appeal, the board may issue an order that the appeal is invalid.

Rule 14 - Notice to Parties

- 1. The board will serve notice of the date, time and place of a hearing to the parties to the appeal, any interveners and any other person it considers to be sufficiently interested in the appeal.

Rule 15 - Addition of parties

- 1. A person who wishes to be added as a party to an appeal must apply to the board, in writing, within 15 days of the date the appeal was filed with the board.
- 2. An application under rule 15.1 must be served on the other parties to the appeal and must explain how the person is directly affected by the decision that is the subject of the appeal.
- 3. The other parties to the appeal may make written submissions to the board responding to a person's application under rule 15.1.
- 4. Any written response under rule 15.3 must be filed with the board and served on the applicant and the other parties within 10 days of service of the application under rule 15.1.

Rule 16 - Interveners

1. A person who wishes to intervene in an appeal must apply to the board, in writing, to be added as an intervener within 15 days of the date the appeal was filed with the board.
2. An application under rule 16.1 must be served on the other parties to the appeal and must explain how:
 - (a) the person can make a valuable contribution or bring a valuable perspective to the appeal, and
 - (b) the potential benefits of the person's intervention outweigh any prejudice to the parties caused by the intervention.
3. The other parties to the appeal may make written submissions to the board responding to a person's application under rule 16.1.
4. Any written response under rule 16.3 must be filed with the board and served on the applicant and the other parties within 10 days of the date the application was filed with the board.
5. When considering whether or not to allow a person to participate as an intervener in an appeal, the board will consider the criteria set out in rule 16.2(a) and (b) and, if it decides to allow the person to intervene, limit the intervener's participation in one or more of the following ways:
 - (a) in relation to cross examination of witnesses;
 - (b) in relation to the right to lead evidence;
 - (c) to one or more issues raised in the application;
 - (d) to written submissions;
 - (e) to time-limited oral submissions.
6. If two or more applicants for intervener status have the same or substantially similar views or expertise, the board may require them to file joint submissions.

Rule 17 - Responding to an Appeal

1. A respondent must respond to an appeal within fourteen (14) days from the date of the board's notice to the respondent of the appeal.
2. To respond to an appeal a respondent may complete the board's Form 2, or otherwise the response must be in writing and contain:
 - (a) the respondent's name, address for delivery, daytime telephone number and, if any, fax number and e-mail address;
 - (b) the name, address, daytime telephone number and, if any, fax number and e-mail address of counsel or agent, if any, for the respondent;
 - (c) the grounds on which the decision being appealed was made indicating specific provisions of the Act, regulation(s) and/or code rule(s) which support the decision under appeal.

Rule 18 - Consolidating appeals

1. On the application of a party or on the board's own initiative the board may consolidate all or part of an appeal with any other appeal involving the same or similar questions of fact or law.

PART 4 MANAGEMENT OF APPEALS

Rule 19 - Appeal management procedures

1. At any time after receiving a notice of appeal, on the written application of a party, or on the board's own initiative, the board may require the parties to
 - (a) provide information on the issues under appeal;
 - (b) prepare and produce statements of issues, evidence and legal principles within a specified time;
 - (c) attend an appeal management conference;
 - (d) attend a settlement conference; or
 - (e) consider participation in a dispute resolution process.

Rule 20 - Appeal management conferences

1. An appeal management conference will be conducted by a member and may be held in person, by telephone conference or by some other method.
2. The member conducting the appeal management conference may make any order considered appropriate for the efficient conduct of the appeal and, without limitation, may
 - (a) canvass the issues and any steps taken to reach agreement on the issues;
 - (b) assist the parties to clarify the issues;
 - (c) consolidate all or part of the appeal with another appeal;
 - (d) require a party to produce to the board or another party, or allow the board or another party access to, any documents or other information which may be relevant to an issue in the appeal;
 - (e) require a party to prepare and produce to the board and the other parties a list of witnesses and a written summary of the witnesses' evidence;
 - (f) require a party to prepare and produce to the board and the other parties notice of an expert witness and a written summary of the evidence to be given by an expert witness;
 - (g) require a party to produce to the board and the other parties, or allow the board or another party access to, any documentary evidence that will be submitted as evidence at a hearing;
 - (h) before the commencement of a hearing, require a party to answer under oath or affirmation, by way of oral examination or affidavit, questions of another party;

(l) require the experts who have been retained by the parties to confer, on a without prejudice basis, to determine issues, facts and opinions on which they agree and do not agree;

(j) require the parties to prepare and produce an agreed statement of facts;

(k) require the parties to prepare and produce statements of issues, evidence and legal principles;

(l) require the parties to prepare and produce written submissions;

(m) 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 appeal;

(n) require a party to prepare and produce statements of issues, evidence and legal principles, written summaries of evidence, expert reports or written submissions, or to produce documents, in advance of the other party or parties;

(o) schedule or reschedule dates for a settlement conference;

(p) schedule or reschedule dates for a hearing;

(q) require the attendance of a witness at a hearing;

(r) record the results of the appeal management conference including a summary of the issues and any orders, directions or rulings of the board.

Rule 21 - Statements of Issues, Evidence and Legal Principles

1. The board may make directions with respect to the information to be included in a statement and require that a statement be prepared and produced to the board and to the other parties within a specified time.
2. The board may make directions requiring responses to the statements to be prepared and produced to the board and to the other parties within a specified time.
3. If the parties agree, or the board considers it appropriate, the statements and any responses may be presented to a panel for hearing as written submissions in an appeal.

PART 5 DISPUTE RESOLUTION AND SETTLEMENT OF APPEALS

Rule 22 - Settlement conferences

1. Settlement conferences will be conducted by a member appointed by the chair and may be held in person, by telephone conference or by some other method as the member may direct. A member who conducts a settlement conference will not hear the appeal unless all parties consent.
2. Unless otherwise ordered, at least seven (7) days before the date set for a settlement conference, the parties must prepare and deliver to the board and to the other parties

- (a) concise statements describing the nature of the appeal, the issues, the evidence expected to be called at a hearing and the applicable legal principles; and
 - (b) expert reports intended to be relied on, or if expert reports are not yet prepared, statements describing the anticipated opinions of the experts, the facts upon which the opinions are based, and the qualifications of the experts.
- 3. The member has discretion in the manner in which a settlement conference will be conducted and, without limitation, may
 - (a) facilitate discussion between the parties towards a settlement of the issues;
 - (b) meet with each party individually;
 - (c) provide non-binding opinions on any issue under appeal;
 - (d) provide an evaluation on the likelihood of success in a hearing on any issue under appeal;
 - (e) make any order that may be made at an appeal management conference;
 - (f) adjourn the settlement conference;
 - (g) refer the appeal or any issue under appeal to the registrar to schedule an appeal management conference or a hearing;
 - (h) report the results of the settlement conference including any settlement reached and any interim orders made.
- 4. Discussions in a settlement conference are confidential and without prejudice in the same manner as are other settlement communications.
- 5. A settlement conference will be conducted in camera.
- 6. Unless the parties otherwise agree, a member presiding over a settlement conference will return to the parties any documents provided in accordance with Rule 22.2 or any other documents which could be evidence in a hearing, other than documents produced by the parties pursuant to an order made at an appeal management conference.
- 7. If the parties resolve some or all of the issues under appeal during a settlement conference, the member presiding at the settlement conference must record the terms of the agreement in the form of a recommendation and refer the recommendation to the board as a recommendation under Rule 38.

Rule 23 - Mediation

- 1. The chair may appoint a member or staff of the board or a mediator from a list of mediators approved by the board to conduct a mediation.
- 2. The chair may agree that parties will by agreement appoint a mediator from a list of mediators approved by the board.
- 3. Where a member conducts a mediation, the member may make pre-hearing orders in respect of the appeal but must not hear the appeal unless all parties consent.

Rule 24 - Confidentiality of settlement discussions and mediation

1. Unless all parties consent, a party must not disclose or be compelled to disclose
 - a) a document or other record created by a party specifically for the purpose of achieving a settlement of one or more of the issues under appeal through a settlement conference or mediation, or
 - b) oral information presented by a party in a settlement conference or mediation specifically for the purpose of achieving a settlement of one or more of the issues under appeal.

Rule 25 - Confidentiality agreement

1. Prior to a settlement conference or mediation all participants in a settlement meeting must sign a Confidentiality Agreement as prescribed in Form 3 of these rules.

PART 6 APPLICATIONS FOR INTERIM ORDERS

Rule 26 - Applications

1. This rule applies to all applications made to the board except:
 - (a) the initial notice of appeal (see rules 11 and 12)
 - (b) an application to add a party to an appeal (see rule 15);
 - (c) an application to intervene in an appeal (see rule 16);
 - (d) an application made during a hearing.

Rule 27 - Requirements before making an application

1. Before applying for an order, an applicant must determine whether the other parties and any interveners consent, oppose, or take no position regarding the application.
2. Before applying for an order, the applicant must first take any practical steps to resolve the issue for which that applicant wants an order.

Rule 28 - How to make an application

1. If a participant wants to obtain an order of any kind from the board, the participant must:
 - a. complete an Application For An Interim Order (Form 4);
 - b. deliver a copy of the completed application Form to the other parties and any other person affected by the application within two (2) days of filing the application with the board; and
 - c. file the completed application form [see rule 8].

Rule 29 - Schedule for submissions

1. When a completed application form is filed, the board will set a schedule for submissions from other parties, if required.

PART 7 HEARINGS

Rule 30 - Composition of Panel

1. The chair may direct that an appeal be heard by the board or a panel of the board consisting of
 - (a) a single member; or
 - (b) two or more members one of whom is designated as the panel chair.
2. The decision of a single member panel or of a majority of members on a panel is the decision of the board, and in the case of a tie, the decision of the panel chair governs.

Rule 31 - Types of Hearings

1. The board may direct that a hearing be conducted
 - (a) by way of an in person hearing;
 - (b) by way of telephone conference;
 - (c) by way of written materials and submissions delivered to the board;
 - (d) any combination of (a), (b) or (c); or
 - (e) by any other electronic means the board determines is appropriate.
2. The board has discretion to determine the location for a hearing.
3. The panel hearing an appeal has discretion in the manner in which the hearing will be conducted and, without limitation, may
 - (a) determine the order of proceeding;
 - (b) administer oaths and affirmations;
 - (c) add parties and impose terms and conditions limiting the participation of those parties at the hearing;
 - (d) allow the participation of interveners and impose terms and conditions limiting the participation of interveners;
 - (e) make determinations on the admissibility of evidence;
 - (f) require the production of evidence;
 - (g) require the attendance of witnesses;
 - (h) proceed in a party's absence or in the absence of any submissions from a party where the party has had notice of the proceeding;
 - (i) ask questions to clarify issues or facts;
 - (j) ask questions of witnesses in the nature of direct examination or cross-examination;
 - (k) place time limitations on the examination or cross-examination of witnesses or presentation of opening or closing submissions;
 - (l) require parties to present written submissions;
 - (m) adjourn a hearing;

(n) make an order for a party or intervener to pay part of another party's or intervener's costs or a party to pay part of the costs of the board.

4. If a party intends to refer to legal authorities in a submission to the board at a hearing, the party must produce to the board and the other parties copies of the legal authorities, and must highlight those passages of the authorities intended to be referred to.

Rule 32 - Public Proceedings

1. An oral hearing will be open to the public.
2. Notwithstanding rule 32.1, the board may direct that all or part of the evidence in an appeal be received to the exclusion of the public if the board is of the opinion that
 - (a) the desirability of avoiding disclosure in the interests of any person or party affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, or
 - (b) it is not practicable to hold the hearing in a manner that is open to the public
3. Members of the public are entitled to reasonable access to documents submitted in a hearing unless the board is of the opinion that Rule 32.2 (a) or sections 41(2) (a) or 42 of the Administrative Tribunals Act, SBC 2004, c. 45 applies to those documents.
4. Interim and final decisions of the board may be published on the board's website.

Rule 33 - Recording board proceedings

1. The board may, in its discretion, transcribe or tape record its proceedings.
2. If the board transcribes or tape records a proceeding, the transcription or tape recording is deemed to be correct and constitute part of the record of the proceeding.
3. If, by reason of a mechanical or human failure or other accident, the transcription or tape recording is destroyed, interrupted or incomplete, the validity of the proceedings will not be affected.
4. Subject to Rule 32.2, on written application by any person, the registrar may release a tape recording of a hearing to a transcriber approved by the board to prepare a transcript of all or part of a hearing. Unless otherwise ordered by the board, the person requesting the transcript will be liable for the cost of transcription and delivery.

Rule 34 - Evidence

1. The board is not bound by the legal or technical rules of evidence and may, at its discretion, accept and act on evidence
 - a) by oral or written statement;
 - b) by affidavit;
 - c) by the report of any person appointed by the board; or

- d) obtained in any manner the board thinks suitable.
2. The board may require testimony to be given under oath or affirmation.
 3. Unless the board otherwise orders, a party or intervener may not present expert evidence except in accordance with these rules.
 4. At least twenty-one (21) days before the first day of the hearing, the parties or interveners must produce to each other party or intervener and to the board, copies of any expert reports which will be submitted as evidence at the hearing, or if a party or intervener intends to call an expert witness without a report, the party or intervener 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.
 5. If a party or intervener produces an expert report or statement under Rule 34.4 the party or intervener must provide the board with an original or copy for the board's official record and one additional copy in a form suitable for photocopying.
 6. Unless the board otherwise orders, if a party or intervener intends to present documentary evidence, the party or intervener must bring to the hearing an original or copy for the board's official record, and one additional copy.
 7. If a party or intervener presents written submissions at a hearing, the party or intervener must provide one copy of the submission for each panel member, and one copy for each other party and intervener.
 8. If the board reproduces documents or submissions to provide sufficient copies, the party or intervener providing the document or submission is liable for the cost of reproduction unless otherwise ordered by the board.
 9. The board 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 intervener, on such terms as the board sees fit, where the board is of the opinion that the confidential or sensitive nature of the information or documents requires such a direction to ensure the proper administration of justice.
 10. Notes or records or other information kept by a person appointed or retained by the chair to conduct a dispute resolution process are inadmissible before the board.
 11. Information, documents or things produced by a party on a without prejudice basis for purposes of a dispute resolution process are inadmissible before the board.

Rule 35 - Order to compel a witness and order disclosure

1. A party may apply to the board, at least fourteen (14) days before the first day of the hearing, for a summons 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 appeal, or

(b) to produce for the board or another party 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 appeal.

2. The application must be in writing and include the name and address of the witness, the reason the person's attendance is required, a description of the documents or other items which the witness is requested to bring to the hearing, the reason why such materials are relevant and details of any attempts made to have the witness voluntarily attend.
3. The party applying for the summons must deliver a copy of the completed application to the other parties within two (2) days of filing the application with the board.
4. The board may make an order requiring the party applying for the summons to pay reasonable witness fees and expenses associated with the witness' attendance at the hearing.
5. If a summons is issued, the party 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 apply to the board in writing before the hearing, or in person at the hearing, for the summons to be set aside or modified. The board may cancel or vary the summons if satisfied that the evidence of the person is not relevant, may be obtained through some other means, is protected by legal privilege, the person is not able to provide the information sought, or the attendance of the person will be unduly inconvenient.

Rule 36 - Costs

1. If the board finds that the conduct of a party or intervener has been improper, frivolous, vexatious or abusive the board may make order for payment as follows:
 - (a) requiring a party to pay part of the costs of another party or an intervener;
 - (b) requiring an intervener to pay part of the costs of a party or another intervener;
 - (c) requiring a party to pay part of the actual costs and expenses of the board.
2. The board may order costs under Rule 36.1 on its own initiative or on the application of a party.
3. An award for the payment of costs will be based on schedules adopted and published by the board, from time to time, as appendices to the board's Rules of Practice and Procedure. See schedule 1, Guidelines for Determining Party Costs and Schedule 2, Estimate of Board Costs.

Rule 37 - Adjournments

1. The board may adjourn a hearing at any time on its own initiative.
2. A party may, not less than fourteen (14) days before the date of a hearing, deliver to the board an application in writing with reasons for the adjournment of the hearing. The registrar may deliver a copy of the application for adjournment

to the other parties and any interveners to the appeal and request their response in writing within a specified time.

3. The board may request further information or submissions from the parties, conduct an appeal management conference to address the application, and allow or disallow the application whether or not the other parties have consented to the adjournment.
4. In deciding whether or not to grant an application for adjournment, the board will take into account the following factors:
 - (a) the reason for the adjournment;
 - (b) whether the adjournment would cause unreasonable delay;
 - (c) the impact of refusing the adjournment on the other parties;
 - (d) the impact of granting the adjournment on the other parties;
 - (e) the impact of the adjournment on the public interest.
5. If a hearing is adjourned, the board may order any terms and conditions respecting rescheduling, attendance at appeal management or settlement conferences, production of documents or reports, or any other matters which may assist with the fair and efficient conduct of the appeal.

Rule 38 - Settlements of all or part of an appeal

1. If the parties reach a settlement in respect of all or part of an appeal, they must promptly notify the board and any interveners and the board will order that the appeal or part of the appeal is dismissed.
2. If the parties wish the board's dismissal order to include the terms of settlement of all or part of an appeal, they must apply, in writing, to the board for such an order at the time the board is notified of the settlement under rule 38.1.
3. In considering an application under rule 38.2, the board may require the parties to provide further information or submissions in support of the application or attend before the board to speak to it.
4. The board will not make an order under rule 38.2 unless it is satisfied that the terms of settlement are consistent with the Act.

Rule 39 - Withdrawals

1. An appellant may withdraw an appeal by filing with the board a notice of withdrawal signed by the appellant or the appellant's agent or counsel.
2. A notice of withdrawal shall be served on the other parties and any interveners before it is filed with the board under rule 39.1.
3. If a notice of withdrawal is filed with the board under rule 39(1), the board will make an order dismissing the appeal.
4. If an appellant has advised the board or another party to the appeal that they do not intend to pursue an appeal, the board may require the appellant to provide a written statement to that effect or provide, within a specified time, written confirmation of the intention to pursue the appeal. If the board does not receive

written confirmation of the appellant's intention by the specified time the board may deem the appeal to be withdrawn and issue an order to that effect.

PART 8 POST-HEARING MATTERS

Rule 40 - Decisions, Orders and Rulings of the Board

1. The board's final decision will be made in writing, with reasons.
2. The board's decision is effective the date it is issued by the board, unless otherwise specified by the board.
3. The board must provide for public access to its decisions and orders.
4. The board may at any time correct a mistake or error in a decision or order which arises from an accidental slip or omission.
5. Subject to Rule 40.7 the board shall send each party and any interveners who participated in the proceeding, or the party's counsel or representative, a copy of its final decision, including the reasons.
6. Where the board is of the opinion that because the parties to any proceeding before it are so numerous or for any other reason, it is impracticable to send its final decision to all or any of the parties individually, the board may, instead of doing so, cause reasonable notice of its decision to be given to such parties by public advertisement or otherwise as the board may direct.
7. A notice of final decision given by the board under Rule 40.5 shall inform the parties of the place where copies of it may be obtained.

Rule 41 - Enforcing final decisions

1. A party in whose favour a final decision is made, or a person designated in the final decision, may file a certified copy of the final decision with the Supreme Court.
2. A final decision filed under Rule 41.1 has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the Supreme Court.
3. A party filing a final decision under Rule 41.1 must give notice of the filing to the board within ten (10) days of filing.

Rule 42 - Disposal of board records

1. The board may dispose of any files, records, documents, tapes or exhibits in an appeal in accordance with a schedule published by the board.

SCHEDULE 1

SAFETY STANDARDS APPEAL BOARD GUIDELINES FOR DETERMINING PARTY COSTS		
TYPE	DESCRIPTION	ALLOWABLE AMOUNT
1	Costs associated with attending an appeal management conference, settlement conference, mediation or hearing	Limited to reasonable out-of-pocket travel expenses as follows: <ul style="list-style-type: none"> - Hotel: actual cost as approved by the board. See note 1 - ferry / air / taxi: actual cost as approved by the board. See note 1 - meals: not to exceed the following rates: <ul style="list-style-type: none"> - all meals: 44.00 - breakfast only: 22.00 - lunch only: 22.00 - dinner only 28.50 - breakfast & lunch only: 30.00 - lunch & dinner only: 36 - vehicle mileage: .46 per km
2	Witness fees and expenses.	Portion of actual cost as approved by the board. See note 1
3.	Witness travel costs associated with attending an appeal management conference, settlement conference, mediation or hearing	Same as type 1 above. See note 1
4.	Copy of transcript of proceedings	Portion of actual cost as approved by the board. See note 1
5	Legal Costs	Portion of actual cost as approved by the board. See note 1
6	Expenses associated with obtaining or producing evidence (if not included under legal costs)	Portion of actual cost as approved by the board. See note 1
7	Cost of interpreter	Portion of actual cost as approved by the board. See note 1
8	Other tasks not referred to above	Portion of actual cost as approved by the board. See note 1
<p>NOTES:</p> <p>1. Applications for an award of costs must include a detailed description of costs supported by receipts to the extent possible. If costs are awarded the board will consider and determine:</p> <ul style="list-style-type: none"> a) a reasonable value of costs incurred by the applicant, and b) the portion of the value to be allowed in an award. 		

SCHEDULE 2

SAFETY STANDARDS APPEAL BOARD GUIDELINES FOR DETERMINING BOARD COSTS		
TYPE	DESCRIPTION	ALLOWABLE AMOUNT
1	Process appeal and acknowledge receipt	\$50 per hour
2	Issue request to correct deficiency e.g. when Notice of Appeal contains insufficient information.	\$25 per hour
3.	Process correction of deficiency e.g. when additional correspondence with board members or other parties is required as a result of the initial deficiency.	\$25 per hour
4.	Arrange and issue notices for hearing to consider validity of appeal or board's jurisdiction.	\$50 to \$75 per hour Will vary depending upon extent of efforts to gather more information, complexity of issue and difficulty in scheduling
5	Hearing to consider validity of appeal or board's jurisdiction.	\$225 per 1/2 day of hearing Plus actual disbursements (e.g. for hearing facility, travel expenses)
6	Issue decision on validity of appeal or board's jurisdiction.	\$50
7	Arrange and issue notices for appeal management conference, settlement conference or hearing	\$50 to \$75 Will vary depending upon difficulty in scheduling (availability of parties)
8	Conduct appeal management conference or settlement conference	\$225 per 1/2 day Plus actual disbursements (e.g. for hearing facility, travel expenses)
9	Receive and process interim application (e.g. adjournment; order to compel a witness and order disclosure).	\$50 Plus costs of appeal management conference, if required
10	Attendance of recording secretary.	\$25/hour, if Board employee, plus expenses Or actual costs to Board, if contracted recording secretary
11	Hearing cancelled less than 7 days before hearing scheduled.	Actual costs and expenses incurred

12	Preparation of transcript of proceedings at hearing.	actual cost (disbursement) transcripts are prepared by private firms, arranged directly between party and service provider.
13	Legal costs.	actual cost (disbursement).
	Other tasks, not referred to above.	as estimated by Registrar.
<p>NOTES:</p> <ol style="list-style-type: none"> 1. If the board orders a party to pay part of the board's costs the order will include a detailed description of those costs. The board will consider and determine a reasonable portion of its costs based on schedule 2 as amended and published from time to time. 		