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1. General Rules
   1. Purpose of Rules - Practice and Procedures
      * 1. The purpose of the Board’s practices and procedures, including these Rules, is to facilitate the just and timely resolution of the matters before it.
        2. These Rules replace all previous rules on that date and, as of that date, apply to all unresolved, ongoing, or new matters unless the Board orders differently.
        3. These Rules apply to any new or ongoing application or related matter unless the Board orders differently.
   2. Information Publication and Directives
      * 1. The Board may publish guides and information sheets to assist parties in using these Rules and completing the forms required under these Rules.
        2. The Chair may issue practice directives to provide information or set requirements for Board practice and procedure.
   3. Definitions, Interpretation, and Counting Days
      * 1. A schedule to these Rules establishes definitions of terms and rules of interpretation that apply.
   4. Board Powers
      * 1. The Board may, on its own initiative, or a written request of a party unless the Board orders differently:
           1. exercise any of its powers, and
           2. waive or modify, in exceptional circumstances, any one or more of these Rules, the practices and procedures, and any other decisions of the Board, including shortening or lengthening any time limits.
   5. Obligation to Comply with Rules and Practice Directives
      * 1. All parties, and any representative or witnesses must comply with these Rules, the practices and procedures, and any other decisions of the Board, subject to exceptions as the Board may order.
   6. Effect of Non-Compliance With Rules
      * 1. If a party or representative refuses or fails, without reasonable excuse, to comply with these Rules, a practice directive or decision of the Board, or to attend any proceeding under these Rules, the Board may make any decision it considers appropriate in the circumstances, including one or more of the following:

an order limiting the participation of a party or a party representative in the proceeding or limiting the evidence which may be presented by a party or a party representative in the proceeding;

where the non-complying party is the applicant, a decision that the application on a matter or written request on preliminary or interim matters is dismissed or deemed to be withdrawn; or

an order that the non-complying party pay the costs of another party or of the Board resulting from the non-compliance by the party or the party’s representative.

* 1. Representation at the Board
     1. Appointment of Representative
        1. A party may act for themselves (be self-represented) or be represented by a lawyer, or other person appointed under these Rules to act as an authorized agent.
     2. Representation Ceases or Changes
        1. Cessation of appointment of a representative must be filed with the Board on such form as it may require. The party being represented bears responsibility for that filing but the incoming or outgoing representative may submit it.
  2. Communications With the Board and With Parties
     1. Communication Standards

## Forms

* + - 1. The Board may publish forms that parties must use, which may specify terms of use, and required information or documentation.

## Case File Number Shown

* + - 1. Communications with the Board must identify the case file number assigned by the Board.
    1. Copies of Communications to the Board Copied to All
       1. A party must deliver a copy of any communication with the Board to the other parties.
    2. Address for Delivery and Communication
       1. The address for delivery of a party is the party’s address for delivery but if the participant is represented then it is the representative’s address for delivery. However, the Board may communicate with a party at that party’s or the representative’s address for delivery.
    3. Contact details and Address for Delivery
       1. Each party must file with the Board the contact details, and immediately update any change in contact details, of the party and their representative, if any.
    4. Communication with Members
       1. A party must not attempt to communicate privately with a Member regarding matters before the Board.
    5. Time of Delivery

## Deemed Receipt

* + - 1. A communication received by the Board after the Board’s business day has ended is deemed to be received on the next business day.
      2. If a communication is sent to a party’s address for delivery, the communication type is deemed to be delivered as set out in the table below, in the absence of evidence to the contrary:

|  |  |
| --- | --- |
| **Type** | **Deemed Delivered** |
| Mail | 5 days after it was mailed |
| Fax | the following business day |
| Email | the following business day |

## Alternative Method of Delivery

* + - 1. If ordinary methods of delivery have not been or are not likely to be effective, the Board may permit or require an alternative method of delivery.

1. Making an Application *- Starting A Matter*
   1. Filing of Applications
      1. Form of Application
         1. Applications, and any subsidiary request or motion, must be completed using the appropriate form provided in Schedule A of these Rules as designated for use.
         2. Where no form is designated by the Board for certain matters, the communication must be made in writing containing the following:
            1. the applicant’s name and contact details, and of any representative;
            2. the reason for the filing or a description of the relief sought;
            3. a reference to the section of the relevant statute relied upon;
            4. a clear and concise statement of the facts relevant to the submission; and
            5. any other information required by the relevant legislation or useful in explaining or supporting the submission.

## Compliance Review of Filings

* + - 1. On receipt of an application, or subsidiary request or motion, a designate of the Board shall conduct a review and may, by notice to the applicant(s), refuse or suspend processing if the submission:
         1. is incomplete or fails, other than inconsequentially, to comply with these Rules, and any practice directives, or decision of the Board;
         2. fails to comply with the requirements of the Act, which may be, for emphasis, that it is clearly not within the jurisdiction of the Board; or
         3. was not received before a relevant deadline or limitation.

## Correction of Deficiencies

* + - 1. If a submission for filing is not complete, the Board may deliver a written notice of deficiencies to the party and require completion or correction of deficiencies within a reasonable amount of time.
      2. If an applicant fails to provide any information required to be submitted within a reasonable amount of time, the Board may consider the application withdrawn.

## Jurisdiction of the Board

* + - 1. If it appears to the Board that all or part of an application, or any subsidiary request or motion, is not within its jurisdiction, or if a participant questions the Board’s jurisdiction in a written submission filed with the Board, the Board:
         1. may give the party the opportunity to provide further information, evidence, or submissions; and
         2. may conduct an arbitration hearing, after due notice to all parties, to determine whether the Board has jurisdiction.
  1. Service of Application or Related Filings – Contents and Recipient
     + 1. An application, or subsidiary request or motion, must be delivered to each participant and any person expected to be directly affected by the matter, and specifically must be served on the persons as required under the applicable provisions of the Act as indicated in the table below and accompanied by:
          1. confirmation of delivery to affected persons of the submission and the method of delivery;
          2. if a representative makes the filing, then a copy of the designated form authorizing the representation, filed with the Board; and
          3. any other information listed on the relevant form provided in Schedule A of these Rules.

|  |  |
| --- | --- |
| Section(s) | Served on the following, excluding the applicant where listed: |
| 158 and 163 | * the landowner; * the right holder or the person who requires a right of entry; * the occupant, if any; * any person likely to be directly affected by a decision of the Board; and * any other person the Board determines should be a party to an application. |
| 164 and 166 | * the other party to the surface lease or entry order. |
| 176 | * the person or company with the right of entry. |

* 1. Addition of Parties
     + 1. Any person directly affected by an application may apply to the Board to be added as a party to the application.
       2. A request to be added as a party must be in writing and must:
          1. include information as to how the person requesting to be added is directly affected by the application; and
          2. state the level of requested participation.
       3. Without limitation, the Board will consider whether the person making the request is directly affected by the application, the timeliness of a request, the prejudice, if any, to the other parties, whether another party can adequately represent the interest of the person making the request, and whether adding the person as a party will delay or unduly lengthen the proceedings.
       4. The Board may provide a copy of the request to the other parties to the application and seek submissions from them before deciding whether or not to add the person as a party.
       5. The Board may impose terms and conditions limiting the participation of a person added as a party in the proceeding.

1. The Dispute Resolution Process
   1. Case Conference – Case Management Meetings
      1. Attend
         1. The Board may require a case conference, which the parties must attend.
      2. Managing Case Conferences
         1. The presiding member of a case conference, has discretion over how to conduct the case conference, subject only to the Board’s direction, and may:
      3. Form of Conference
         * 1. require a case conference to be conducted in person, by telephone or video conference, in writing or by any other means thought appropriate considering the circumstances including the convenience and cost to the parties and any need to view the land at issue;
           2. make any decision, and issue any order, as the member considers appropriate:

for the efficient conduct of the application; or

on resolution of any or all matters as the parties may agree and request.

## Issues - Submissions

* + - * 1. canvass the issues and assist the parties to clarify, narrow or simplify the issues;
        2. require the parties to prepare and file with the Board, before or after the case conference:

a mutually agreed statement of facts, or

written submissions or summaries of any or all issues;

## Preliminary Issue - Jurisdiction

* + - * 1. where jurisdiction of the Board is at issue, schedule or reschedule a process to determine the jurisdiction of the Board;

## Disclosure

* + - * 1. require a party to produce to the Board or another party, or allow the Board or another party access to any of the following:

any documents or other information which may be material and relevant to an issue, including an expert report to be tendered at an arbitration hearing, or

lists of witnesses intended to be called at an arbitration hearing,

a written summary of:

a witness’s evidence or “will say” statement,

expert reports to be tendered at an arbitration hearing, or

written submissions;

* + - * 1. require a party or a proposed witness to answer, under oath or affirmation by way of oral examination or affidavit, questions of another party before the commencement of an arbitration hearing;

## Scheduling

* + - * 1. schedule a site visit and determine the terms of participation for a site visit;
        2. schedule, reschedule, or adjourn a mediation or arbitration hearing; and
        3. impose time limitations and terms and conditions in respect of any of the above, or any other process necessary for the fair and efficient management of mediation or a hearing.
  1. Case Management Report with Orders
     + 1. The presiding member of a case conference shall file the results of the pre-hearing conference in such form or manner as the Board may require, and which shall include identification or summary of the issues, and any decision made affecting the future conduct of the matter.
  2. Mediations

## Confidential - Not Public

* + - 1. Board-facilitated mediation is not open to the public.
      2. Discussions in a mediation are protected from disclosure. They are confidential and without prejudice to the positions that the parties may take in arbitration afterward. Discussions or positions taken by any party may not be disclosed by any participant outside of the mediation, or in further proceedings.

## Mediation to Be Conducted

* + - 1. Mediation is not required in an application under the following sections of the Act:

|  |  |
| --- | --- |
| **Section** | *[Description (Clerical Only)]* |
| 155 | *[Reconsideration by Board]* |
| 167 | *[Termination of surface lease or order]* |
| 169 | *[Advance costs]* |
| 171(2**)** | *[Registration of order]* |
| 176(1**)** | *[Failure to pay]* |

* + 1. Mediation Structure
       1. The Board Chair may direct that a mediation be conducted under imposed time or other limitations.

## Managing Mediation

* + - 1. In a mediation the member presiding has discretion over how to conduct the mediation as thought fit, subject only to the Board’s direction, and may:
         1. require a mediation to be conducted in person, by telephone or video conference, in writing or by any other means thought appropriate considering the circumstances including the convenience and cost to the parties and any need to view the land at issue;
         2. may make procedural orders relating to the mediation, as the member considers appropriate for the efficient conduct of the medication;

## Issues - Submissions

* + - * 1. facilitate discussion between the parties towards a settlement of the issues;
        2. canvass the issues and assist the parties to clarify, narrow, simplify or agree on issues;
        3. provide non-binding opinions or evaluation of:

any issue in the application, and

the likelihood of success of any issue in the application;

* + - * 1. meet with the parties individually or together;
        2. make a consent order resolving the application;
        3. make an order authorizing right of entry under section 159of the Act[[1]](#footnote-2) subject to the terms and conditions specified in the order including requiring the person who is seeking the right of entry to pay a security deposit under section 160 of the Act;[[2]](#footnote-3)
        4. schedule one or more additional mediations; and
        5. refer the application to the Board for arbitration (a hearing), if the mediator believes the application cannot be resolved by mediation.
  1. Mediation Report (Excludes Positions)
     + 1. The presiding member of a mediation shall file the results of Mediation in such form or manner as the Board may require:
          1. including identification or summary of the issues and any orders, directions or rulings of the mediator affecting the future conduct of the matter, but
          2. excluding any discussion on the positions of the parties on any issue, and any non-binding opinions or non-binding evaluation of the success of any issue offered by the mediator.
  2. Arbitration Hearings
     1. Public Hearings
        1. Arbitration hearings are open to the public, unless the Board determines that protection of a personal or public interest requires exclusion of the public from all or part of a hearing.
        2. Arbitration hearings scheduled within 90 days are published on a hearing list, which includes the parties’ names, case number, application type, and the hearing place and date of hearing.
     2. Arbitration Panel
        1. The Chair may direct that an arbitration hearing be conducted by an arbitration panel consisting of one or more members one of whom is to be the Panel Chair.
        2. The Mediator of a matter will not be assigned to arbitrate in a hearing of the same matter unless all parties consent.[[3]](#footnote-4)
     3. Managing Arbitration Hearings
        1. The member presiding at an arbitration hearing has discretion over how to conduct the arbitration and hearing as thought fit, subject only to the Board’s direction, and may:
           1. require the hearing, or any part, be conducted in-person, by video conference, by telephone conference call, or by some other manner as thought appropriate the Board considering: the convenience and cost to the parties, witnesses, and the Board, and other circumstances including any need to view the land at issue.

## Procedures

* + - * 1. make procedural orders, including concerning the making of submissions and the order of proceedings;
        2. administer oaths and affirmations;
        3. make determinations on the admissibility of evidence;
        4. require the production of evidence;
        5. require the attendance of witnesses;
        6. 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;
        7. ask questions:

of a person making submissions to clarify issues or facts, or

of a witness that may be in the nature of direct examination or cross-examination;

* + - * 1. place time limitations on any part of the hearing including the presentation of evidence, the examination or cross-examination of witnesses, or the presentation of opening or closing submissions;
        2. require parties to present written submissions;

## Add Participants

* + - * 1. add parties or allow interveners to participate subject to terms and conditions that a panel may impose, including:

limiting access to documents, to make submissions, or other participation at the hearing, and

posting or paying of costs;

## Schedule

* + - * 1. adjourn, reschedule, or add additional time for a hearing;

## Costs

* + - * 1. make an order for a party or participant, including an intervener, to pay all or part of the costs of another party or intervener, and those of the Board;

## Convert to Resolve

* + - * 1. convert the hearing into a settlement conference with the consent of the parties; and
        2. make a consent order resolving the application.

## Legal Authorities

* + - 1. If a party refers to legal authorities in a written or oral submission to the Board, the party must produce/provide copies of the legal authorities to the Board and the other parties, and must highlight the passages intended to be referred to and those relied upon.

## Recording of Arbitration Hearings

* + - 1. Arbitration hearings conducted in-person or by video or teleconference may be recorded by an employee, member, or contractor of the Board at the discretion of the Board.
      2. The Board or panel may make a recording, or arrange for a court reporter or transcribable recording of an arbitration hearing.
      3. The Board or Panel Chair may approve a transcriber and release the recording to the transcriber to prepare a transcript of all or part of a hearing. Unless ordered differently, the person who asks for the transcript must pay the transcriber directly with directions for delivery of the transcript to both that person and the Board.
      4. If the Board makes a recording of a hearing that is intended to be transcribable, a participant may make arrangements to listen to the recording in the Board’s office. That person may not make or take copies. Copies will not be made available by the Board.
  1. Evidence

## Oaths and Affirmations

* + - 1. Every witness must swear an oath or affirm that their evidence will be the truth and binding their conscience. If swearing an oath involves holding or touching a religious text, the party calling that witness must provide the religious text.

## Expert or Opinion Evidence 60-Day and 30-Day Deadlines

* + - 1. Unless the Board orders differently, if a party wants to tender the opinion evidence of an expert at an arbitration hearing, the party must deliver the expert’s written report to:
         1. each participant; and
         2. the Board to be marked as an exhibit, and in addition a copy for each panel member.
      2. The delivery of a written expert report must be within the time limits as follows, calculated backwards from the scheduled start of the hearing:
         1. 60 days for an expert report, other than a response or reply report; and
         2. 30 days for an expert report made in response to the opinions in the expert report above; and
         3. for a subsequent rebuttal by an expert to the response expert report, prompt notice to the other parties along with the request with reasons to the Board for directions and any timing for delivery to the other parties of a rebuttal expert report or written summary of a rebuttal opinion, as the Board may direct.
      3. A written report of an expert must include the following, and file such form as the Board may require:

the expert's contact details;

a statement of the expert’s area of expertise, qualifications, and employment in their area of expertise;

the instructions provided to the expert in seeking the opinion;

the expert's reasons for their opinion, including a description of factual assumptions and citations; and

a statement that the expert is aware of the expert’s duty and has made the report in conformity with that duty.

## Notice to Cross-Examine

* + - 1. If a party wants to cross-examine an expert on his or her report, the party must deliver notice to the party tendering the opinion of the expert, the other parties and the Board that the expert is required to attend the arbitration hearing for cross-examination.

## Onus If Non-Compliance

* + - 1. If a party fails to satisfy the rules regarding expert evidence, under this Division, but seeks to admit the evidence, that party may be required to demonstrate **a reasonable explanation for failure to abide by the rules** and that it will not cause prejudice to the responding party or cause undue delay.
  1. Request for Summons
     + 1. A party may apply to the Board in writing, at least fourteen (14) days before the first day of the hearing for an order requiring another person to attend an arbitration hearing as a witness. The submission must be copied to the other parties, and include:
          1. the witness contact details;
          2. the reason the person’s attendance is required;
          3. any attempts made to have the witness voluntarily attend the hearing or provide documents or other information;
          4. a description of any documents or other items which the witness is requested to bring to the hearing; and
          5. the reasons why the witness’s evidence, documents or other items are relevant to the issues in the arbitration hearing.
       2. If the Board is satisfied that the person has relevant evidence or documents that might not be available at the hearing unless they attend, and that it is worth the cost to make the witness come to the hearing, the Board may issue a summons requiring the attendance, on such form and on such terms and conditions as it sees fit.[[4]](#footnote-5)
       3. If the Board issues a summons, the party who applied for the summons must deliver the summons within a reasonable time before the witness is required to appear.
       4. A party may deliver a summons, together with witness fees calculated using Schedule B unless the Board orders differently.
       5. 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 arbitration hearing, for the summons to be vacated or varied.
       6. The Board may cancel or vary the summons if it is satisfied that the evidence of the person is not relevant, may be obtained through some other means, is protected by privilege, the person is not able to provide the information sought, or the attendance of the person will be unduly inconvenient.
  2. Adjournments – Mediation or Arbitration
     + 1. The Board may adjourn a mediation or arbitration at any time on its initiative or request of a party.
       2. A party may seek adjournment of a mediation or arbitration by applying to the Board not fewer than seven (7) calendar days before the scheduled date of the mediation or arbitration. The written request must be copied to the other parties and must include the reasons and evidence relied upon in support of the adjournment.
       3. The Board will not grant a request for an adjournment of a mediation or arbitration unless the Board considers it reasonable, and the adjournment will not be unduly prejudicial to the other parties; and in considering the written request may require:
          1. further information or submissions from the parties, including a concerning prejudice and undue delay;
          2. the parties to attend a pre-hearing conference; and
          3. further submissions regarding the written request for the adjournment.
       4. If mediation or arbitration is adjourned, the Board may order any terms or conditions respecting rescheduling, attendance at pre-hearing conferences, production of documents or reports, payment of the costs of a party or the Board, or any other matters which may assist with the fair and efficient conduct of the matter.
  3. Without Prejudice offer to Settle
     + 1. A without-prejudice offer to settle an application:
          1. may be made under the following sections of the Act:

|  |  |
| --- | --- |
| **Section** | *[Description (Clerical Only)]* |
| 159 | *[Right of entry order]* |
| 163 | *[Application relating to loss or damage caused by right of entry]* |
| 164 | *[Board orders relating to surface leases]* |
| 166 | *[Parties do not agree to amendment of surface lease or order]* |

* + - * 1. must be delivered in writing no less than seven (7) days before the scheduled date of the arbitration, or if the arbitration is by way of written submissions, no less than seven (7) days in advance of the first scheduled submission date; and
        2. must not be disclosed to the Board or included in any document used in an arbitration until all issues in the arbitration other than costs have been determined and reasons provided to the parties.
      1. In a request for costs, the Board may consider an offer to settle only if the offer reserved the right to bring the offer to the attention of the Board for consideration of costs after the Board has determined all other issues in a proceeding, and then may consider:
         1. whether an offer to settle was one that ought reasonably to have been accepted;
         2. the relationship between the terms of settlement offered and the final determination of the Board; and
         3. any other factors the Board considers appropriate.
  1. Withdrawal or Settlement of An Application
     + 1. A party may withdraw all or part of an application at any time by completing **Form 3** and delivering it to the Board with a copy to the other parties.
       2. If the parties settle an application the Board will dismiss the application after they mutually:
          1. advise the Board that the application has been settled with no further steps requested; or
          2. apply for a consent order from the Board incorporating the terms of settlement, and it is issued.
       3. Before issuing a requested consent order, the Board may:
          1. require further information or submissions from the parties; and
          2. require the parties to attend a telephone or video conference and make further submissions regarding the application for a consent order.
       4. The Board will only make a consent order incorporating the terms of settlement of an application if it is satisfied the order is consistent with the legislation; and will provide reasons if it declines to issue a consent order.

1. Post Resolution Process
   1. Effective Dates and Correction of Decisions
      * 1. Board decisions are effective on the date of issue in writing, unless the Board specifies differently.
        2. the Board may amend a final decision to correct
           1. a clerical or typographical error,
           2. an accidental or inadvertent error, omission or other similar mistake, or
           3. an arithmetic error.
   2. Reconsiderations
      * 1. The Board may reconsider an order of the Board and may vary or rescind the order under section 155(1)of the Act[[5]](#footnote-6) if the Board is satisfied that any of the following circumstances exist:
           1. there has been a change in circumstance since the making of the Board’s order;
           2. evidence has become available that did not exist or could not have been discovered through the exercise of reasonable diligence at the time of the making of the Board’s order; or
           3. the Board made a jurisdictional error including a breach of the duty of procedural fairness, or a patently unreasonable error of fact, law or exercise of discretion in respect of matters within the Board’s jurisdiction.
        2. A request for reconsideration must:
           1. be delivered to each other party; and
           2. be in writing, on such form as may be required, setting out the grounds for reconsideration including:

a summary of any new evidence relied on in support of the reconsideration

a statement, as appropriate, of any change of circumstance since the making of the relevant Board order, and

the details of any alleged jurisdictional error.

* + - 1. A party may only apply once for reconsideration of a Board order because of an alleged jurisdictional error.
      2. The Board may determine the procedures to be followed on a case-by-case basis to determine whether to conduct a reconsideration and how a reconsideration will be conducted.
  1. Costs
     + 1. The Board may order a party to pay all or part of the actual costs of another party, an intervener or to the Board in connection with an application. The request for costs must be on the form designated by the Board, but if no form is designated then in writing and include:
          1. reasons to support the request;
          2. a detailed description of the costs sought; and
          3. copies of any invoices or receipts for disbursements.
       2. Unless the Board orders differently, the person who applies for a right of entry under section 158 of the Act shall pay the landowner’s reasonable mediation costs.
       3. An application for advance costs under section 169 of the Act[[6]](#footnote-7) must be in writing and include:
          1. A summary of the nature of the actual costs the landowner anticipates will be incurred; and
          2. an estimate of the amount of actual costs the landowner anticipates will be incurred in connection with an application.
       4. In making an order for the payment of a party’s costs, the Board may consider:
          1. the reasons for incurring costs;
          2. the contribution of counsel and experts retained;
          3. the conduct of a party in the proceeding;
          4. whether a party has unreasonably delayed or lengthened a proceeding;
          5. the degree of success in the outcome of a proceeding;
          6. the reasonableness of any costs incurred;
          7. any without prejudice offer to settle properly disclosed to the Board; and
          8. any other factor the Board considers relevant.
       5. If the Board finds that the conduct of a party or intervener has been improper, vexatious, frivolous or abusive, the Board may order that party or intervener to pay part of the actual costs of the Board in connection with an application in accordance with the Tariff at Schedule C, as amended from time to time.

...............................

Schedule

Definitions and Rules of Interpretation

# Definitions and Application to Other “Enactments”

* + - 1. In these Rules, and any associated practices and procedures, unless a different intention appears:

**“Act**” means the [Petroleum and Natural Gas Act, RSBC 1996, c 361](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96361_01), as amended**;**

**“address for delivery**” means contact details as filed with the Board and to which written (including electronic) communication may be delivered about a matter before the Board;[[7]](#footnote-8)

“**applicant**” means one or more persons who files an application with the Board and any person that the Board adds as an applicant;

“**application**” means an application for mediation or arbitration under the enactments listed below, all as amended, but excludes any interim or preliminary matter or an application to the court:  
[Petroleum and Natural Gas Act, RSBC 1996, c 361,](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96361_01)[Coal Act, SBC 2004, c 15,](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_04015_01)[Geothermal Resources Act, RSBC 1996, c 171](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96171_01),  
[[Mineral Tenure Act, RSBC 1996, c 292](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96292_01)](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96292_01),  
[Mining Right of Way Act, RSBC 1996, c 294](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96294_01),;

“**Board**” means the Surface Rights Board established under section 146 of the Act, and the Board Chair, a panel, Panel Chair, and any member when empowered to make a decision as permitted under section 26(6 and (9) of the [Administrative Tribunals Act, SBC 2004, c 45](http://www.surfacerightsboard.bc.ca/documents/OtherPublications/ata.doc);

“**Board Chair**” or “**Chair of the Board**” means the Chair of the Board, or acting chair;[[8]](#footnote-9)

“**business day**” means during the hours that the Board office is normally open on a day other than Saturday, Sunday or another holiday listed in the definition of “holiday” in the [Interpretation Act RSBC 1996, c 23](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96238_01);

“**contact details**” means name, current postal address, physical address, telephone number, email address, and facsimile transmission number (as far as each is known or relevant) and any designated address(es) for delivery;

“decision**"** includes a determination, an order or other decision;

“**deliver**” means sending or depositing required notices or documents to, or at, to the address for service of a participant, which may be by physical delivery or electronic delivery as permitted by the Board;

“**document**” includes paper, letter, book, map, plan, drawing, photograph, film, recording, optical or electronic storage device, and any other thing on which information is recorded or stored;

“**electronic**” means created, recorded, transmitted or stored in digital or other intangible form by electronic, magnetic or optical means or by other similar means;

“**expert report**” and “**expert evidence**” means evidence expressing an opinion based on education, training or experience;

“**file”** means to file with the Board in such form, or manner, with such information and payment, as required by the Board;

“**hearing**” and “**adjudication**” in the context of a hearing, mean a hearing of the Board to adjudicate a matter; for clarity, a mediation is not a hearing;

“**holiday**” has the meaning as defined in the [Interpretation Act RSBC 1996, c 23](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96238_01) (see section 29);

“**include**” in relation to an application or other document (matter), includes ‘being accompanied’, and for electronic sending includes being ‘attached’, ‘sent with’ or sent contemporaneously without delay as part of a transmission sequence identified as connected or intended as a package;

**“matter**” includes application and any preliminary or interim request or motion, or consideration, and any permitted review or enforcement after a decision excluding those made to the court;

“**mediation**” means a facilitated negotiation, or “facilitated settlement process” within the meaning of the [Administrative Tribunals Act, SBC 2004, c 45](http://www.surfacerightsboard.bc.ca/documents/OtherPublications/ata.doc);

“**mediator**” means a member or members appointed by the Board Chair to mediate an application, or **pre**-hearing dispute resolution conference[[9]](#footnote-10), when the term is capitalized refers to a mediator appointed for a matter at issue;

“**member**” means a member of the Board appointed under the Act, and includes the member designated as the Board Chair or Vice-Chair of the Board, a panel of members, a temporary member appointed under section 6 of the [Administrative Tribunals Act, SBC 2004, c 45](http://www.surfacerightsboard.bc.ca/documents/OtherPublications/ata.doc), and a temporary Chair appointed under section 4 of that Act;

“**Panel Chair**” means the member designated to preside at a hearing, or in the case of a one-person panel, that member;

“**panel**” means a member or members empanelled by the Board Chair to adjudicate a matter, and when the term is capitalized refers to the specific panel for a matter,

“**participant**” means an interested party that the Board designates as allowed to participate as the Board may specify;

“**party**” means an applicant or respondent, and where the context requires such participants as designated by the Board;

“**practice directive**” means any practice direction or direction, set of requirements, guidance or information issued by the Board to support or supplement rules of practice and procedure, or to guide or inform. These may be issued to apply on a one-time or ongoing basis.

**“practices and procedures”** means the practice and procedure made under the authority of the Board;

**“proceeding”** includes an action, cause, matter or other proceeding before the Board;

“**produce**” in relation to a document or other thing means to provide directly or by any other means specified in the Rules or decisions of the Board so that the document or other thing is received at the address for delivery of the intended recipient on or before the time or business day it is required to be produced;

“**representative**” means a lawyer, or another person, appointed by written authorisation filed with the Board in such form as the Board may require and who is not otherwise disentitled under these rules;

“**respondent**” means one or more persons against whom an application is made and any person the Board adds as a respondent;

“**Rules,** these” means these Surface Rights Board Rules in this publication, and any update to the publication issued by the Board, unless a contrary intention appears; and

“**serve**” has the same meaning as “deliver” and “service” as an act of delivery.

# Interpretation

* + - 1. In these Rules, and any associated practices and procedures, unless a different intention appears the following provisions under this section shall apply.

## Grammatical forms and Broad Application

* + - * 1. Where a term is defined, other parts of speech and grammatical forms of it have corresponding meanings.
        2. Definitions or interpretation provisions apply throughout including the section containing a definition or interpretation provision.

## Succeeding Legislation

* + - * 1. A reference in these Rules to any enactment, including any statute or regulation, means that enactment as amended or substituted from time to time.

## Calculation of Days, Time Periods

* + - * 1. Calculation or determination of days and time periods shall be governed by the [*Interpretation Act* RSBC 1996, c 23](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96238_01), which adjusts for holidays. These calculations shall apply under these Rules, and to any practices, procedures, and decisions unless a different intention appears.[[10]](#footnote-11)

## Reference Aids, Clarifications, Information and Guides

* + - * 1. The following are editorial for convenience of reference or guidance and are not part of the Rules, or practices and procedures, unless a different intention appears:

headings and subheadings;

footnotes or commentary set out in text boxes; and

text in square brackets that is or purports to be a description of a subject matter.

Schedule A

FORMS

[INCOMPLETE]

|  |  |  |
| --- | --- | --- |
| Section | Regarding/Description | Form #/ID |
| 158 | *[Application for mediation and arbitration]* | X |
|  | Application for Mediation and Arbitration Services  – Right of Entry, Terms and Compensation  (Oil and Gas) | [1A](http://www.surfacerightsboard.bc.ca/Documents/Forms/Form%201A.doc) |
|  | Application for Mediation and Arbitration Services  – Right of Entry, Terms and Compensation  (Mining) | [**1B**](http://www.surfacerightsboard.bc.ca/Documents/Forms/Form%201b.doc) |
| 162 | *[Determination of money payable and security]* | X |
| ? | Application for Return of Security Deposit | [**5**](http://www.surfacerightsboard.bc.ca/Documents/Forms/Form%205.doc) |
| 163 | *[Application relating to loss or damage caused by right of entry]* | X |
|  | Application for Mediation and Arbitration Services  – Damages | [**1C**](http://www.surfacerightsboard.bc.ca/Documents/Forms/Form%201C.doc) |
| 164 | *[Board orders relating to surface leases]* | X |
|  | Application for Mediation and Arbitration Services  – Compliance | [**1E**](http://www.surfacerightsboard.bc.ca/Documents/Forms/Form%201E.doc) |
| 165 | *[Negotiation of amendment to surface lease or order]* | [new] |
| ? | Notice to Lessee/Lessor for Renegotiation | [**2**](http://www.surfacerightsboard.bc.ca/Documents/Forms/Form%202.doc) |
| 166 | *[Parties do not agree to amendment of surface lease or order]* | X |
|  | Application for Mediation and Arbitration Services – Rent Review | [**1D**](http://www.surfacerightsboard.bc.ca/Documents/Forms/Form%201d.doc) |
| 176 | *[Failure to pay]* | X |
| General | Application for Withdrawal | [**3**](http://www.surfacerightsboard.bc.ca/Documents/Forms/Form%203.doc) |
|  | Summons | [**4**](http://www.surfacerightsboard.bc.ca/Documents/Forms/Form%204.doc) |
|  | Affidavit of Service | [**6**](http://www.surfacerightsboard.bc.ca/Documents/Forms/affidavit.doc) |

1. *[Right of entry order]* [↑](#footnote-ref-2)
2. *[Security deposit]* [↑](#footnote-ref-3)
3. Per Act s152(8). [↑](#footnote-ref-4)
4. See Form 4. [↑](#footnote-ref-5)
5. #### *[Reconsideration by board]*

   [↑](#footnote-ref-6)
6. *[Advance costs]* [↑](#footnote-ref-7)
7. Also see the definition for “Contact Details” [↑](#footnote-ref-8)
8. See the [Administrative Tribunals Act, SBC 2004, c 45](http://www.surfacerightsboard.bc.ca/documents/OtherPublications/ata.doc) [↑](#footnote-ref-9)
9. Definition needed? [↑](#footnote-ref-10)
10. [Interpretation Act RSBC 1996, c 23](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96238_01), see sections 25 and 26. [↑](#footnote-ref-11)