

**RULES OF PROCEDURE OF THE REGISTRATION COMMITTEE
OF THE ASSOCIATION OF PROFESSIONAL ENGINEERS OF ONTARIO**

(made under s. 25.1 of the *Statutory Powers Procedure Act*)

Rule 1 - Interpretation and Application of Rules

1.1 Definitions

In these Rules, unless the context requires otherwise:

“**Act**” means the *Professional Engineers Act*, R.S.O. 1990, c. P.28, as amended.

“**Applicant**” means applicant for a licence or applicant for or holder of a temporary licence, provisional licence, limited licence, or a Certificate of Authorization.

“**Association**” means the Association of Professional Engineers of Ontario.

“**Chair of the Committee**” means the Chair of the Registration Committee.

“**Chair of the Panel**” means the Chair assigned by the Chair of the Committee to preside over a Hearing.

“**Committee**” means the Registration Committee.

“**Day**” means calendar day.

“**Documents**” includes correspondence, audio and video recordings, photographs, notes, memoranda, blueprints, plans, maps, surveys, reports or any other document relevant to the proceeding.

“**Hearing**” means a hearing before a Panel of the Committee.

“**Motion**” means a request for a decision on a particular issue at any stage within a proceeding.

“**Notice of Hearing**” means the document issued by the Chair of the Committee that includes the time, date and place of a Hearing.

“**Panel**” means a panel of Committee members selected by the Chair of the Committee to conduct a Hearing.

“**Parties**” means the Registrar and the Applicant.

“**Party**” means the Registrar or the Applicant.

“Presiding Member” means a member of the Committee or any other person designated by the Chair of the Committee to conduct a pre-hearing conference.

“Proceeding” means a proceeding before the Committee.

“Registrar” means the Registrar of the Association.

“Service” means the delivery of documents to any person or to the person’s representative.

“SPPA” means the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended.

1.2 Interpretation of Rules

- a) These Rules shall be interpreted liberally to secure a determination that is just and expeditious. These Rules shall not be interpreted and applied in a manner that is inconsistent with any provision of the Act, its Regulations, and any relevant statute.
- b) In the event of a conflict between the English and French versions of these Rules, the English version shall prevail.
- c) The Committee may issue practice directions from time to time to explain or clarify these Rules.

1.3 General

- a) The Committee, the Chair of the Committee, Panel of the Committee, Chair of the Panel and/or Presiding Member may waive, vary, or apply any of these Rules.
- b) It is sufficient if there is substantial compliance with a form or notice required by or under these Rules.

Rule 2 – Documents

2.1 Any Party that intends to rely on a document at a Hearing shall:

- a) serve a copy of that document *on the other Party* so that it is received by them at least ten (10) days prior to the Hearing; and in addition,
- b) prepare seven (7) copies of that document for distribution at the Hearing *as follows*:
 - *Members of the Panel (3 copies)*;
 - *Independent Legal Counsel (1 copy)*;
 - *Applicant (1 copy)*;
 - *Registrar (1 copy)*;
 - *Court Reporter (1 copy)*.

2.2 No Document is admissible unless the Party who wishes to rely on it has served it as required by the Rules, or unless a Panel of the Committee decides otherwise.

2.3 Service of Documents may be made by:

- a) registered mail,
- b) facsimile,
- c) courier; or,
- d) personal delivery.

2.4 Service by email is acceptable with the consent of the Party being served.

2.5 The Panel may order any Party to produce Documents and/or provided particulars, as the Panel considers necessary.

Rule 3 - Pre-Hearing Conferences

- 3.1** The Chair of the Committee, at the request of either Party or on the Chair's own initiative, may direct the Parties, to participate in one or more pre-hearing conferences for the purpose of considering any matter that may assist in the just and expeditious disposition of a proceeding.
- 3.2** If the Chair of the Committee determines that a pre-hearing conference will be held, the Chair shall give written notice of the pre-hearing conference to the Parties.
- 3.3** The notice of a pre-hearing conference shall include:
- a) The date, time, place and purpose of the pre-hearing conference;
 - b) Whether the Parties are required to attend in person or participate by teleconference; and,
 - c) Whether the pre-hearing will be open or closed to the public.
- 3.4** A pre-hearing conference shall be presided over by a single member of the Committee or other person designated by the Chair of the Committee.
- 3.5** The Presiding Member shall not be a member of the Panel assigned to the hearing, unless the Parties consent.
- 3.6** Agreements made at a pre-hearing conference shall be recorded in a pre-hearing conference memorandum prepared by, or under the direction of, the Presiding Member and signed by the Parties. Parties shall be bound by the agreements they make in any pre-hearing conference memorandum.
- 3.7** Copies of the pre-hearing conference memorandum shall be provided to the Parties at the end of the pre-hearing and the Presiding Member shall provide a copy to the Chair of the Committee and to the Panel.

Rule 4 - Summons to Witness

- 4.1** A Party to a proceeding may request that the Chair of the Committee issue a summons compelling attendance of a witness at a hearing.
- 4.2** The Party requesting the summons must provide:
- a) The name, current address and telephone number of the witness;
 - b) A brief statement outlining why the testimony of the witness or documents requested is relevant to the proceeding; and,
 - c) The number of days that the witness will be required to attend at a hearing.
- 4.3** Summons are obtained at the Office of the Chair of the Committee and must be served personally on the individuals summonsed at least ten (10) days prior to the hearing.
- 4.4** The Party requesting the summons must provide conduct money to the witness, in accordance with Tariff A of the *Rules of Civil Procedure*. The conduct money must accompany the summons when it is served upon the witness.

Rule 5 - Motions

- 5.1** All motions shall be made orally before the Panel at the Hearing.
- 5.2** Notwithstanding Rule 5.1, the following matters may be the subject of a motion in writing in advance of a Hearing before the Chair of the Committee:
- a) a request for production or particulars; or,
 - b) a request for an adjournment.
- 5.3** At the discretion of the Chair of the Committee, Parties to a motion in advance of a Hearing may be directed to bring the motion before a Panel to make oral submissions.
- 5.4** In deciding whether to grant an adjournment, the following factors may be considered:
- a) The sufficiency of the reasons advanced for the request to adjourn;
 - b) The timing of the request;
 - c) The availability of the Panel;
 - d) The consent of the Parties;
 - e) Prejudice to any Party;
 - f) Whether the matter has previously been adjourned; or,
 - g) Any other relevant factor.

Rule 6 - Hearing Procedures

- 6.1** The Chair of the Committee may, on behalf of the Committee, set Hearing dates in accordance with subsection 19(5) of the Act and assign a panel.
- 6.2** Written notice of a Hearing shall be delivered by facsimile or regular mail to both parties setting out the time, date and location of the Hearing.
- 6.3** Following the commencement of a Hearing, the Panel may direct that it be continued in part via teleconference, videoconference or in writing, unless a party satisfies the Panel that holding the Hearing in such a manner is likely to cause significant prejudice.

Rule 7 - Constitutional Question

- 7.1** Where a party intends to raise a constitutional question or claim a remedy under the *Canadian Charter of Rights and Freedoms*, notice shall be delivered and served in accordance with section 109 of the *Courts of Justice Act*.

Rule 8 - Expert Witnesses

- 8.1** A Party that intends to present evidence from an expert witness at a hearing shall serve the other Party at least 60 days prior to the hearing with a written report signed by the expert containing the information set out in Rule 8.3:
- 8.2** A Party that intends to call an expert witness to respond to the expert witness of another party shall serve the other party at least 30 days prior to the hearing a written report signed by the expert containing the information set out in Rule 8.3
- 8.3** A report for the purposes of Rules 8.1 and 8.2 shall contain the following information:
1. The expert's name, address and area of expertise.
 2. The expert's qualifications and employment and educational experiences in his or her area of expertise.
 3. The instructions provided to the expert.
 4. The nature of the opinion being sought and each issue in the proceeding to which the opinion relates.
 5. The expert's opinion respecting each issue and, where there is a range of opinions given, a summary of the range and the reasons for the expert's own opinion within that range.
 6. The expert's reasons for his or her opinion, including,
 - i. a description of the factual assumptions on which the opinion is based,
 - ii. a description of any research conducted by the expert that led him or her to form the opinion, and
 - iii. a list of every document, if any, relied on by the expert in forming the opinion.
 7. Written acknowledgement of the expert's duty to the Panel.
- 8.4** If a Party fails to comply with the provisions of sub-rule 8.1, 8.2 and/or 8.3, the Party may not put forth an expert witness unless it obtains leave from the Panel, which may be granted on such terms and conditions as the Panel considers just.

8.5 A Party shall not be permitted to call more than one expert witness without leave of the Panel.

Rule 9- Notice by Representative

- 9.1** Where a Party retains a representative to act for the Party, the representative shall, in writing, promptly notify the Chair of the Registration Committee and the other Party and provide their contact information.

- 9.2** Where a Party's representative ceases to act for a Party, the representative shall, in writing, promptly notify the Chair of the Registration Committee and the other Party.

Rule 10 - Transitional Rule

- 10.1** These Rules of Procedure apply as of June 1, 2011 to all proceedings, unless the Committee or Chair of the Committee orders otherwise.

- 10.2** Any matter started or document filed before the coming into force of these Rules is not invalidated merely because such act or filing does not conform to these Rules.

Rule 11 – Delayed or Inactive Matters

11.1 Inactive Matters

A matter (Notice of Proposal and a Request for Hearing), in which there has been no action by the Applicant for a period of two years is deemed to be an Inactive Matter and may be disposed of by the Registration Committee as follows:

- a) The Chair issues a “Notice of Intent to Dismiss the Matter” (Notice) to both parties by sending a Notice by regular mail to the last address on file;
- b) The parties must respond within 30 days of the date on the Notice and provide available dates for hearing;
- c) If the applicant fails to respond, the Chair may schedule a hearing 60 days after the date of issuance of Notice; and
- d) The Panel may proceed with the hearing in the absence of a party, consider the matter and/or adjourn to another date.

11.2 Applicant’s Notice of Abandonment

Notice of abandonment filed prior to issuance of the Chair’s “Notice of Hearing”:

At any time before the Chair issues a Notice of Hearing, an applicant may file a notice of abandonment of the Applicant’s request for a hearing, with proof of service on the Registrar, and the Chair may then remove the matter from the case docket. The Registrar may either carry out the Registrar’s proposal, or any settlement reached with the applicant, after receipt of the notice of abandonment.

Notice of abandonment filed after Issuance of the Chair’s “Notice of Hearing”:

The Hearing shall proceed as scheduled. The Panel may proceed with the hearing in the absence of a party, consider the matter and/or adjourn to another date.

11.3 Effective Date

This rule shall apply to all pending matters as of approval of this rule by the Registration Committee.