

NOVA SCOTIA AQUACULTURE REVIEW BOARD
RULES OF PROCEDURE RESPECTING PUBLIC HEARINGS

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NOVA SCOTIA AQUACULTURE REVIEW BOARD
RULES OF PROCEDURE RESPECTING PUBLIC HEARINGS

AUTHORITY

- 1** These Rules of Procedure respecting Public Hearings (hereinafter “the Rules”) are made pursuant to Section 48 of the *Fisheries and Coastal Resources Act* and apply to proceedings before the Nova Scotia Aquaculture Review Board under the *Fisheries and Coastal Resources Act* and the *Aquaculture Licence and Lease Regulations*.

OBJECT

- 2** The object of these Rules is to secure the just and speedy determination of every application.

DEFINITIONS

- 3** In these Rules, unless the context otherwise requires:
- (a) “Act” means the *Fisheries and Coastal Resources Act*;
 - (b) “Applicant” means any person whose application pursuant to s.49 of the Act is referred to the Board to hear and determine;
 - (c) “Board” means the Nova Scotia Aquaculture Review Board;
 - (d) “Clerk” means the Clerk of the Nova Scotia Aquaculture Review Board;
 - (e) “Category” means the classification of applications as set out in Rule 9;
 - (f) “Day” means a calendar day;
 - (g) “Intervenor” means a person who has been granted intervenor status pursuant to s. 51 of the Regulations;
 - (h) “Minister” means the Minister of Fisheries and Aquaculture;
 - (i) “Party” means an applicant, an intervenor, the Minister or the Minister’s Designate;
 - (j) “Record” includes all the following:
 - i. any document, submission or exhibit filed in respect of an application with the Board;
 - ii. a decision made by the Board under s. 49 of the Act;
 - (k) “Regulations” means the *Aquaculture Licence and Lease Regulations*.

GENERAL

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- (1) No application before the Board shall be affected by any technical objection or by any objection based upon defects in form or procedure.
- (2) The Board will not discuss any applications that have not been referred to the Board by the Minister of the Department of Fisheries and Aquaculture.
- (3) Only applications that have been referred to the Board by the Minister will be acknowledged as received by the Board and will be initiated into the Board's adjudicative process.
- (4) Public submissions and media correspondence on an application initiated into the Board's adjudicative process will not be accepted until a notice of public hearing has been published in the Royal Gazette.

APPLICATIONS

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- (1) Every application referred to the Board shall include:
 - i. any application information required by the Minister pursuant to s.46 and s.47 of the Act and s.21 to 25 of the Regulations;

FILING

6

- (1) Any document to be filed with the Board shall be filed with the Clerk.
- (2) Members of the general public who are not a party to the public hearing may submit documents, to be filed with the Clerk under s. 49 of the Regulations, by any of the following methods:
 - (a) e-mailing a digital copy, consistent with the technical requirements set out at Rule 6(5), to the Clerk;
 - (b) delivering a copy to the Clerk, or Clerk's designate, at the Clerk's office;
 - (c) mailing a copy to the Clerk;
 - (d) such other manner as the Board may determine.
- (3) Parties must submit all documents to the Board in digital format, consistent with the technical requirements set out at Rule 6(5).

- (4) If intending to refer at a public hearing to a document, including evidence, affidavits, application packages, and expert reports, parties must submit four identical hard copies of the document to the Board at least 60 days in advance of the hearing.
- (5) All documents submitted to the Board in digital format must adhere to the following technical requirements:
 - (a) they must be In PDF format using the Optical Character Recognition (OCR) feature;
 - (b) resolution must be set to 300 dots per inch (dpi) and in colour;
 - (c) they must not exceed 75 megabytes (MB), and email attachments must not exceed 15 MB;
 - (d) the use of password-protected File Transfer Protocol (FTP) for digital files larger than 15 MB is accepted;
 - (e) forwarding password-protected USB drives or USB sticks for digital files larger than 15 MB is accepted.
- (6) If a document submitted to the Board, either in hard copy or in digital format, contains multiple pages, the pages must be numbered.
- (7) All documents filed shall be date-stamped by the Clerk and any document filed on a Saturday, Sunday or holiday shall be considered filed with the Board on the next working day.
- (8) To be considered by the Board, all filings (intervenor status applications, written comments, requests to make sworn oral statements or affirmations, submissions of evidence and any other documents) must be filed in accordance with the applicable filing deadline date requirements set by the Board.
- (9) Documents received by the Board after 16h30 (local Nova Scotia time) on a prescribed deadline date will not be accepted or processed without leave of the Board.

PRIVACY OF INFORMATION

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- (1) Subject to Rule 14(1), all documents filed with the Board become part of the record of the public hearing.
- (2) The Board reserves the right to post all documents contained within the record of a public hearing publicly on the Board's website.
- (3) All documents submitted to the Board may be requested under the *Freedom of*

Information and Protection of Privacy Act ("FOIPOP").

- (4) Per Rule 14(1) a party may request that all or part of any document be held in confidence by the Board, which request shall be placed on the record and as such may be requested under the FOIPOP.
- (5) Information withheld by the Board under Rule 14 may be released under a FOIPOP request unless it is exempt from release per the provisions of FOIPOP.

SERVICE

8

- (1) Where any document is required to be served on a party, service shall be effected by any of the following methods:
 - (a) transmitting a copy to the party via e-mail, where the party has provided an e-mail address;
 - (b) sending a copy by ordinary mail addressed to the party at his or her proper address;
 - (c) personal service;
 - (d) delivering a copy to the party's proper address; or
 - (e) such other manner as the Board may determine.
- (2) Where the party is represented, service of a document shall be effected on the party's representative by any of the methods of service set out in Rule 8(1).
- (3) Any subpoena to a witness, including a party, shall be effected by personal service. The Subpoena form is included as Schedule A.
- (4) Service of a document may be proved by affidavit, oral testimony or both.

HEARING PLANNING

9

- (1) The Board will classify applications received for public hearing and decision, in accordance with the Board's jurisdiction at s. 49 of the Act, into one of three categories. Unless the Board in its sole discretion permits additional time for a public hearing, each category is associated with a public hearing of a maximum duration, set out as follows:
 - (a) Boundary amendment applications are Category 1 applications, to be

decided at a public hearing lasting a maximum of two days.

(b) Applications to amend existing aquaculture licences or aquaculture leases to authorize the production of a finfish species, where the licence or lease does not currently authorize the production of finfish species, are Category 2 applications, to be decided at a public hearing lasting a maximum of three days.

(c) Applications for new aquaculture licences or aquaculture leases are Category 3 applications, to be decided at a public hearing lasting a maximum of five days.

- (2) The date of a public hearing must be set in accordance with s.48 of the Regulations.
- (3) The location of a public hearing must be chosen in accordance with s.47 of the Regulations.
- (4) As pursuant to s.45 of the Regulations, the Board may determine to hold part or all of a hearing virtually.
- (5) Public notice of a public hearing must be posted in accordance with s.49 of the Regulations.
- (6) Upon receiving an application, the Board may make available a copy of the application documents contained within the record of a public hearing, not deemed confidential subject to Rule 14(2), on the Board's website.

INTERVENOR STATUS

10

- (1) Applications for intervenor status with respect to a public hearing will not be accepted until a notice of public hearing has been published.
- (2) Where a hearing notice has been issued pursuant to s.49 of the Regulations, any person or group interested in applying for intervenor status at the public hearing, pursuant to s.50 of the Regulations, must file a completed *Intervenor Status Application* form with the Board no later than 15 days after the date that the notice of the hearing is published.
- (3) Individuals may not submit an individual application for intervenor status and also be part of a group application for intervenor status.
- (4) Any parties to the hearing may submit written arguments to the Board on the suitability of an application for intervenor status.

- (5) If an individual or group is granted intervenor status, given that an intervenor is a party, neither an individual intervenor nor any member of an intervenor group may also participate in a public hearing as a member of the general public by submitting a written statement or by requesting to present a sworn oral statement or an affirmation.
- (6) Notwithstanding the requirement in s. 55 of the Regulations and Rule 11(3) for all written comment submissions and requests to make a sworn oral statement or an affirmation at a public hearing to be filed with the Board no later than 15 days before the date of the hearing, if an individual or group is denied intervenor status, the Board, under authority of s. 45 of the Regulations, will permit that individual or group to submit a written comment or a request to make a sworn oral statement or an affirmation at the public hearing, within 15 days after receiving notice of the intervenor-status decision and in accordance with s. 55 of the Regulations as well as Rules 11 to 13, with the exception of otherwise applicable requirements in those provisions about the specific timing to file such a submission.

PUBLIC WRITTEN SUBMISSIONS / REQUESTS TO MAKE SWORN STATEMENTS OR AFFIRMATIONS

11 GENERAL

- (1) As per Rule 4, submissions from members of the public with respect to a specific application will not be accepted until a notice of public hearing has been published.
- (2) Members of the public who are not individual intervenors or members of an intervenor group, and who choose to participate in a public hearing by means of a written statement will not be entitled to also participate by means of a sworn oral statement or affirmation.
- (3) Subject to Rule 10(6), all written comment submissions and requests to participate at a public hearing to the Board must be filed with the Board no later than 15 days after the date that the notice of the hearing is published under Section 49 and in accordance with Rule 6.
- (4) The Clerk will date stamp received written comment submissions and requests to make a sworn oral statement or an affirmation at a public hearing.
- (5) Submissions described in Rules 12 and 13 must be specific to an individual public hearing and application.
- (6) The Board will not accord the status of expert opinion evidence, including expert legal opinion, to written statements or oral statements or affirmations made further to Rules 12 or 13.
- (7) Legal submissions and arguments by legal counsel are reserved for the parties in the proceeding.

12 SUBMISSION OF WRITTEN COMMENTS

- (1) Pursuant to s.55 of the Regulations and Rule 6, members of the public wanting to submit a written comment to the Board about an application that is before the Board must include, at minimum, the following information in their submission:
 - i. Their full name;
 - ii. Their place of residence (civic address); and
 - iii. The application about which they would like to provide comment and how the comment relates to one or more of the factors set out in s.17 of the Aquaculture Licence and Lease Regulations.
- (2) Written statements must be no longer than five (5) pages.
- (3) The Board reserves the right to not consider a written statement if, in the opinion of the Board, the written statement does not meet the above criteria.

13 SWORN ORAL STATEMENTS / AFFIRMATIONS AT A PUBLIC HEARING

- (1) Members of the public wishing to make a sworn oral statement or an affirmation at a public hearing pursuant to s.55 of the Regulations and Rule 6 must submit a written request to the Board including, at minimum, the following information:
 - (a) Their full name;
 - (b) Their place of residence (civic address); and
 - (c) The application about which they would like to provide a sworn oral statement or affirmation and how the comment relates to one or more of the factors set out in section 17 of the Aquaculture Licence and Lease Regulations.
- (2) Sworn oral statements/affirmations must be no longer than six (6) minutes.
- (3) Presentation order for those making sworn oral statements/affirmations will be based on the order that written requests to make sworn oral statements or affirmations are received by the Clerk.
- (4) The Board reserves the right to limit a sworn oral statement or affirmation if, in the opinion of the Board, the statement is not related to the factors described in s. 17 of the Regulations or if the speaker is being unduly repetitious.

CONFIDENTIAL INFORMATION

14

- (1) A party may request that all or any part of any document be held in confidence by the Board, which request shall be placed on the record.
- (2) The burden of satisfying the Board that a document should be held in confidence is

on the party claiming confidentiality.

- (3) Any request for confidentiality shall:
- i. include a summary of the nature of the information in the document;
 - ii. state:
 - (i) the reasons for the request, including the details of the nature and extent of the specific harm that would result if the document were publicly disclosed, and
 - (ii) any objection to placing an abridged version of the document on the record, and the reasons for such an objection; and
 - iii. be filed with the Clerk and served on the parties.
- (4) Where a party has made a request under Rule 14(1), the document shall be held in confidence unless the Board orders otherwise.
- (5) In ruling on a request for confidentiality the Board shall consider:
- i. whether the document may disclose sensitive financial, commercial or personal matters in relation to which the desirability of avoiding disclosure in the interest of any person affected outweighs the desirability of adhering to the principle that documents be available to the public; or
 - ii. such other matters as the Board deems appropriate.
- (6) The Board may:
- i. order that the document be held in confidence by the Board;
 - ii. order that the document be placed on the record;
 - iii. order that an abridged version of the document be placed on the record;
 - iv. order that the document be withdrawn; and
 - v. make any other order the Board may deem to be in the public interest.
- (7) If the Board orders that the document be held in confidence under Rule 14 (6), a party, prior to receiving a copy of the document, must sign a confidentiality agreement as set out in Schedule B.

INFORMATION REQUESTS

15

- (1) Before the commencement of a public hearing, the Clerk, on behalf of the Board,

may contact a party to the hearing to request additional information about the evidence that the party has filed with the Board.

- (2) Information requests made by the Board to a party will be copied to all other parties.
- (3) Responses to information request must be filed with the Board in accordance with Rule 6 and copied to all other parties.

PUBLIC HEARINGS

16 GENERAL CONDUCT

- (1) Public hearings may be conducted in an informal manner and do not need to follow the strict rules of practice and procedures required in a court of law.
- (2) A party may be represented before the Board by counsel or an agent, as deemed appropriate by the Board.

17 WITNESSES

- (1) At least fifteen (15) days before the date of a public hearing, a party who intends to present witness testimony at the public hearing as a part of their presentation must file a list of witnesses with the Board.
- (2) At the discretion of the Board, witnesses may be excluded from the hearing room until they are called to testify.

18 OATH / AFFIRMATION

- (1) Evidence at a public hearing shall be presented only after the person gives an oath or affirmation that the evidence will be the truth and shall be otherwise received only at the discretion of the Board.

19 PRE-HEARING MATTERS

- (1) As pursuant to s.54 of the Regulations, the Chair must conduct a pre-hearing conference before a public hearing begins.
- (2) Notice of a pre-hearing conference will be issued to the parties by the Clerk and will aim to be given no later than three (3) days before the date of the pre-hearing conference.
- (3) Any party seeking to present the evidence of an expert at a public hearing must, no later than fifteen (15) days before the date of the hearing, submit a written request, including qualifications of the proposed expert, to the Board for a determination as to the expert's status for the purpose of the hearing.

- (4) No later than 15 days before the date of the public hearing, each party will be required to submit to the Board an issues list that includes a precise statement of the issues that the party would like the Review Board to decide, and a general characterization of the evidence that the party intends to lead.

20 ORDER OF PROCEEDINGS

- (1) Unless varied by the Board under s. 45 and s. 62 of the Regulations, hearing testimony shall be offered in the following order:

i. Presentation by the applicant

- i. The Board shall grant the applicant a reasonable amount of time to present its case to the hearing panel (Board) and to address issues raised in the preparation of its application (including the scoping report).
- ii. Upon completion of testimony by the applicant, questioning of the applicant by another party or by a member of the Board may be permitted at the discretion of the Chair in the following order:
 - a. Department of Fisheries and Aquaculture
 - b. Intervenor(s)

ii. Presentation by the Department of Fisheries and Aquaculture

- i. The Board shall grant the Department a reasonable amount of time to present its case to the Board and to address issues raised during its review of the application.
- ii. Upon completion of testimony by the Department, questioning of the Department by another party or by a member of the Board may be permitted at the discretion of the Chair in the following order:
 - a. Applicant
 - b. Intervenor(s)

iii. Presentations by the intervenor(s)

- (i) An intervenor who has requested to make a presentation shall make that presentation after the initial presentations by the applicant and the Department of Fisheries and Aquaculture.

- (ii) The Board shall grant intervenors a reasonable amount of time to present their case(s), including all witness testimony, to the Board.
- (iii) Upon completion of testimony by an intervenor, questioning of the intervenor by another party or by a member of the Board may be permitted at the discretion of the Chair in the following order:
 - a. Applicant
 - b. Department of Fisheries and Aquaculture

iv. Public participation

- (i) After the completion of presentations by the other parties, the Board will allow sworn oral statements or affirmations by any member of the public who submitted a request to participate pursuant to Rule 13.
- (ii) Presentations made by the public under this Rule must be conducted pursuant to s.55 of the Regulations.
- (iii) Members of the public not present in the hearing room when their name is called to give their sworn oral statement or affirmation will be moved to the end of the presentation list.
- (iv) Members of the public making presentations to the Board are not permitted to cross-examine (question) witnesses or the parties to the public hearing.
- (v) The Board may limit any sworn oral statement or affirmation that it deems overly repetitious or does not meet the criteria laid out in s.55 of the Regulations.
- (vi) The Board may ask questions of those making sworn oral statements or affirmations to ensure the Board's understanding of the statements or affirmations being presented.

v. Final response and summation by parties

- (i) Before the closing public hearing, the Board may, at its sole discretion, grant the parties the opportunity to submit a final closing written summary to the Board in response to matters raised at the hearing.

(2) To prevent undue repetition, the Board may limit the duration of a presentation at a public hearing.

21 QUESTIONS AT THE PUBLIC HEARING

(1) All questions at a public hearing will be handled pursuant to s.62 of the

Regulations.

22 EVIDENCE

- (1) Evidence submitted to the Board to support a party's position must be done in accordance with s.60 of the Regulations.
- (2) The Board may receive in evidence any statement, document, information or matter that, in the opinion of the Board, may assist it to deal with the matter before the Board whether the statement, document, information or matter is given or produced under oath or would be admissible as evidence in a court of law.
- (3) All evidence received by the Board at a public hearing will be handled pursuant to s.61 of the Regulations.

23 ADJOURNING AND RECONVENING A PUBLIC HEARING

- (1) Adjournment and reconvening of a public hearing will be handled pursuant to s.59 of the Regulations.

24 RECORD OF A PUBLIC HEARING

- (1) The record of a public hearing must be kept in accordance with s.64 of the Regulations.

25 RECORDING OF PUBLIC HEARINGS

- (1) Public hearings may be audio and video recorded by the Board and in the Board's discretion, made available on the Board's web page for public access.
- (2) Audio and video recording of public hearings, other than recordings made by the Board, is not permitted.
- (3) To be used in court or for the purpose of another Board hearing, transcripts must be made by a certified court transcriber.
- (4) The original audio-visual recording made by the Board will be considered the official recording of proceedings at the public hearing.

HEARING DECISION

26

- (1) Only members of the Board who are present at the public hearing can decide on the application.
- (2) All Board decisions shall be written and issued pursuant to s.65 of the Regulations.

These *Board Rules* were approved and adopted by the Nova Scotia Aquaculture Review Board
March 25, 2026.

Signed:

Stacy Bruce
Clerk to the Nova Scotia Aquaculture Review Board

Schedule A: Subpoena

SUBPOENA

NSARB

NOVA SCOTIA AQUACULTURE REVIEW BOARD

IN THE MATTER OF A HEARING before the Nova Scotia Aquaculture Review Board
pursuant to the provisions of the Fisheries and Coastal Resources Act

-and-

IN THE MATTER OF

in the Province of Nova Scotia

SUBPOENA

TO:

of

, the Nova Scotia Aquaculture Review Board
requires your attendance.

You must attend a hearing in a proceeding described by the above heading. You will
be called upon to give evidence on behalf of

You must bring with you the following documents and other evidence, or provide access
to the following electronic information:

Time, date and place

You must come to

at

on

Party issuing

This subpoena is issued by the Nova Scotia Aquaculture Review Board on behalf of _____, who is _____.

Waiting to be called

When you attend at the required place, you must wait there until you are called to appear. If there is an adjournment, you must come back at the time and date set for resumption.

Permission to not attend

You may ask the Nova Scotia Aquaculture Review Board for permission to not attend some of the hearing.

Arrest, costs, and punishment for contempt

If you fail to attend as required, on application of the Nova Scotia Aquaculture Review Board to the Supreme Court of Nova Scotia, you may be arrested and taken to give evidence. If you fail to attend as required, bring required documents or other evidence as required, or fail to provide access to electronic information as required, on application of the Nova Scotia Aquaculture Review Board to the Supreme Court of Nova Scotia, you may be ordered to pay the expenses caused by an adjournment, and be punished for contempt.

Issued

Clerk of the Nova Scotia Aquaculture Review Board

Affidavit of Delivery

I, _____, of _____, make
oath, and say/affirm that I did, on _____, before the hour
of _____, personally deliver the sum of _____
and a certified copy of a subpoena, the same as the certified copy to which this
affidavit is attached, to _____ . The delivery took place
at _____ . I knew the person to be the one to
whom the delivery was made because _____ .

Sworn to before me on _____, 20_____ .

At Halifax, Province of Nova Scotia:

Commissioner of
The Supreme Court of Nova Scotia

Schedule B: Confidentiality Undertaking

NOVA SCOTIA AQUACULTURE REVIEW BOARD

WHEREAS [the Subscriber] is a party to an adjudicative hearing (the “hearing”) before the Nova Scotia Aquaculture Review Board (the “Board”);

AND WHEREAS [the Subscriber], for the purpose of participating as a party to the hearing, wishes to obtain copies of certain documents, which have been filed by another party with the Board, and which the Board has ordered to be held in confidence (those documents, the “Confidential Documents”);

AND WHEREAS the Board is willing to provide **[the Subscriber]** with copies of the Confidential Documents, for the sole purpose of participating as a party in the hearing, so long as **[the Subscriber]** holds the confidential documents in the strictest confidence;

NOW THEREFORE [the Subscriber] undertakes and agrees with the Board as follows:

1. **[The Subscriber]** shall at all times keep the Confidential Documents in confidence and trust and shall hold and treat the Confidential Documents with the highest degree of care so as to prevent disclosure.
2. **[The Subscriber]** shall not use the Confidential Documents in any way whatsoever except as permitted in writing by the Board, and shall not, except as expressly authorized in writing by the Board, copy, disseminate, publish, or disclose to any third party any contents of the Confidential Documents.
3. Upon the request of the Board, **[the Subscriber]** shall immediately return all of the Confidential Documents in the custody or control of **[the Subscriber]** to the Board, whether it is in hard copy form, on disk, or contained in any other medium whatsoever.

