



Canadian
Transportation
Agency

Office
des transports
du Canada

Annotated Dispute Adjudication Rules

Making Transportation Efficient and Accessible for All

available in multiple formats

Canada 

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Disclaimer: This document is not the official version of the [*Canadian Transportation Agency Rules \(Dispute Proceedings and Certain Rules Applicable to All Proceedings\)*](#) (Dispute Adjudication Rules). This document is a reference tool only. It is not a substitute for legal advice and has no official sanction.

About the Annotated Dispute Adjudication Rules

This is a companion document to the [Dispute Adjudication Rules](#).

The Agency's Dispute Adjudication Rules set out the process that is followed during adjudication. They also provide information on how to make a variety of procedural requests to the Agency on matters that commonly arise in dispute proceedings, including requests to keep information confidential.

The annotation provides explanations and clarifications of the Rules which will be useful to those unfamiliar with the Agency and its processes. It is organized by section number to make accessing the information easier, but it also contains hyperlinks that allow easy navigation to related sections and further explanatory text that the reader will find useful.

Interpretation

1. Definitions

The following definitions apply in these Rules.

“Act” means the Canada Transportation Act.

“affidavit” means a written statement confirmed by oath or a solemn declaration.

Annotation: Definitions (Affidavit)

An affidavit is a written statement that contains important facts that a person wants the Agency to know about. It is sworn by the person making the affidavit in the presence of someone authorized to administer an oath, such as a commissioner for taking oaths, a notary public, a notary (province of Quebec) or a lawyer. The person swearing the affidavit should have direct knowledge of the events or facts set out in the statement.

“To swear” means you promise that the information contained in the affidavit is true.

Note that there are potential legal sanctions to swearing an affidavit if you know that the content of the affidavit is not true, accurate or complete.

The affidavit is used by the Agency to verify the truthfulness, including both the accuracy and completeness, of some or all of the information in a document.

For more information, refer to section 15: Verification by Affidavit or Witnessed Statement

“applicant” means a person that files an application with the Agency.

Annotation: Definitions (Applicant)

An applicant is a person who comes before the Agency seeking a decision on a particular matter within the jurisdiction of the Agency.

The applicant files an application with the Agency which sets out the information that the applicant wants the Agency to take into account when making a decision. Schedule 5 of the Dispute Adjudication Rules sets out the information that must be included in an application such as the issues that the applicant wants the Agency to consider, the facts, the relief/remedies being asked for) and arguments in support of the application.

An applicant includes a complainant under section 52 or 94 of the [Canada Marine Act](#) or section 13 of the [Shipping Conferences Exemption Act, 1987](#); an appellant under subsection 42(1) of the [Civil Air Navigation Services Commercialization Act](#); or an objector under subsection 34(2) of the [Pilotage Act](#).

“application” means a document that is filed to commence a proceeding before the Agency under any legislation or regulations that are administered in whole or in part by the Agency.

Annotation: Definitions (Application)

The term “application” is defined broadly to mean a document that commences any proceeding before the Agency, including both dispute proceedings and uncontested economic regulatory proceedings. However, with the exception of sections 3 and 4, the Dispute Adjudication Rules apply only to dispute proceedings.

For example, an application for a dispute proceeding includes:

- A complaint under section 52 or 94 of the *Canada Marine Act*,
- A complaint under section 13 of the *Shipping Conferences Exemption Act, 1987*;
- An appeal under subsection 42(1) of the *Civil Air Navigation Services Commercialization Act*;
- An application under section 3 of the *Railway Relocation and Crossing Act*;
- A reference under sections 16 and 26 of the *Railway Safety Act*; or
- A notice of objection under subsection 34(2) of the *Pilotage Act*.

This means that the application must contain the information that the respondent will need to know about the case being made against them and that the Agency must have to make its decision on the matter. In some cases, in addition to the information contained in the application, additional information will be gathered through the asking of questions or the filing of further documents.

In some instances, the Agency has provided further guidance on what is required to be filed to complete various specific types of dispute proceeding applications, including:

- [Accessible Transportation Complaints: A Resource Tool for Persons with Disabilities](#)
- Guidelines on the Resolution of Complaints Over Railway Noise and Vibration

For more information, refer to section 18: Application

“business day” means a day that the Agency is ordinarily open for business.

Annotation: Definitions (Business day)

The Agency’s headquarters is located in the province of Quebec, where the statutory holidays recognized by the federal public service are:

- New Year’s Day (January 1)
- Good Friday
- Easter Monday
- Victoria Day Monday
- La Fête nationale du Québec (June 24)
- Canada Day (July 1)
- Labour Day Monday
- Thanksgiving Monday
- Remembrance Day (November 11)
- Christmas Day (December 25)
- Boxing Day (December 26)

If a holiday with a specified date falls on a Saturday or Sunday, the statutory holiday will fall on the next business day.

For example, if a person has five business days from Friday, May 16 to file a document, it will be required to be filed on Monday, May 26 because Monday, May 19 would be a statutory holiday for Victoria Day and would not be considered a business day.

“dispute proceeding” means any contested matter that is commenced by application to the Agency.

Annotation: Definitions (Dispute proceeding)

A dispute proceeding involves two or more parties and is started when an applicant files an application against a respondent or respondents and the application is accepted as complete.

Triage

After an application is filed, Agency staff will review it to make sure that it is complete as the application must be complete before the dispute proceeding can formally begin. Applicants will be notified as to whether their application is complete or incomplete. In some cases, Agency staff may suggest other dispute resolution options, like facilitation or mediation, as an alternative to adjudication.

For more information on complete and incomplete applications, refer to section 18: Application

There are two stages in any dispute proceeding before the Agency:

Pleadings

Pleadings start when notification is sent to the parties that the application is accepted as complete. This is the evidence and information gathering stage of the dispute proceeding where the parties are given the opportunity to provide the Agency with information in support of their positions on the issues raised in the application and to file information that might be requested by the Agency or the other parties.

Deliberations

Deliberations start once the pleadings process has ended and pleadings are closed. The Agency Panel assigned to the case (composed of one or more Agency Members) deliberates on the evidence and information. This stage ends with the issuance of a decision and/or order.

At any stage before a decision or order is issued, an applicant may make a request to withdraw an application (for example, if the matter is resolved between the parties).

For more information, refer to section 36: Request to Withdraw Application

Agency Decision or Order

The Agency's [decision](#) or order will contain a summary of the application and other information provided during the pleadings, the Agency's decision, including reasons for that decision, and any corrective action it deemed necessary.

Compliance

When the Agency has made a decision and has ordered a party to do something, like put into effect a particular policy that will address an issue raised in the application, the Agency ensures compliance with its order. For example, Agency staff will follow up with the transportation service provider to ensure that the policy is implemented and meets any conditions imposed by the Agency in the final decision.

If Agency staff is unable to get the party to comply, a new Agency Panel may be assigned to handle this issue directly with the respondent. These issues are typically resolved between the respondent and the Agency. In exceptional circumstances, the Agency may decide to consult with the applicant.

Alternatively, some Agency decisions are subject to administrative monetary penalties (amps), meaning that a fine can be imposed against a respondent that fails to comply with certain types of Agency decisions. To determine if an order is subject to amps, check the *Canadian Transportation Agency Designated Provision Regulations* (DPR).

If a respondent fails to comply with an Agency order that is identified as subject to amps in the DPR, the matter may be referred to the Agency's Enforcement Division for further action. If a Designated Enforcement Officer finds that the respondent has failed to comply with an Agency order that is subject to amps, a Notice of Violation can be issued against the respondent setting an AMP payable by the respondent in an amount of up to \$5,000 for individuals and \$25,000 for corporate respondents.

In addition, Agency decisions can be enforced against respondents by making the decision an order of the Federal Court or another superior court and then bringing quasi-criminal proceedings in that court to have the respondent found to be in contempt of Court.

“document” includes any information that is recorded in any form.

Annotation: Definitions (Document)

A document includes any pleading (a document that contains arguments that advance a position) as well as any information or evidence filed or otherwise placed on the record during proceedings before the Agency. This includes any correspondence, affidavit, witnessed statement, memorandum, medical note/report, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, video or sound recording, machine readable record and any other recorded material, and any copy of it.

More specific examples of a document include contracts, flight tickets and tariff pages.

“intervener” means a person whose request to intervene filed under section 29 has been granted.

“party” means an applicant, a respondent or a person that is named by the Agency as a party.

Annotation: Definitions (Party)

Applicants and respondents are always parties to a dispute proceeding before the Agency. This means that, subject to any confidentiality determinations, they are sent all documents that are placed on the Agency’s record.

Interested persons who file position statements in a dispute proceeding with the Agency under section 23 are not parties to the dispute proceeding and will not be provided with the documents that are placed on the Agency’s record. They will, however, be provided with a copy of the Agency’s final decision in the dispute proceeding.

Persons who have been granted intervener status by the Agency under section 29 are also not automatically a party to the dispute proceeding (unless so named by the Agency) and are only provided with the documents that they require in order to participate as an intervener to the extent determined by the Agency. They will, however, be provided with a copy of the Agency’s final decision in the dispute proceeding.

If a person believes that they have a “substantial and direct interest” in a proceeding and wish to be named as a party to the proceeding, they should request authority from the Agency to intervene under section 29. In their request to intervene, the person should clearly identify that they wish to be named a party to the proceeding and set out the participation rights that they are seeking.

For more information, refer to section 29: Request to Intervene.

“person” includes a partnership and an unincorporated association.

“proceeding” means any matter that is commenced by application to the Agency, whether contested or not.

Annotation: Definitions (Proceeding)

The Agency performs two key functions within the federal transportation system:

- Informally and through formal adjudication (where the Agency reviews an application and makes a decision), the Agency resolves a range of commercial and consumer transportation-related disputes, including accessibility issues for persons with disabilities. It operates like a court when adjudicating disputes.
- As an economic regulator, the Agency makes decisions and issues authorities, licences and permits to transportation service providers under federal jurisdiction.

These two key functions mean that the Agency will have some proceedings that only involve one party (for example an air carrier applying for a licence) and others that are

dispute proceedings that involve two or more parties, such as a dispute between a railway company and a group of homeowners about noise coming from a rail yard. ().

With the exception of sections 3 and 4, the Dispute Adjudication Rules apply only to dispute proceedings.

Some types of economic regulatory proceedings may have specific procedural guidelines or resource tools that explain the Agency's processes and how to prepare a particular type of application. For example:

Guidelines:

- [Coasting Trade Licence Applications](#)
- [Extra-bilateral Air Service Applications to the Canadian Transportation Agency](#)
- [Net Salvage Value Determination Applications](#)

Resource tools:

- [Apportionment of Costs of Grade Separations](#)
- [Crossings](#)

These guidelines generally cover the following topics:

- The structure of the proceeding (e.g. what documents need to be filed, deadlines for filing documents).
- The content of submissions made by the parties. For example, the Agency has tests that it applies for certain types of issues. The guidelines provide information on the tests and what type of information might be filed by a party when making submissions on the test. The guidelines may also set out factors or criteria that the Agency looks at when making a decision on a matter.

Parties should always refer to the relevant publication for more information.

For certain economic regulatory determinations, the guidelines may state that some or all of the provisions in the Dispute Adjudication Rules are applicable. The Agency may also decide that it is appropriate to apply any or all of the provisions of the Dispute Adjudication Rules in a particular case.

“respondent” means a person that is named as a respondent in an application and any person that is named by the Agency as a respondent.

Annotation: Definitions (Respondent)

In a dispute proceeding there are at least two parties: the applicant and the respondent.

The applicant files an application with the Agency against a respondent (or respondents). In the application, the applicant sets out details of the dispute with the

respondent and the issues that it wants the Agency to address. The respondent then has an opportunity to file an answer to the issues raised in the application.

In exceptional circumstances, the Agency may name other respondents to the application where their involvement in the travel situation is not apparent to the applicant.

It is important, for the efficiency of case processing and to be fair to the applicant, that answers be complete when they are filed with the Agency. This means that the answer should address the issues raised by the applicant in their application and that positions should be substantiated.

Annotation: Additional definitions

Adverse in interest

A person is adverse in interest to you if they hold a position that is contrary to or different from that of yourself.

Jurisdiction

The Agency only has the authority to make a decision on a matter that falls within the mandate given to it by the *Canada Transportation Act*. The Agency cannot make decisions on matters that do not fall within its mandate/jurisdiction.

Economic regulatory proceedings

As an economic regulator, the Agency makes decisions and issues authorities, licences and permits to federal transportation carriers. For example, an applicant may be granted a licence if it meets the legislative requirements. These matters are largely uncontested.

Pleadings process

The period of time within a dispute proceeding when parties may file their pleadings (such as answers, replies and requests) with the Agency.

Panel

The Chair of the Agency may assign one or more Members to hear a case. The assigned Member(s) are referred to as the Panel. One Member, the Panel Chair, may be assigned at the outset to make decisions on procedure and the processing of the case.

Procedural matters

A step that is taken in a dispute proceeding in order to assist in the processing of the case. An example is whether expert opinions should be filed in a dispute proceeding and the time lines for such a filing.

Record

All the documents and information gathered during the dispute proceeding that have been accepted by the Agency and which will be considered by it in making its decision. The Agency's record can consist of a public and a confidential record.

Relief/remedies

Generally refers to the solution that a person is seeking to address the issues raised in an application. Examples include covering expenses incurred as a result of the issue or changing a transportation carrier's policy concerning the issue.

Representative

A person who acts for another person. For the purposes of these Rules a representative is anyone who is not a lawyer.

Stay

When the Agency stays a proceeding it means that the proceeding is stopped for a period of time and may be restarted at a later date.

Witnesses

A witness is a person who knows something about an issue in a dispute proceeding and is asked to answer questions under oath at an oral hearing or by means of an affidavit.

Application

2. Dispute Proceedings

Subject to sections 3 and 4, these Rules apply to dispute proceedings other than a matter that is the subject of mediation.

Annotation: Dispute proceedings

General

The Agency performs two key functions within the federal transportation system:

- Informally and through formal adjudication (where the Agency reviews an application and makes a decision), the Agency resolves a range of commercial and consumer transportation-related disputes, including accessibility issues for persons with disabilities. It operates like a court when adjudicating disputes.
- As an economic regulator, the Agency makes decisions and issues authorities, licences and permits to transportation service providers under federal jurisdiction.

Sections 3 and 4 of the Rules apply to all matters that come before the Agency

Section 3 (the one-Member quorum provision) and section 4 (principle of proportionality) apply to all proceedings before the Agency, which include both:

- Dispute proceedings (e.g. a noise complaint where a group of homeowners or a person acting on behalf of another person or a group of persons files a complaint against a railway company concerning noise produced by railway operations in a rail yard adjacent to their homes); and
- Economic regulatory proceedings (e.g. an application by an air carrier for a licence to operate an air service between Canada and another country).

The Rules do not apply to mediation and arbitration

The Dispute Adjudication Rules do **not** apply to dispute proceedings or any part of a dispute proceeding that is referred for mediation or submitted to arbitration. In each of these cases, there are specific guidelines or resource tools that will apply to that proceeding:

- [Resolution of Disputes through Mediation](#)
- [Final Offer Arbitration](#)
- [Selecting an Arbitrator](#)
- Rules of Procedure for Rail Level of Service Arbitration, Annotation and Resource Tool (in development)

Rules apply to contested matters

As stated above, except for mediations and arbitrations, the Dispute Adjudication Rules apply to all contested dispute proceedings before the Agency.

In the vast majority of cases that come before the Agency, the parties present their positions in writing without having to appear before the Agency at an oral hearing and the Agency makes its decision based on the documents on the file.

Alternatively, the Agency may decide to organize an oral hearing as a means to gather and test the information it needs to make its decision. In an oral hearing, the parties appear before the Agency and make submissions in person. If the proceeding is to be dealt with by way of an oral hearing, then at the time that an oral hearing is called, a pre-hearing conference will typically be held to work out the details of the procedures to be used in that case. These procedures will then be contained in a Procedural Direction specific to that case. The Rules will continue to apply to disputes that proceed by way of oral hearing subject to the Agency establishing customized procedures in any Procedural Direction that may be issued within the proceeding. The Agency has established guidelines in relation to one type of oral hearing, the 35-day adjudication process under section 169.43 of the CTA, and is working to establish more general guidelines in relation to all oral hearings.

All Proceedings

3. Quorum

In all proceedings, one member constitutes a quorum.

Annotation: Quorum

Although only one Member is required to make a decision, the Chair of the Agency may appoint more than one Member to hear a case. The Member or Members assigned to a case are referred to as the Agency Panel.

Even in situations where two or more Members may be assigned to deliberate and issue the final decision, one Member may be assigned at the outset to provide decisions on the processing of the case and to make procedural decisions. This Member is referred to as the Panel Chair.

Note that even when Agency staff communicates decisions of the Agency to the parties, they are doing so on behalf of and with the instructions of the Agency Panel assigned to the case.

4. Principle of Proportionality

The Agency is to conduct all proceedings in a manner that is proportionate to the importance and complexity of the issues at stake and the relief claimed.

Annotation: Principle of proportionality

The principle of proportionality guides the Agency's decisions on matters that arise in proceedings. The objective is to achieve just, expeditious and resource effective proceedings which sometimes means that a request made by a person must be denied where the anticipated outcome does not justify the means.

For example, Party A asks that Party B produce what would amount to 100 pages of documents. Party B refuses to produce the requested documents and the matter comes before the Agency to make a decision as to whether the documents should be produced by Party B. The Agency may decide that the documents are relevant in that they relate to the matter before the Agency but that the value of the documents to the proceeding is minimal. In that case, having Party B produce 100 pages of documents would not be proportionate to the benefit that the Agency would gain by having those 100 pages on the record.

Dispute Proceedings: General

5. Interpretation of Rules and Agency's Initiative

(1) These Rules are to be interpreted in a manner that facilitates the most expeditious determination of every dispute proceeding, the optimal use of Agency and party resources and the promotion of justice.

(2) Anything that may be done on request under these Rules may also be done by the Agency of its own initiative.

Annotation: Interpretation of Rules

This means that when the Agency conducts dispute proceedings, it will strive to achieve efficiencies so that cases are resolved in a timely way, there is minimal cost or other imposition on the parties and the Agency, all while ensuring that the process is fair to the parties. This often involves a balancing of rights and interests. For example, the Agency deals with a wide range of disputes, including both highly complex cases worth millions of dollars to the parties and less complex cases involving, for example, loss of personal goods by air carriers worth less than \$500. Different, proportionate approaches are required for these different types of cases to ensure efficient and effective use of resources for dispute resolution.

Annotation: Agency's initiative

The Agency may do anything under these Dispute Adjudication Rules that a person may do by making a request.

6. Dispensing with Compliance and Varying Rule

The Agency may, at the request of a person, dispense with compliance with or vary any rule at any time or grant other relief on any terms that will allow for the just determination of the issues.

Annotation: Dispensing with compliance and varying rule

The Agency has the power to vary the Dispute Adjudication Rules to help ensure fair decision-making on the issues in a dispute proceeding. Each case before the Agency is different and sometimes a strict application of the Dispute Adjudication Rules is not the best way to deal with a case. For example, the Agency may vary a rule that applies to a party in order to extend it to a person.

To make a request to the Agency under this section, refer to section 27 of the Dispute Adjudication Rules, which sets out what needs to be filed to make a general request to the Agency.

For more information, refer to section 27: Requests – General Request

7. Filing and Agency’s public record

(1) Any document filed under these Rules must be filed with the Secretary of the Agency.

(2) All filed documents are placed on the Agency’s public record unless the person filing the document files, at the same time, a request for confidentiality under section 31 in respect of the document.

Annotation: Filing of documents and Agency’s Public Record

Documents must be sent to the Secretary of the Canadian Transportation Agency.

By courier or hand delivery

Secretary
Canadian Transportation Agency
15 Eddy Street
17th Floor, Mailroom
Gatineau, Quebec
J8X 4B3

By fax

819-953-5253

By e-mail

secretariat@otc-cta.gc.ca

Due to the timeframes involved and the widespread availability of technology, filings by ordinary mail will no longer be accepted by the Agency unless, in exceptional circumstances, a person has requested and received approval from the Agency to use ordinary mail. In those instances, longer timelines will have to be established for the exchange of pleadings and the processing of the case will be delayed.

The Agency’s record

The Agency’s record is made up of all the documents and information gathered during the dispute proceeding that have been accepted by the Agency. This record will be considered by the Agency when making its decision.

The Agency’s record can consist of two parts: the public record and the confidential record.

Public record

Generally, all documents filed with and accepted by the Agency during the dispute proceeding, including the names of parties and witnesses, form part of the public record.

Parties filing documents with the Agency should not assume that a document that they believe is confidential will be kept confidential by the Agency. A request to have a document kept confidential may be made pursuant to section 31 of the Dispute Adjudication Rules.

Documents on the public record will be:

- Provided to the other parties involved;
- Considered by the Agency in making its decision; and
- Made available to members of the public, upon request, with limited exceptions.

Decisions and applications are posted on the Agency's website and include the names of the parties involved, as well as witnesses. Medical conditions which relate to an issue raised in the application will also be disclosed. The decision will also be distributed by e-mail to anyone who has subscribed through the Agency's website to receive Agency decisions.

Confidential record

The confidential record contains all the documents from the dispute proceeding that the Agency has determined to be confidential.

If there are no confidential documents, then there is only a public record.

No person can refuse to file a document with the Agency or provide it to a party because they believe that it is confidential. If a person is of the view that a document is confidential, they must file it with the Agency along with a request for confidentiality under section 31 of the Dispute Adjudication Rules. This will trigger a process where the Agency will determine whether the document is confidential. During this process, the document is not placed on the public record.

Decisions that contain confidential information that is essential to understanding the Agency's reasons will be treated as confidential as well and will not be placed on the Agency's website. However, a public version of the decision will be issued and placed on the website.

8. Copy to parties

A person that files a document must, on the same day, send a copy of the document to each party or, if a party is represented, to the party's representative, except if the document is

- (a) a confidential version of a document in respect of which a request for confidentiality is filed under section 31;**
- (b) an application; or**
- (c) a position statement.**

Annotation: Copy to parties

With three exceptions all documents to be filed with the Agency must be sent to the other parties (or their representatives) on the same day that they are filed with the Agency. Failure to comply with this requirement, which is the responsibility of the person filing the document, will result in the document not being considered to be filed with the Agency. If a dispute arises about whether a document was sent to the other parties, the sender may be required to provide proof that the document was sent. As such, the sender should keep proof that the document was sent.

The most efficient means of sending documents to the Agency and to the other parties is by e-mail as by sending the document electronically to the Agency and copying the other parties in the same transmission, it is easy to confirm that this requirement has been met. It is up to the person filing documents to determine the most appropriate means of transmission, particularly in situations where confidential information or documents are being filed with the Agency, where concerns may exist about ensuring the safe transmission of confidential information.

Exceptions to sending a copy to other parties

There are three exceptions to the requirement that all documents filed with the Agency must also be sent to the other parties.

1. A person who makes a request for confidentiality under section 31.

In these circumstances the confidential version of the document must be filed with the Agency, but does not need to be sent to the parties. A public version of the document must also be filed with the Agency and this document must be sent to the other parties pending the Agency's decision on confidentiality.

For more information, refer to section 31: Request for Confidentiality

2. The filing of applications under section 18.

The application will be sent to the other parties by the Agency once it has been accepted as complete.

3. The filing of position statements under section 23.

A position statement will be sent to the other parties by the Agency once it has been filed with the Agency.

For more information refer to:

- Section 18: Application
- Section 23: Position Statement

9. Means of Transmission

Documents may be filed with the Agency and copies may be sent to the other parties by courier, personal delivery, email, facsimile or other electronic means specified by the Agency.

Annotation: Means of transmission

Electronic means of filing

The Agency encourages people to use e-mail to file documents with the Agency and provide them to the other parties. As instantaneous communication, it is the most efficient way to file and exchange information and it will also show that the document has been provided to the other parties on the same day as it has been filed with the Agency, which is a requirement of section 8. In some circumstances, the Agency may require the parties to use e-mail, for example, in the case of expedited proceedings under section 25

In exceptional circumstances, where a person does not have access to an electronic means of transmission, a request can be made to the Agency under section 27 of these Dispute Adjudication Rules to use ordinary mail to file documents with the Agency and provide them to other parties. This means that longer timelines will have to be established for the exchange of pleadings and the processing of the case will be delayed.

In some cases, such as the filing of affidavits or witnessed statements, although the person may file the document electronically, the Agency will require the person to follow up by providing an original copy of the document to the Agency by ordinary mail.

It is up to the person filing documents to determine the most appropriate means of transmission, particularly in situations where confidential information or documents are being filed with the Agency.

10. Facsimile—Cover Page

A person that files or sends a document by facsimile must include a cover page indicating the total number of pages transmitted, including the cover page, and the name and telephone number of a contact person if problems occur in the transmission of the document.

11. Electronic Transmission

(1) A document that is sent by email, facsimile or other electronic means is considered to be filed with the Agency and received by the other parties on the date of its transmission if it is sent at or before 5:00 p.m. Gatineau local time on a business day. A document that is sent after 5:00 p.m. Gatineau local time or on a day that is not a business day is considered to be filed with the Agency and received by the other parties on the next business day.

(2) A document that is sent by courier or personal delivery is filed with the Agency and received by the other parties on the date of its delivery if it is delivered to the Agency and the other parties at or before 5:00 p.m. Gatineau local time on a business day. A document that is delivered after 5:00 p.m. Gatineau local time or on a day that is not a business day is considered to be filed with the Agency and received by the other parties on the next business day.

Annotation: Date of filing and receipt (Electronic transmission and courier or personal delivery)

Filing deadlines

Documents sent by e-mail, facsimile or other electronic means must be both filed with the Agency and sent to the other parties before 5:00 p.m. Gatineau local time to be considered as having been sent that day. Documents sent by courier, or that are delivered in person, must be both filed with the Agency and received by the other parties before 5:00 p.m. Gatineau local time to be considered as having been filed that day.

For example, if a party e-mailed a document to the Agency at 4:30 p.m on the date of the filing deadline, but didn't copy the other parties with the e-mail and waited until 5:30 p.m. before e-mailing it to the other parties, the document will not be considered as received by the parties that day and will not be placed on the Agency's record unless a request is made under section 30 for an extension of the filing deadline.

When a person is required to file a document within a number of business days under the Dispute Adjudication Rules or by order of the Agency, the time limit for filing is counted from the day after the person is notified of the requirement and includes the last day.

Most time limits in a dispute proceeding will have the specific deadline date for filing set out in a procedural decision or letter(e.g. June 10, 2013). This date will generally be based on the time limits set out in the Dispute Adjudication Rules.

Statutory holidays are not considered business days.

Example of counting business days

An applicant has been given five business days to file a reply to an answer.

If the answer was filed on Monday, day one would be Tuesday. The reply must be filed by the end of day five, which is 5:00 p.m. Gatineau local time the following Monday. If Monday is a statutory holiday, the reply would be due by 5:00 p.m. Gatineau local time on Tuesday, the next business day.

Filing of documents with forms

Parties are encouraged to use the Agency's [forms](#), especially when filing documents where specific information is required as set out in the Schedules to the Dispute Adjudication Rules. The forms link to a secure file transfer system to allow for attachments to be filed with the Agency and copied to the parties.

12. Filing after Time Limit

(1) A person must not file a document after the end of the applicable time limit for filing the document unless a request has been filed under subsection 30(1) and the request has been granted by the Agency.

(2) A person must not file a document whose filing is not provided for in these Rules unless a request has been filed under subsection 34(1) and the request has been granted by the Agency.

(3) A document that is filed in contravention of subsection (1) or (2) will not be placed on the Agency's record.

Annotation: Consequences of missing a deadline

Filing deadlines that are set by the Agency, as set out in the Dispute Adjudication Rules or by decision or order of the Agency, must be met.

The Agency will not accept a document that has been filed late unless a request is made under section 30 of the Dispute Adjudication Rules for an extension of time and the Agency has approved the request.

In addition, a person must not file a document which is not required to be filed under these Dispute Adjudication Rules or by the Agency. For example, a person cannot file a response to a reply without Agency approval. Where a request to file a document whose filing is not provided for is filed after the close of pleadings, it does not need to be accompanied by a request to extend the time limit under section 30.

Without these approvals, the document will not form part of the record and will not be considered by the Agency when making its final decision.

For more information, refer to:

- Section 30 Request to Extend or Shorten Time Limit
- Section 34: Request to File Document Whose Filing is not Otherwise Provided For in Rules

13. Language of Documents

(1) Every document filed with the Agency must be in either English or French.

(2) If a person files a document that is in a language other than English or French, they must at the same time file an English or French translation of the document and the information referred to in Schedule 1.

(3) The translation is treated as the original for the purposes of the dispute proceeding.

Annotation: Language of documents

Documents to be filed in one of the official languages

A person filing a document is entitled to submit the document in the official language of their choice (English or French).

If documents are submitted by persons in different official languages, the Agency is not required to translate the documents. Where translation is required by a person to understand the document, that person will be responsible for obtaining and paying for the translation.

In such situations, the person does not have to file the translation with the Agency or any other party.

Procedure to be followed for documents that are not in one of the official languages

A person submitting a document in a language other than English or French is responsible for ensuring that the document is accompanied by:

- A translation to English or French; and
- A properly completed and sworn affidavit from the translator (Schedule 1).

Note: the translated document and affidavit must be filed with the Agency and provided to the other parties at the same time as the document filed in the other language. The English or French translation will be considered the official document on the record.

Any document in a language other than English or French that is not accompanied by a translation and affidavit will not form part of the record and therefore will not be considered by the Agency when making a decision. The party is free to submit a proper document; however, if the time limit for the filing of the document has passed, the party

will also have to obtain approval to do so by filing a request to extend the time line for the filing of the document.

Note that all Agency decisions are posted on the website in English and French.

Also, in exceptional cases and on request, the Agency may accept a witnessed statement in place of an affidavit, for example, when the person lives in a remote community with no access to a lawyer or other person who can swear the affidavit

Translator

Unless specified otherwise by the Agency, the person who translated the document does not need to be a certified translator.

Agency form: [Form 1: –Translation – Required Information](#)

14. Amended Documents

(1) If a person proposes to make a substantive amendment to a previously filed document, they must file a request under subsection 33(1).

(2) A person that files a document that amends a previously filed document, whether the amendment is substantive or not, must ensure that the amendment is clearly identified in the document and that the word “AMENDED” appears in capital letters in the top right corner of the first page.

Annotation: Filing of amended document

There are two types of amendments or changes that can be made to a document: substantive and non-substantive.

Substantive amendments: Any substantive amendment to a document needs to be approved by the Agency.

The person must file a new copy of the document which clearly identifies the amendment being made by:

- Underlining any new text and striking out (or drawing a line through) any deleted text; and
- Adding “AMENDED” at the top right hand corner of the first page of the document.

In addition, the person must make a request to file the amended document.

For more information and instructions on how to make a request for a substantive amendment, refer to section 33: Request to Amend Document.

Where appropriate, the Agency may provide parties adverse in interest with an opportunity to respond to the amended document. The Agency will establish the process to be followed and the time limits to be met in a procedural direction.

Non-substantive amendments: A request to the Agency is not required to make a minor amendment to a document.

Some examples of non-substantive amendments that can be made without the approval of the Agency are:

- Correction in spelling of names and places; and
- Dates (if they have no substantive implications).

The person must file a new copy of the document which clearly identifies the amendment being made by:

- Underlining any new text and striking out (or drawing a line through) any deleted text; and
- Adding “AMENDED” at the top right hand corner of the first page of the document.

The other parties must be provided with a copy of the amended document on the same day that it is filed with the Agency.

Where a person submits a non-substantive amendment, but the Agency considers it to be a substantive amendment, the person will be notified of the requirement to follow the procedure for substantive amendments in subsection 33(1) of the Dispute Adjudication Rules.

15. Verification by Affidavit or by Witnessed Statement

(1) If the Agency considers it just and reasonable, the Agency may, by notice, require that a person provide verification of the contents of all or any part of a document by affidavit or by witnessed statement.

(2) The verification by affidavit or by witnessed statement must be filed within five business days after the date of the notice referred to in subsection (1) and must include the information referred to in Schedule 2 or Schedule 3, respectively.

(3) The Agency may strike the document or the part of the document in question from the Agency’s record if the person fails to file the verification.

Annotation: Verification by affidavit or by witnessed statement

The Agency may require an affidavit or a witnessed statement to be filed if evidence is contested or if the accounts or positions of the parties conflict.

Affidavit

An affidavit is a written statement that contains important facts that a person wants the Agency to know about. It is sworn by the person making the affidavit in the presence of someone authorized to administer an oath, such as a commissioner for taking oaths, a notary public, a notary (province of Quebec) or a lawyer. The person swearing the affidavit should have direct knowledge of the events or facts set out in the statement. “To swear” means that you promise that the information contained in the affidavit is true. Note that there are potential legal sanctions to swearing an affidavit if you know that the affidavit is not true, accurate or complete.

The affidavit is used by the Agency to verify the truthfulness, including both the accuracy and completeness, of some or all of the information in a document.

Agency form: [Form 2 – Verification by Affidavit](#)

Note that if a party adverse in interest makes a request and the request is approved by the Agency, they may be permitted to conduct oral cross-examinations on an affidavit in order to test the evidence contained in the affidavit. A party may make such a request under section 27 of the Dispute Adjudication Rules.

For more information, refer to section 27 – General Request

Witnessed Statements

Witnessed statements are written and signed statements that the person signing the statement believes to be true. Unlike affidavits, they are not signed and sworn in the presence of an authorized individual, like a lawyer, but are signed in the presence of a witness who also signs the document.

Agency form: [Form 3 – Verification by Witnessed Statement](#)

Timelines for the filing of an affidavit or a witnessed statement

The affidavit or witnessed statement must be filed within five business days after the date of receipt of the notice by the Agency requiring the filing of verification by affidavit or witnessed statement. The Agency will provide notice as to which means of verification is to be filed.

If it would be impossible or impracticable to obtain an affidavit, a person may submit a witnessed statement along with a request under section 27 that the Agency accept the witnessed statement instead of an affidavit. The request must include:

- A clear and concise description of the reasons supporting the request, including why it would be impossible or impracticable to obtain an affidavit;

- All information or documents that are relevant in explaining or supporting the request; and
- Confirmation that copies of the witnessed statement and the request have been provided to the other parties in the proceeding

For more information refer to: Section 27 Requests – General Request

Consequences of not providing the required verification

If the Agency has required verification of a document or part of a document, but the verification by affidavit or a witnessed statement is not provided, the document will either:

1. Form part of the record, but will be given limited or no weight by the Agency when making its final decision; or
2. Not form part of the record and not be considered by the Agency when making its final decision (that is the document will be struck from the record).

16. Representative Not a Member of the Bar

A person that is represented in a dispute proceeding by a person that is not a member of the bar of a province must authorize that person to act on their behalf by filing the information referred to in Schedule 4.

Annotation: Authorization for representative

Persons involved in a dispute proceeding are not required to be represented by a lawyer, although a lawyer can be consulted, if desired. They can also choose to be represented by another person, including a family member or friend.

If a person would like to have a representative (other than a lawyer or an officer or employee of the company, for example in the case of a corporate respondent) act on their behalf, written authorization must be filed with the Agency. The authorization only needs to be filed once during the dispute proceeding. This authorization is not necessary if the person is represented by a lawyer.

Power of attorney: persons acting under a power of attorney must file a copy of the power of attorney in place of the written authorization.

Parents/Legal Guardians acting on behalf of minor children: parents/legal guardians do not require authorization to act on behalf of their minor children.

Agency form: [Form 4 – Authorization of Representative](#)

17. Change of Contact Information

A person must, if the contact information they provided to the Agency changes during the course of a dispute proceeding, provide their new contact information to the Agency and the parties without delay.

Dispute Proceedings: Pleadings

18. Application

(1) Any application filed with the Agency must include the information referred to in Schedule 5.

(2) If the application is complete, the parties are notified in writing that the application has been accepted.

(3) If the application is incomplete, the applicant is notified in writing and the applicant must provide the missing information within 20 business days after the date of the notice.

(4) If the applicant fails to provide the missing information within the time limit, the file is closed.

(5) An applicant whose file is closed may file a new application in respect of the same matter.

Annotation: Application

Who is an applicant?

The applicant is the person who files an application with the Agency.

Complete applications

A dispute proceeding does not formally start until the application is accepted as complete. Although an applicant might fill out Form 5 or file its application in another format this does not necessarily mean that the application is complete.

Parties will be notified in an opening pleadings letter when the application has been accepted as complete and the date on which the pleadings process has begun.

Contents of an application

An application must include the information set out in Schedule 5. It should clearly and concisely:

- Set out the relevant facts;
- Identify the issues;

- Identify the relevant provisions of the [legislation or regulations](#) that are administered by the Agency and that relate to the application;
- Set out the arguments in support of the application;
- Set out any relief/remedies sought (e.g. The solution to the issues that were raised); and
- Set out any other information and arguments that help to explain or support the position set out in the application.

The Agency encourages the use of Form 5 to file an application. The Form provides guidance on the information that is required for the application to be considered complete. The application should be as detailed as possible and include all relevant information. This will make the dispute proceeding more efficient.

Agency form: [Form 5 – Application](#)

In addition to the general application form, Form 5, the Agency has separate application forms for two specific types of dispute proceeding. These forms are accessible through the Agency's complaint wizard:

- Accessible transportation – Form 5a
- Rail noise and vibration – Form 5b

Guidance for completing specific types of applications

In some instances, the Agency has provided further guidance, in guidelines and resource tools, on what is required to be filed to complete various specific types of dispute proceeding applications, including:

- [Accessible Transportation Complaints: A Resource Tool for Persons with Disabilities](#)
- Guidelines on the Resolution of Complaints Over Railway Noise and Vibration

Time limit for filing an application

Applicants should first try to resolve their issue with the other party before initiating a dispute resolution process with the Agency. In some instances, the Agency cannot accept an application until this has been done, for example, in rail noise and vibration disputes.

If this fails, an application should be filed with the Agency as soon as possible, in order to:

- Minimize the challenge of substantiating allegations or obtaining records after significant time has passed;

- Ensure the availability of any witnesses;
- Maximize the possibility that all potential relief/remedies will be available by, for example, meeting statutory deadlines for obtaining relief/remedies from the Agency (e.g. The solution to the issues that were raised). As an example, while there is no statutory time limit for the filing of an application under the Canada Transportation Act, in the case of air disputes, the Montreal Convention and the Carriage by Air Act provide a statutory time limit of two years to obtain relief for certain air disputes.

Filing an application

The filing of an application is done by instantaneous means of communication unless it is made by personal delivery or courier. This assists in the timely processing of applications.

Note that ordinary mail cannot be used as a means of filing unless there are exceptional circumstances where electronic, personal delivery or courier as a means of communication are not available or practicable. In these situations, a request must be made to the Agency under section 27 and approval must be granted by the Agency to use ordinary mail. This will require a change in the filing deadlines.

For more information, refer to:

- Section 27: Requests - General Request
- Section 9: Means of Transmission

Application goes on the public record

An application filed with the Agency is placed on the public record unless:

1. A claim for confidentiality is made at the same time that it is filed; and
2. The Agency determines that the application, or parts of it, are confidential.

For more information, refer to:

- Section 7: Filing
- Section 31: Request for Confidentiality

Having a representative represent you

If a person filing an application would like to have a representative (other than a lawyer) act on their behalf, a written authorization must be filed with the Agency at the same time that the application is filed. An authorization is not required if the person is represented by a lawyer.

Note that where the representative did not witness the incident described in the application, the applicant will have to sign the account of the events in the application.

For more information, refer to section 16: Representative Not a Member of the Bar
Agency form: [Form 4 – Authorization of Representative](#)

Pleadings process

The party (or parties) against whom the application has been filed (also known as the respondent[s]) will have the opportunity to file an answer. The applicant will then have the opportunity to file a reply to the respondent(s)' answer.

For more information, refer to:

- Section 19: Answer
- Section 20: Reply

Incomplete application

A dispute proceeding does not formally start until the application is accepted as complete. If the application is not complete, the person attempting to file the application will be notified and will have 20 business days to provide the missing information.

If the missing information is not provided within 20 business days, the file will be closed.

Consequences of the Agency closing a file

Even if a file has been closed due to an incomplete application, the application can be filed again at a later date.

- However, the application should be filed with the Agency as soon as possible, in order to:
- Minimize the challenge of backing up allegations or getting records after significant time has passed;
- Ensure the availability of any witnesses;
- Maximize the possibility that all potential relief/remedies will be available by, for example, meeting statutory deadlines for obtaining relief/remedies from the Agency. As an example, while there is no statutory time limit for the filing of an application under the Canada Transportation Act, in the case of air disputes, the Montreal Convention and the Carriage by Air Act provide a statutory time limit of two years to obtain relief for certain air disputes.

19. Answer

A respondent may file an answer to the application. The answer must be filed within 15 business days after the date of the notice indicating that the application has been accepted and must include the information referred to in Schedule 6.

Annotation: Answer

Who is a respondent?

In a dispute proceeding there are at least two parties: the applicant and the respondent.

The applicant files an application with the Agency against a respondent. In the application, the applicant sets out the details of the dispute with the respondent and the issues that the applicant wishes the Agency to address. In some cases, there may be a number of respondents involved.

Although the applicant must clearly identify the respondent in the application, in exceptional circumstances, the Agency may identify the respondent or other respondents where it is not evident to the applicant who is responsible for the situation that is the subject of their application.

The purpose of filing an answer

The purpose of filing an answer is to respond to the arguments and issues raised in the application.

If the respondent does not file an answer, the Agency will make its decision based on the information provided by the applicant. This could result in the Agency making a decision in favour of the applicant and might result in the Agency finding that the respondent must provide relief/remedies to the applicant. In some instances, the relief may relate to expenses that were incurred by the applicant. For example, in the situation of a flight delay where the Agency finds in favour of the applicant, the respondent may be directed to reimburse the applicant for related expenses, such as for lunch and a hotel room, which had been paid for by the applicant.

Contents of an answer

The answer must include the information set out in Schedule 6 and should clearly and concisely:

- Indicate which parts of the application the respondent agrees with or disagrees with; and
- Set out the arguments in support of the respondent's position.

Any documents that support the position set out in the answer should be filed with the Agency by the respondent and provided to the other parties on the same day. A person filing an answer may either use form 6 or another document.

Agency form: [Form 6 – Answer to Application](#)

Answer goes on the public record

An answer filed with the Agency is placed on the public record unless:

1. A claim for confidentiality is made at the same time that it is filed; and
2. The Agency determines that the answer, or parts of it, are confidential.

For more information, refer to:

- Section 7: Filing
- Section 31: Request for Confidentiality

Time limit for filing an answer

The answer must be filed within 15 business days after the respondent receives notice that the application has been accepted as complete.

There are exceptions to this time limit. In particular, if the parties receive notice from the Agency that an expedited process will be used, then the respondent will have five business days to file an answer.

For more information, refer to:

- Section 25: Expedited Process
- Section 28: Request for Expedited Process

The Agency has the power to extend time limits where a party has good reason for not being able to meet a time limit. In this situation, a party must make a request under section 30 for an extension of the time limit for filing an answer.

For more information, refer to section 30: Request to Extend or Shorten Time Limit

Having a representative represent you

If a person filing an answer would like to have a representative (other than a lawyer or an officer or employee of the company in the case of a corporate respondent) act on their behalf, a written authorization must be filed with the Agency.

For more information, refer to section 16: Representative Not a Member of the Bar

Agency form: [Form 4 – Authorization of Representative](#)

20. Reply

(1) An applicant may file a reply to the answer. The reply must be filed within five business days after the day on which they receive a copy of the answer and must include the information referred to in Schedule 7.

(2) The reply must not raise issues or arguments that are not addressed in the answer or introduce new evidence unless a request has been filed to that effect and the request has been granted by the Agency.

Annotation: Reply to the answer

Once the respondent has filed an answer to the application, the applicant is then given an opportunity to reply to the answer.

Contents of a reply to the answer

The reply must include the information set out in Schedule 7.

An applicant filing a reply may either use Form 7 or another document and the other parties must be provided with a copy of the reply on the same day as it is filed with the Agency.

A reply can only address issues raised in the answer. It must not repeat arguments already made in the application, or raise new issues, arguments or evidence not related to the answer.

A reply that raises new issues, arguments or evidence that were not addressed in the answer may not be struck in its entirety from the Agency's record. The Agency may strike the new material from the reply on its own initiative. Should the person filing the reply take the position that the Agency requires the new material to make an informed decision, it may make a request to the Agency under section 34 of the Dispute Adjudication Rules to have the new material accepted by the Agency. The Agency has discretion to accept new material that is relevant and necessary to its consideration of the case and, where appropriate, may give parties adverse in interest an opportunity to respond to the new material. For more information, refer to section 34: Request to File Document Whose Filing is Not Otherwise Provided For in Rules

Agency form: [Form 7 – Reply to Answer](#)

Reply to the answer goes on the public record

A reply to an answer filed with the Agency is placed on the public record unless:

1. A claim for confidentiality is made at the same time that it is filed; and
2. The Agency determines that the answer, or parts of it, are confidential.

For more information, refer to:

- Section 7: Filing
- Section 31: Request for Confidentiality

Time limit for filing the reply to the answer

The reply to an answer must be filed within five business days after the applicant receives the answer.

There are exceptions to this time limit. In particular, if the parties receive notice from the Agency that an expedited process will be used, then the applicant has three business days to file a reply to an answer.

For more information, refer to:

- Section 25: Expedited Process
- Section 28: Request for Expedited Process

The Agency has the power to extend time limits where a party has good reason for not being able to meet a time limit. In this situation, a party must make a request under section 30 for an extension of the time limit for filing an answer.

For more information, refer to: Section 30: Request to Extend or Shorten Time Limit

21. Intervention

(1) An intervener may file an intervention. The intervention must be filed within five business days after the day on which their request to intervene is granted by the Agency and must include the information referred to in Schedule 8.

(2) An intervener's participation is limited to the participation rights granted by the Agency.

Annotation: Intervention

Section 29 sets out how a person applies to become an intervener in a dispute proceeding while section 21 sets out the process to be followed *after* the Agency has accepted a person as an intervener.

For more information on how to become an intervener, refer to section 29: Request to Intervene

Who is an intervener?

An intervener is a person with a “substantial and direct interest” in a dispute proceeding before the Agency. A person must make a request to the Agency and be accepted as an intervener before they can participate as an intervener in a dispute proceeding.

An intervener is not a party to the dispute proceeding unless they are named as a party by the Agency. However, interveners may be required to respond to questions or information requests from the Agency or from any party to the proceeding that is adverse in interest to them.

Extent of participation in the dispute proceeding

The Agency will determine the extent of an intervener's participation in the proceeding, including limitations on the issues that can be addressed in the intervention, and will

inform the intervener and the parties. This decision is based on the participation rights requested by the person and an assessment of what would be useful and necessary to the Agency's consideration of the issues in dispute.

The Agency may require that an intervener file information or documents, respond to questions from the Agency or respond to questions or document requests from a party that is adverse in interest.

Content of an intervention

An intervention must include the information set out in Schedule 8.

Agency form: [Form 8 – Intervention](#)

Time limit for filing an intervention

An intervention must be filed within five business days of the intervener being notified by the Agency that their request to intervene has been accepted. Note that the Agency can specify a shorter time limit. A person filing an intervention may either use Form 8 or another document and the other parties must be provided with a copy of the intervention on the same day that it is filed with the Agency.

Failure to meet this deadline means that the Agency will proceed with the dispute proceeding without the intervener's position being taken into account unless a request to extend the time limit for filing the intervention is filed and is accepted by the Agency.

For more information, refer to section 30: Request to Extend or Shorten Time Limit

Intervention goes on the public record

All interventions filed with the Agency are placed on the public record unless:

1. A claim for confidentiality is made at the same time that it is filed; and
2. The Agency determines that the intervention, or parts of it, are confidential.

For more information, refer to:

- Section 7: Filing
- Section 31: Request for Confidentiality

22. Response to Intervention

An applicant or a respondent that is adverse in interest to an intervener may file a response to the intervention. The response must be filed within five business days after the day on which they receive a copy of the intervention and must include the information referred to in Schedule 9.

Annotation: Response to Intervention

Who can file a response to an intervention

You have the option of filing a response to an intervention if you are:

- An applicant or a respondent; and
- Adverse in interest to the intervener

Content of a response to an intervention

The response to the intervention must include the information set out in Schedule 9.

The response can only address the issues raised in the intervention.

An applicant or a respondent filing a response may either use Form 9 or another document and the other parties must be provided with a copy of the response on the same day that it is filed with the Agency.

Agency form: [Form 9 – Response to Intervention](#)

Time limit for filing a response to an intervention

A response must be filed within five business days after the party adverse in interest receives the intervention. Note that the Agency can specify a shorter time limit.

Response to an intervention goes on the public record

All responses to interventions filed with the Agency are placed on the public record unless:

1. A claim for confidentiality is made at the same time that it is filed; and
2. The Agency determines that the response to the intervention, or parts of it, are confidential.

For more information, refer to:

- Section 7: Filing
- Section 31: Request for Confidentiality

23. Position Statement

(1) An interested person may file a position statement. The position statement must be filed before the close of pleadings and must include the information referred to in Schedule 10.

(2) A person that files a position statement has no participation rights and is not entitled to receive any notice in the dispute proceeding.

Annotation: Position statement

A person may become aware of a dispute proceeding that is before the Agency that they have an interest in and would like their views to be considered in the Agency's decision-making process. However, they might not want to apply to become an intervener or their interest might not be sufficient to permit them to participate as an intervener.

For more information, refer to:

- Section 21: Intervention
- Section 29: Request to Intervene

Position statements are automatically accepted

There is no requirement to demonstrate a “substantial and direct interest” in the dispute proceeding before filing a position statement, unlike a request to intervene. An interest in the dispute proceeding is sufficient to file a position statement.

The Agency will automatically accept a position statement and will consider it in its decision-making process, unless it has no relevance to the dispute proceeding.

Contents of the position statement

The position statement must include the information set out in Schedule 10. A person filing a position statement may either use Form 10 or another document to set out their interest in the dispute proceeding.

It is important to clearly set out whether the position statement is in support of or in opposition to the application and to provide a clear and concise description of your interest. You should also include any documents that are relevant in support of your position.

Agency form: [Form 10 – Position Statement](#)

Extent of participation in the dispute proceeding

Filing a position statement allows a person to have their views placed on the Agency's record without having to actively participate in the dispute proceeding (unless required to do so by the Agency). However, the Agency may require that a person who files a position statement file information or documents, respond to questions from the Agency or respond to questions or document requests from a party that is adverse in interest.

After a person files a position statement, their participation ends as they are not a party to the dispute proceeding. This means that they will not:

- Be copied on any documents filed;

- Receive updates on the proceeding; or
- Be provided with the opportunity to comment on subsequent correspondence.

A person who files a position statement will, however, receive a copy of the Agency's final decision in the matter.

Time limit for filing of a position statement

A position statement must be filed before the close of pleadings.

Section 26 of the Dispute Adjudication Rules sets out when the pleadings in a proceeding are closed. Parties will be notified once pleadings have closed. In addition, this information will be reflected in the status of cases on the Agency's website.

For more information, refer to

- Section 26: Close of Pleadings
- Appendix A: Agency Contact Information

Position statement goes on the public record

All position statements filed with the Agency are placed on the public record unless:

1. A claim for confidentiality is made at the same time that it is filed; and
2. The Agency determines that the position statement, or parts of it, are confidential.

Although parties do not normally respond to position statements any party that believes that it should respond to a position statement may make a request to file a response to a position statement under section 34.

For more information, refer to:

- Section 7: Filing
- Section 34: Request to File Document Whose Filing is Not Otherwise Provided For in Rules
- Section 31: Request for Confidentiality

24. Written Questions and Production of Documents

(1) A party may, by notice, request that any party that is adverse in interest respond to written questions that relate to the matter in dispute or produce documents that are in their possession or control and that relate to the matter in dispute. The notice must include the information referred to in Schedule 11 and must be filed

(a) in the case of written questions, before the close of pleadings; and

(b) in the case of the production of documents, within five business days after the day on which the party becomes aware of the documents or before the close of pleadings, whichever is earlier.

(2) The party to which a notice has been given must, within five business days after the day on which they receive a copy of the notice, file a complete response to each question or the requested documents, as the case may be, accompanied by the information referred to in Schedule 12.

(3) If a party wishes to object to a question or to producing a document, that party must, within the time limit set out in subsection (2), file an objection that includes

(a) a clear and concise explanation of the reasons for the objection including, as applicable, the relevance of the information or document requested and their availability for production;

(b) any document that is relevant in explaining or supporting the objection; and

(c) any other information or document that is in the party's possession or control and that would be of assistance to the party making the request.

Annotation: Asking questions or requesting documents of another party

Limitations on asking questions and requesting documents

To help respond to an application, answer, intervention or request, a party that is adverse in interest to another party can ask that party to respond to questions or produce documents. This request is made by sending a notice to the other party. A party may also request approval under section 27 to ask questions or request document production from persons who are not parties to the proceeding (for example, persons who file position statements and interveners who are not granted full party status in the proceeding by the Agency). If the Agency approves such a request, this rule applies to the person in the same way as it would to a party.

The notice to respond to questions or produce documents allows a party to test evidence or submissions made by another party adverse in interest to them, or to obtain further information in relation to the dispute.

Questions and requests for documents must be relevant and designed to clarify matters so that the party can clearly and accurately state its position in the matter that is before the Agency. There must be a link between the answers and documents requested and the matter in dispute.

A notice to produce documents must be for existing documents that the other party possesses or has access to or control of. The document must be referred to or relied on

in a submission to the Agency, or related to a matter in the dispute. A party cannot request that a new document be created.

Note that if a party adverse in interest makes a request before the close of pleadings and the request is approved by the Agency, they may be permitted to conduct oral cross-examinations on an affidavit to test the evidence contained in the affidavit. A party may make such a request under section 27 of the Dispute Adjudication Rules.

For more information, refer to section 27 – General Request

Content of a notice to respond to written questions or produce documents

The notice must include the information set out in Schedule 11.

A party filing a notice may either use form 11 or another document and the other parties must be provided with a copy of the notice on the same day as it is filed with the Agency.

Agency form: [Form 11 – Written Questions or Request for Documents](#)

Time limit for the notice for asking questions or requesting documents

Questions: any time before the close of pleadings.

Production of documents: within five business days of the party becoming aware of the document or before the close of pleadings, whichever is earlier.

If you need help determining whether pleadings are closed, please refer to the list of [current cases](#) before the Agency.

For more information, refer to:

- Section 26: Close of Pleadings
- Appendix A: Agency Contact Information

Annotation: Response to a notice to respond to questions or produce documents

Time for responding to a notice

A party has five business days to respond after receiving a copy of the notice.

Responding to the notice

A party that has received a notice to respond to questions or produce documents must:

1. Provide a complete response to each question and/or produce copies of documents requested; and/or

2. Object to responding to any question or producing any document on the basis, among other matters, that it is not relevant to the issue before the Agency or that the information is not available.

Any questions that the party is responding to or any documents produced must be accompanied by the information contained in Schedule 12.

A party filing a response to the notice may either use Form 12 or another document and the other parties must be provided with a copy of the response to the notice on the same day as it is filed with the Agency.

Agency form: [Form 12 – Response to Written Questions or Request for Documents](#)

If a party objects to responding to any questions or producing any of the requested documents, it must provide the information set out in subsection 24(3). It is very important that the reasons for the objection be clearly set out. For example, if a party is of the view that the requested documents or questions asked are not relevant to the matter, then the reasons supporting this position must be stated.

Annotation: Party satisfied or not satisfied with the response

If the party asking questions or requesting documents is satisfied with the response, then this part of the dispute proceeding concludes. The information that was gathered goes on the public record or the confidential record if a claim for confidentiality is made by the party filing the documents and the Agency determines that the information is confidential. However, the party asking questions or requesting documents may not be satisfied that the response is complete or agree with the objections raised by the other parties. They then must make a request under subsection 32(1) for the Agency to require the other party to respond. .

Responses and documents go on the public record

Any information or documents gathered under section 24 of the Rules are placed on the public record unless:

1. A claim for confidentiality is made at the same time that they are filed or gathered; and
2. The Agency determines that the response, or parts of it, are confidential.

For more information, refer to:

- Section 7: Filing
- Section 31: Request for Confidentiality

Annotation: Documents and information required by the Agency

Although this provision only provides for the parties to ask questions and request documents from other parties, the Agency also has the power to require parties and other persons involved in a dispute proceeding to answer questions and provide further documents.

Agency gathering of additional information/documents

In addition to any documents filed, the Agency may require additional information from the parties and other persons (such as interveners) to assist in its decision making.

The Agency may gather additional information/documents in two ways:

1. By directing a person to produce information/documents and/or posing specific questions; or
2. By the Agency or staff performing a site inspection to collect information and data.

Documents and information required by the Agency go on the public record

All information/documents gathered by the Agency are placed on the public record unless:

1. A claim for confidentiality is made at the same time that they are filed or gathered; and
2. The Agency determines that the information/documents, or parts of them, are confidential.

For more information, refer to:

- Section 7: Filing
- Section 31: Request for Confidentiality

Documents filed with the Agency are provided to the parties in the dispute proceeding

Documents must be provided to the other parties on the same day that they are filed with the Agency, unless a request for confidentiality is made under section 31.

With respect to confidential information, if the Agency determines that the information is confidential, the Agency may limit the distribution of the information, permit a person to only make the documents available for review by other parties under limited circumstances, such as at a specified location or during certain hours, and require any person who is to receive access to the information to sign a confidentiality undertaking.

For more information, refer to section 31: Request for Confidentiality

Consequences of not providing documents or complying with the information gathering process

If a person does not comply with the process established by the Agency to gather more documents/information, the Agency may stay the dispute proceeding until the person complies.

If a dispute proceeding is stayed, a matter will not progress until the Agency determines that the process can continue. While the proceeding is stayed, the Agency will not accept or consider any documents. This will delay the issuance of the decision.

For more information, refer to section 41: Stay of Proceeding, Order or Decision

25. Expedited Process

(1) The Agency may, at the request of a party under section 28, decide that an expedited process applies to an answer under section 19 and a reply under section 20 or to any request filed under these Rules.

(2) If an expedited process applies to an answer under section 19 and a reply under section 20, the following time limits apply:

(a) the answer must be filed within five business days after the date of the notice indicating that the application has been accepted; and

(b) the reply must be filed within three business days after the day on which the applicant receives a copy of the answer.

(3) If an expedited process applies to a request filed under these Rules, the following time limits apply:

(a) any response to a request must be filed within two business days after the day on which the person who is responding to the request receives a copy of the request; and

(b) any reply to a response must be filed within one business day after the day on which the person who is replying to the response receives a copy of the response.

Annotation: Expedited Process

The expedited process can apply to:

- An answer under section 19 and a reply under section 20; or
- A request made under these Dispute Adjudication Rules

The expedited process has shorter time limits for filing documents in a dispute proceeding.

The Agency may on its own initiative apply an expedited process or a party can make a request for an expedited process. The expedited process is used if it is clearly demonstrated that following the time limits set out in the Dispute Adjudication Rules would cause a party financial or other prejudice. For example, a decision by the Agency is needed as soon as possible because a shipper has filed a level of service complaint against a railway company where perishable cargo is at risk.

Section 28 sets out how a party files a request for an expedited process.

Section 25 sets out the time limits for filing an answer and a reply and a request made under these Dispute Adjudication Rules in an expedited process, once the Agency has decided that such a process is appropriate.

For more information, refer to section 28: Request for Expedited Process

Time limit for an expedited process

The time limits depend upon whether they apply to a respondent's answer and the applicant's reply, or a request under these Dispute Adjudication Rules.

Answer/Reply: the answer must be filed within five business days and the reply must be filed in three business days.

A request made under these Dispute Adjudication Rules: a response to a request must be filed within two business days and a reply must be filed within one business day.

For information about the time limits for the close of pleadings in an expedited pleadings process, refer to section 26: Close of Pleadings

If you need help determining whether pleadings are closed, please refer to the list of [current cases](#) before the Agency.

26. Close of Pleadings

(1) Subject to subsection (2), pleadings are closed

- (a) if no answer is filed, 20 business days after the date of the notice indicating that the application has been accepted;**
- (b) if an answer is filed and no additional documents are filed after that answer, 25 business days after the date of the notice indicating that the application has been accepted; or**
- (c) if additional documents are filed after an answer is filed, the day on which the last document is to be filed under these Rules.**

(2) Under the expedited process, pleadings are closed

- (a) if no answer is filed, seven business days after the date of the notice indicating that the application has been accepted;**

(b) if an answer is filed and no additional documents are filed after that answer, 10 business days after the date of the notice indicating that the application has been accepted; or

(c) if additional documents are filed after an answer is filed, the day on which the last document is to be filed under these Rules.

Annotation: Close of pleadings

The importance of knowing when pleadings are closed

It is important to know when pleadings are closed. The Agency will not accept documents filed after the close of pleadings unless a request is made under sections 30 or 34 and the Agency has approved the request. Without this approval, the document will not form part of the record and it will not be considered by the Agency when making its final decision.

Parties are responsible for making any requests before the close of pleadings. In particular, requests where information will be placed on the record (e.g. questions between parties) must be made before the close of pleadings.

Expedited process: pleadings will close earlier than they would in a regular dispute proceeding.

If you need help determining whether pleadings are closed, please refer to the list of [current cases](#) before the Agency.

For more information, refer to:

- Section 30: Request to Extend or Shorten Time Limit
- Section 34: Request to File Document Whose Filing is Not Otherwise Provided for in Rules
- Appendix A: Agency Contact Information

Dispute Proceedings: Requests

Annotation: Requests

In any dispute proceeding, procedural issues can arise that need to be decided by the Agency in the course of the proceeding. Sections 27 to 36 of the Dispute Adjudication Rules deal with the process by which people can bring these procedural issues forward for decision. The request mechanism replaces what used to be known as “motions”.

Depending on the section, parties and in some instances persons can make a request to have a procedural issue determined by the Agency. Agency decisions on requests are sometimes referred to as “interlocutory decisions” meaning that they are a

procedural decision that is made during a proceeding before the final substantive decision is made on the merits of the application.

The Agency will render a decision or order on each request. The decision or order will contain a summary of the request as well as the Agency's conclusions. Where the request is contested, the Agency will provide reasons for its decision.

27. General Request

(1) A person may file a request for a decision on any issue that arises within a dispute proceeding and for which a specific request is not provided for under these Rules. The request must be filed as soon as feasible but, at the latest, before the close of pleadings and must include the information referred to in Schedule 13.

(2) Any party may file a response to the request. The response must be filed within five business days after the day on which they receive a copy of the request and must include the information referred to in Schedule 14.

(3) The person that filed the request may file a reply to the response. The reply must be filed within two business days after the day on which they receive a copy of the response and must include the information referred to in Schedule 15.

(4) The reply must not raise issues or arguments that are not addressed in the response or introduce new evidence unless a request has been filed to that effect and the request has been granted by the Agency.

Annotation: General requests

When to use section 27

If a person wants the Agency to address a procedural matter that is not covered in the specific requests found in sections 28 to 36, they must make a request under the general request provision, section 27, and obtain the Agency's approval.

The Dispute Adjudication Rules set out the process to be followed for specific types of procedural requests:

- Section 28 – Request for Expedited Process
- Section 29 – Request to Intervene
- Section 30 – Request to Extend or Shorten Time Limit
- Section 31 – Request for Confidentiality
- Section 32 – Request to Require Party to Provide Complete Response
- Section 33 – Request to Amend Document

- Section 34 – Request to File Document Whose Filing is not Otherwise Provided For in Rules
- Section 35 – Request to Withdraw Document
- Section 36 – Request to Withdraw Application

Content of a request

It is the responsibility of the person making the request to demonstrate to the satisfaction of the Agency that the request should be granted.

The person must provide details as to why the request should be granted by the Agency. It is not sufficient to merely make a request.

The request must include the information set out in Schedule 13. A person filing a request may either use form 13 or another document and the other parties must be provided with a copy of the request on the same day that it is filed with the Agency.

Agency form: [Form 13 – Request](#)

Time limit for filing a request under section 27

A request must be filed as soon as possible after the issue arises and before the close of pleadings.

If the need to file a request arises after pleadings close, the request should be accompanied by a request under section 30 for an extension of time. For more information, refer to:

- Section 26: Close of Pleadings
- Section 30: Request to Extend or Shorten Time Limit

If you need help determining whether pleadings are closed, please refer to the list of [current cases](#) before the Agency.

Annotation: Responding to a request

Contents of a response to a request

Any party to the proceeding can file a detailed response to the request with the Agency and the other parties.

For example, a party may choose to respond if it may be affected by the request. A party may be affected by a request if the request:

- Would require the party to do something; or
- Has an impact on the party, for example, it might delay the proceedings. The party must clearly indicate whether they support or oppose the request. If

opposed, the party must state why it does not want the Agency to grant the request, including the impact this would have on it or on the proceeding.

The response must include the information set out in Schedule 14. A party filing a response may either use Form 14 or another document and the other parties must be provided with a copy of the response to the request on the same day that it is filed with the Agency.

Agency form: [Form 14 – Response to Request](#)

Time limit for filing of a response to a request

A response to a request must be filed within five business days after the party receives the request.

Annotation: Replying to a response to a request

Contents of a reply to a response to a request

Once a party has responded to a request, the person who filed the request can file a written reply.

The purpose of the reply is to respond only to the issues raised in the response to the request. It must not raise new issues, arguments or evidence and should not repeat what is already in the request.

A reply that raises new issues, arguments or evidence that were not addressed in the answer may not be struck in its entirety from the Agency's record. The Agency may strike the new material from the reply on its own initiative. Should the person filing the reply take the position that the Agency requires the new material to make an informed decision, it may make a request to the Agency under section 34 of the Dispute Adjudication Rules to have the new material accepted by the Agency. The Agency has discretion to accept new material that is relevant and necessary to its consideration of the case and, where appropriate, may give parties adverse in interest an opportunity to respond to the new material.

For more information, refer to section 34: Request to File Document Whose Filing is not Otherwise Provided For in Rules

Agency form: [Form 15 – Reply to Response to Request](#)

Time limit for filing a reply to a response to a request

Any reply to the response must be filed within two business days after the person receives the response, unless otherwise directed by the Agency.

28. Request for Expedited Process

(1) A party may file a request to have an expedited process applied to an answer under section 19 and a reply under section 20 or to another request filed under these Rules. The request must include the information referred to in Schedule 13.

(2) The party filing the request must demonstrate to the satisfaction of the Agency that adherence to the time limits set out in these Rules would cause them financial or other prejudice.

(3) The request must be filed

(a) if the request is to have an expedited process apply to an answer and a reply,

(i) in the case of an applicant, at the time that the application is filed, or

(ii) in the case of a respondent, within one business day after the date of the notice indicating that the application has been accepted; or

(b) if the request is to have an expedited process apply to another request,

(i) in the case of a person filing the other request, at the time that that request is filed, or

(ii) in the case of a person responding to the other request, within one business day after the day on which they receive a copy of that request.

(4) Any party may file a response to the request. The response must be filed within one business day after the day on which they receive a copy of the request and must include the information referred to in Schedule 14.

(5) The party that filed the request may file a reply to the response. The reply must be filed within one business day after the day on which they receive a copy of the response and must include the information referred to in Schedule 15.

(6) The reply must not raise issues or arguments that are not addressed in the response or introduce new evidence unless a request has been filed to that effect and the request has been granted by the Agency.

Annotation: Request for expedited process

Sections related to shortened time limits

Section 28 sets out how a party can file a request for an expedited process and some of the factors that the Agency might consider.

Section 25 sets out shorter time limits for filing pleadings in a dispute proceeding where the Agency has approved an expedited process. Section 30 should be used to shorten an individual time line.

For more information, refer to:

- Section 25: Expedited Process
- Section 30: Request to Extend or Shorten Time Limit

What is an expedited process?

The expedited process allows for shorter time limits for filing pleadings in a dispute proceeding. The Agency, either on its own initiative or at the request of a party, determines whether it is appropriate to apply the expedited process to the dispute proceeding.

This is an exceptional process and it is very important that the party making the request set out all relevant factors. The Agency will consider the impact of an expedited process on the other party or parties. Note that given the shortened time limits, the expedited process will only be considered where the parties can use an electronic instantaneous means of communication.

There are two situations where pleadings may be expedited:

The dispute proceeding: In an expedited proceeding, the time limits for the answer and reply are shortened.

A request under Sections 27 to 36: If a request is expedited, the time limits for the response and reply to the request are shortened. For example, if it is necessary for the parties to file additional information/documents or respond to questions of the other parties as part of the dispute proceeding, the time limits provided in the Dispute Adjudication Rules for responding can be expedited upon request.

Factors that the Agency may consider

Requests to expedite pleadings should refer to the factors that the Agency may take into account when considering a request:

- The complexity of the matter;
- The reasons for the request, including any financial or other prejudice that may be caused by following the time limits set out in the Dispute Adjudication Rules;
- The financial or other prejudice, if any, to the other parties if the request is granted; and
- Any other factors that may be relevant.

Contents of a request for an expedited process

It is the responsibility of the party making the request to demonstrate to the satisfaction of the Agency that the request should be granted. Reasons must be provided for expediting a pleadings process.

The request must include the information set out in Schedule 13 and reference should be made to the factors that the Agency looks at which are set out above. A party filing a request may either use Form 13 or another document. The other parties must be provided with a copy of the request on the same day that it is filed with the Agency.

Agency form: [Form 13 – Request](#)

Time limit for requesting an expedited process

The time limit depends on whether it applies to a dispute proceeding (the filing of an answer and reply) or a request under sections 27 to 36.

Dispute proceeding: the request must be filed at the same time that the application is filed with the Agency or, in the case of a respondent within one business day after the date of the notice that the application is complete.

Request under Sections 27 to 36: the person must file the request at the same time that the other request is filed with the Agency or, in the case of a person responding to the other request, within one business day after the day on which they receive a copy of the request.

Annotation: Responding to a request

Contents of a response to a request for an expedited process

Any party to the dispute proceeding may file a detailed response to the request with the Agency and, on the same day, with the other parties.

The party must clearly indicate whether it supports or opposes the request. If the request is opposed, the party must state why it does not want the Agency to grant the request, including the impact this would have on it or on the proceeding.

A person filing a response to a request may either use Form 14 or another document.

Agency form: [Form 14 – Response to Request](#)

Time limit for responding to a request for an expedited process

All other parties to the proceeding will have one business day to file a response to a request for an expedited process.

Annotation: Replying to a response to a request

Contents of a reply to a response to a request

A reply to the response may be filed.

A reply can only address issues raised in the response to the request. It must not repeat arguments already made in the request, or raise new issues, arguments or evidence not related to the response to the request.

A reply that raises new issues, arguments or evidence that were not addressed in the answer may not be struck in its entirety from the Agency's record. The Agency may strike the new material from the reply on its own initiative. Should the person filing the reply take the position that the Agency requires the new material to make an informed decision, it may make a request to the Agency under section 34 of the Dispute Adjudication Rules to have the new material accepted by the Agency. The Agency has discretion to accept new material that is relevant and necessary to its consideration of the case and, where appropriate, may give parties adverse in interest an opportunity to respond to the new material.

For more information, refer to section 34: Request to File Document Whose Filing is Not Otherwise Provided For in Rules

Time limit for filing a reply to a response to a request

Any reply to the response must be filed within one business day after the person receives the response, unless otherwise directed by the Agency.

29. Request to Intervene

(1) A person that has a substantial and direct interest in a dispute proceeding may file a request to intervene. The request must be filed within 10 business days after the day on which the person becomes aware of the application or before the close of pleadings, whichever is earlier, and must include the information referred to in Schedule 16.

(2) If the Agency grants the request, it may set limits and conditions on the intervener's participation in the dispute proceeding.

Annotation: Request to intervene

Section 29 sets out how a person applies to become an intervener in a dispute proceeding.

Section 21 sets out the process to be followed after the Agency has accepted a person as an intervener.

For more information, refer to section 21: Intervention

Who is an intervener?

An intervener is a person who has a “substantial and direct interest” in a dispute proceeding, either supports or opposes the application filed by the applicant and has been granted intervener status by the Agency. An intervener may be considered a party to the proceeding if the person asks for this status and it is granted by the Agency.

In a dispute proceeding, an applicant files an application against a specific party – the respondent. However, there may be other persons who have an interest in the application. Intervener status allows those persons to participate in the proceeding and have the Agency consider their views when making its decision.

Contents of the request to intervene in a dispute proceeding

A person requesting to be an intervener in a dispute proceeding before the Agency must demonstrate a “substantial and direct interest” in the application. The request must include the information set out in Schedule 16. A person filing a request may either use Form 16 or another document.

It is the Agency that determines the extent of your participation in the proceeding, based on your stated needs and an assessment of what will be helpful to the Agency in its decision-making process. As such, you should also indicate how you wish to participate in the proceeding. Do you want to fully participate and respond to other parties’ pleadings or do you want to participate in a more limited way (e.g. by only filing a written submission)? Do you want to be a party to the proceeding?

If the Agency grants your request to intervene in the proceeding, it will inform you of the extent of your participation.

Agency form: [Form 16 – Request to Intervene](#)

The discretion to allow an intervention lies with the Agency based on the Panel's assessment of whether the intervention will bring new information from a different perspective to the Agency that is relevant and necessary to its decision. As a result, a right of response and reply has not been provided. In exceptional cases, however, the Agency may, upon request filed under section 34 or on its own initiative, provide parties who are adverse in interest with the opportunity to respond to such requests, as well as a right of reply to the person seeking intervener status.

If the request to intervene is approved by the Agency, parties adverse in interest will have an opportunity to respond to the intervention when it is filed.

For more information refer to section 21 -- Intervention

Time limit for filing a request to intervene

A request to intervene must be filed within 10 business days after the person becomes aware of the dispute proceeding and, in any event, before the close of pleadings. The parties must be provided with a copy of the request on the same day that it is filed with the Agency. The Agency's website contains information about all dispute applications before the Agency for adjudication. This information will help you decide whether you want to intervene and it will provide information about the status of the file, including when pleadings are expected to close or if they are closed already.

If you need help determining whether pleadings are closed, please refer to the list of [current cases](#) before the Agency.

If a person just becomes aware of an application and wishes to intervene but pleadings have already closed, the person may make a request under section 30 of the Dispute Adjudication Rules to permit the late filing. In exceptional circumstances, where the relevance and importance of the person's evidence to the Agency outweighs the prejudice or harm in delaying the proceeding, the Agency may reopen the pleadings to permit a late intervention.

For more information, refer to:

- Section 26: Close of Pleadings
- Section 30: Request to Extend or Shorten Time Limit
- Appendix A: Agency Contact Information

Intervention goes on the public record

Interventions filed with the Agency are placed on the public record unless:

1. A claim for confidentiality is made at the same time that it is filed; and
2. The Agency determines that the intervention, or parts of it, are confidential.

For more information, refer to:

- Section 7: Filing
- Section 31: Request for Confidentiality

In considering a claim for confidentiality of a document the Agency may reject the claim and place the document on the public record or determine that the information is in whole or in part confidential and grant access only to specific persons/parties on the filing of written undertakings to maintain the confidentiality of the information. In exceptional circumstances the Agency might determine that the document is confidential and cannot be viewed by other parties although it will be taken into consideration by the Agency when making a decision.

An intervener is not automatically a party to the dispute proceedings

Even if a request to intervene is granted by the Agency, the intervener does not become a party to the proceeding unless the Agency names the intervener as a party. This means that an intervener will not be copied on documents filed between the parties unless the Agency accepts them as a party or unless their participation rights include being provided with copies of documents. They will, however, be provided with a copy of the Agency's final decision in the dispute proceeding.

An intervener may be asked to respond to questions or document requests from either the Agency or the parties, regardless of whether or not they are a party.

Having a representative represent you

If a person filing a request to intervene would like to have a representative (other than a lawyer) act on their behalf, a written authorization must be filed with the Agency.

For more information, refer to section 16: Representative Not a Member of the Bar

Agency form: [Form 4 – Authorization of Representative](#)

Position statement as an alternative to becoming an intervener

Sometimes a person may have an interest in a dispute proceeding and want their views to be taken into consideration by the Agency. However, they may not have a "substantial and direct interest" in the proceeding and/or may want to limit their participation in the proceeding to simply filing a statement.

A position statement can be filed with the Agency as an alternative to being an intervener. Agency approval is not required to file a position statement.

For more information, refer to section 23: Position Statement

30. Request to Extend or Shorten Time Limit

(1) A person may file a request to extend or shorten a time limit that applies in respect of a dispute proceeding. The request may be filed before or after the end of the time limit and must include the information referred to in Schedule 13.

(2) Any party may file a response to the request. The response must be filed within three business days after the day on which they receive a copy of the request and must include the information referred to in Schedule 14.

(3) The person that filed the request may file a reply to the response. The reply must be filed within one business day after the day on which they receive a copy of the response and must include the information referred to in Schedule 15.

(4) The reply must not raise issues or arguments that are not addressed in the response or introduce new evidence unless a request has been filed to that effect and the request has been granted by the Agency.

Annotation: Request to extend or shorten time limit

Section 30 is used when a person wishes to extend or shorten a time limit in a dispute proceeding that has been established either in the Dispute Adjudication Rules or by the Agency.

For example, a person may have five business days to file a document with the Agency, but if there are factors that they believe would make it impossible to meet the deadline, they may apply to the Agency under this section to extend the time limit.

Contents of the request to extend or shorten time limit

It is the responsibility of the person making the request to demonstrate to the satisfaction of the Agency that the request should be granted. Reasons must be provided for extending or shortening time limits. Reference should be made to the factors that the Agency considers, which are set out below.

The request must include the information set out in Schedule 13. A person filing a request may either use Form 13 or another document.

Agency form: [Form 13 – Request](#)

Factors that the Agency may consider

Requests to extend or shorten time limits should refer to the factors appropriate to your request. The following are factors that the Agency may take into account when considering a request:

- The complexity of the matter;
- The impact of the request on other parties;
- The time required to compile the necessary information;
- The difficulty in obtaining the necessary information;
- Whether the party made a serious effort to meet the deadline;
- The period of time since the party first became aware of the matter;
- When the party requested the extension of time;
- The number of extensions already granted;
- The availability of key personnel of parties;

- A reasonable opportunity for parties to comment; and
- Any other factors that may be relevant.

Time limit for filing a request under section 30

Requests to extend a time limit should be made in enough time to permit the party to meet the original deadline if the request to extend the time limit is denied by the Agency. Under exceptional circumstances, the Agency may consider a request filed after the expiry of a time limit provided that the person demonstrates why the request could not have been made before the expiry of the time limit.

Responding to a request to extend or shorten time limit

The response to a request should reference the factors that the Agency may consider (set out above) and must be filed within three business days of the party receiving the request. It must include the information set out in Schedule 14.

A party filing a response to a request may either use Form 14 or another document and the other parties must be provided with a copy of the response to the request on the same day that it is filed with the Agency.

Agency form: [Form 14 –Response to Request](#)

Replying to the response to a request to extend or shorten time limit

A reply to the response, if any, must be filed within one business day of the party receiving the response. It should clearly address the issues raised in the response and must not raise any new issues.

A person filing a reply may either use form 15 or another document and the other parties must be provided with a copy of the reply on the same day that it is filed with the Agency.

Agency form: [Form 15 – Reply to Response to Request](#)

A reply that raises new issues, arguments or evidence that were not addressed in the answer may not be struck in its entirety from the Agency's record. The Agency may strike the new material from the reply on its own initiative. Should the person filing the reply take the position that the Agency requires the new material to make an informed decision, it may make a request to the Agency under section 34 of the Dispute Adjudication Rules to have the new material accepted by the Agency. The Agency has discretion to accept new material that is relevant and necessary to its consideration of the case and, where appropriate, may give parties adverse in interest an opportunity to respond to the new material.

For more information, refer to section 34: Request to File Document Whose Filing is Not Otherwise Provided For in Rules

31. Request for Confidentiality

(1) A person may file a request for confidentiality in respect of a document that they are filing. The request must include the information referred to in Schedule 17 and must be accompanied by, for each document identified as containing confidential information,

(a) one public version of the document from which the confidential information has been redacted; and

(b) one confidential version of the document that identifies the confidential information that has been redacted from the public version of the document and that includes, at the top of each page, the words: “CONTAINS CONFIDENTIAL INFORMATION” in capital letters.

(2) The request for confidentiality and the public version of the document from which the confidential information has been redacted are placed on the Agency’s public record. The confidential version of the document is placed on the Agency’s confidential record pending a decision of the Agency on the request for confidentiality.

(3) Any party may oppose a request for confidentiality by filing a request for disclosure. The request must be filed within five business days after the day on which they receive a copy of the request for confidentiality and must include the information referred to in Schedule 18.

(4) The person that filed the request for confidentiality may file a response to a request for disclosure. The response must be filed within three business days after the day on which they receive a copy of the request for disclosure and must include the information referred to in Schedule 14.

(5) The Agency may

(a) if the Agency determines that the document is not relevant to the dispute proceeding, decide to not place the document on the Agency’s record;

(b) if the Agency determines that the document is relevant to the dispute proceeding and that no specific direct harm would likely result from its disclosure or that any demonstrated specific direct harm is not sufficient to outweigh the public interest in having it disclosed, decide to place the document on the Agency’s public record; or

(c) if the Agency determines that the document is relevant to the dispute proceeding and that the specific direct harm likely to result from its disclosure justifies confidentiality,

(i) decide to confirm the confidentiality of the document or any part of it and keep the document or part of the document on the Agency’s confidential record,

(ii) decide to place a version of the document or any part of it from which the confidential information has been redacted on the Agency’s public record,

(iii) decide to keep the document or any part of it on the Agency’s confidential record but require that the person requesting confidentiality provide a copy of the document or part of the document in confidence to any party to the dispute proceeding, or to certain of their advisors, experts and representatives, as specified by the Agency, after the person requesting confidentiality has received a signed undertaking of confidentiality from the person to which the copy is to be provided, or

(iv) make any other decision that it considers just and reasonable.

(6) The original copy of the undertaking of confidentiality must be filed with the Agency.

Annotation: Request for confidentiality

The Agency is a quasi-judicial tribunal that follows the “open court principle.” This principle guarantees the public’s right to know how justice is administered and to have access to decisions rendered by courts and tribunals, except in exceptional cases. That is, the other parties in a dispute proceeding have a fundamental right to know the case being made against them and the documents that the decision-maker will review when making its decision which must be balanced against any specific direct harm the person filing the document alleges will occur if it is disclosed. This means that, upon request, and with limited exceptions, all information filed in a dispute proceeding can be viewed by the public.

In general, all documents filed with or gathered by the Agency in a dispute proceeding, including the names of parties and witnesses, form part of the public record. Parties filing documents with the Agency must also provide the documents to the other parties involved in the dispute proceeding under section 8 of the Dispute Adjudication Rules.

No person may refuse to file a document with the Agency because they believe that it is confidential. If a person believes that a document is confidential, they must make a request for confidentiality under section 31 and the Agency will decide whether the document is confidential. During this process, the document is not placed on the public record.

The Agency may also, without a request for disclosure being made, decide whether a document should be confidential after it provides the parties with a chance to comment on the issue.

Where the Agency finds that the document is not relevant to the dispute proceeding, the document will not form part of the record and will not be taken into consideration by the Agency when making its decision.

Where the Agency finds that the document is relevant to the dispute proceeding, the document will be put on the public record if the Agency finds that its disclosure will likely cause no specific direct harm, or that any demonstrated specific direct harm is not sufficient to outweigh the public interest in having it disclosed.

It should be noted that in some situations documents that have been determined to be confidential by the Agency may have to be disclosed in whole or in part to some or all of the other parties if the Agency determines that not disclosing them to the other parties would be unfair. In this regard, safeguards are put in place to ensure that documents remain confidential, including ensuring that people who will have access to the documents sign confidentiality undertakings in which they promise to maintain the confidentiality of the information that they will have access to in the dispute proceeding.

For more information, refer to:

- Section 7: Filing
- Section 8: Copy to Parties

Contents of a request for confidentiality

The person making a request for confidentiality must file:

1. One **public version** of the document for the public record with the confidential information redacted (or blacked out). This version will go on the Agency's public record.
2. One **confidential version** of the document that contains and identifies the confidential information that has been redacted, or blacked out from the public version, by underlining with a single line the confidential text. The document must be marked "CONTAINS CONFIDENTIAL INFORMATION" on the top of each page. This version will go on the Agency's confidential record pending a final determination by the Agency on its confidentiality.
3. A **request for confidentiality** containing the information contained in Schedule 17, which will be placed on the public record. The request for confidentiality must address the relevance of the documents to the issue(s) before the Agency, as well as whether the disclosure would cause specific direct harm sufficient enough to outweigh the public interest in having it disclosed. A person filing a request may either use Form 17 or another document.

The request for confidentiality and the public version of the document must also be provided to the parties at the same time that they are filed with the Agency. A person filing a request for confidentiality may either use Form 17 or another document.

In the past, the Agency has indicated that vague claims of unspecified harm are not sufficient when making a request.

Related decision: [Decision No. LET-P-A-67-2011](#)

Agency form: [Form 17– Request for Confidentiality](#)

Party opposing a request for confidentiality

A party may oppose a request for confidentiality of a document by filing a written request for disclosure within five business days after receiving the request for confidentiality.

The request for disclosure should address the relevance of the document to the issue(s) before the Agency, as well as why the document is required to be disclosed or must be seen by the party, including the public interest in its disclosure. The request for disclosure must include the information set out in Schedule 18. . A party filing a request for disclosure may either use Form 18 or another document and the other parties must be provided with a copy of the request for disclosure on the same day that it is filed with the Agency.

Agency form: [Form 18 – Request for Disclosure](#)

Person making the request for confidentiality may respond

The person making the request for confidentiality may respond to the request for disclosure. The response must include the information set out in Schedule 14. A person filing the response may either use Form 14 or another document and the other parties must be provided with a copy of the request for disclosure on the same day that it is filed with the Agency.

The response must be filed within three business days after receiving the request for disclosure.

The response can only address the issues raised in the request for disclosure.

Agency form: [Form 14 –Response to Request](#)

If the document is determined to be not relevant

If the Agency determines that a document is not relevant to a dispute proceeding it will not be placed on the record and will not be taken into consideration by the Agency when making its decision on the matter before it.

If the document is relevant but the Agency determines that it is not confidential

If the Agency determines that a document is relevant and not confidential then it is put on the Agency's public record and will be taken into consideration by the Agency when making its decision on the matter before it.

If the document is determined to be confidential

If the Agency determines that the document is relevant and confidential, the Agency may :

- Order that the document be kept in confidence and not be placed on the public record;
- Order that a version or part of the document be placed on the public record from which the confidential information has been redacted (or blacked out);
- Order that the document (or any part of it) not be placed on the public record, but that it be provided in confidence to any of the other parties to the proceeding upon receipt of a signed confidentiality undertaking; or
- Make any other decision that it considers just and reasonable.

When a person makes a claim for confidentiality for a document and the Agency has ruled that it is confidential, the confidential document:

- Will be placed on a confidential record;
- Will be considered by the Agency in its decision-making process;
- Will not be made available to the public; and
- May be provided to the other parties or to some of them if the Agency finds that they require access to the document to make their case. Usually the person to receive the document must file a signed confidentiality undertaking before receiving the document.

The original copy of the undertaking must be filed with the Agency.

32. Request for Agency to Require Party to Respond

(1) A party that has given notice under subsection 24(1) may, if they are not satisfied with the response to the notice or if they wish to contest an objection to their request, file a request to require the party to which the notice was directed to provide a complete response. The request must be filed within two business days after the day on which they receive a copy of the response to the notice or the objection, as the case may be, and must include the information referred to in Schedule 13.

(2) The Agency may do any of the following:

- (a) require that a question be answered in full or in part;**
- (b) require that a document be provided;**
- (c) require that a party submit secondary evidence of the contents of a document;**

- (d) require that a party produce a document for inspection only;
- (e) deny the request in whole or in part.

Annotation: Request for Agency to require a party to provide a complete response

Request

Under section 24 of the Dispute Adjudication Rules, a party can give notice to another party to answer questions or produce documents.

If the party asking questions or requesting documents is satisfied with the response received, then this part of the dispute proceeding concludes. The information that was gathered goes on the public record or the confidential record (if the Agency determines that the information is confidential) and the dispute proceeding continues.

However, if a party is not satisfied with the response to its document request or to the answers provided to its questions, or if it opposes an objection to producing the documents or answering the questions, it may file a request under section 32 of the Dispute Adjudication Rules for an Agency decision on the matter. For example, the party who gave notice may oppose the objection(s) made to respond to questions or produce documents.

Note that if a party adverse in interest makes a request before the close of pleadings and the request is approved by the Agency, they may be permitted to conduct oral cross-examinations on an affidavit to test the evidence contained in the affidavit. A party may make such a request under section 27 of the Dispute Adjudication Rules.

For more information, refer to section 27 – General Request

Time limit

The request must be made within two business days after receiving the response to the document request or questions.

Content of the request

Justification must be provided for each question or document request where the party is not satisfied with the completeness of the answer or where an objection was made. The request must include the information set out in Schedule 13. A person filing a request may either use Form 13 or another document and the other parties must be provided with a copy of the request on the same day that it is filed with the Agency.

Agency form: [Form 13 – Request](#)

Relief

The Agency may

- (a) Require answering of a question in whole or in part
- (b) Require production of a document
- (c) Require production of secondary evidence of the content of a document
- (d) Require that a document be provided for inspection only
- (e) Deny the request in whole or in part

Responses and documents go on the public record

Any information or documents gathered under section 32 of the Dispute Adjudication Rules are placed on the public record unless:

- A claim for confidentiality is made at the same time that they are filed or gathered; and
- The Agency determines that the response, or parts of it, are confidential.

For more information, refer to:

- Section 7: Filing
- Section 31: Request for Confidentiality

33. Request to Amend Documents

(1) A person may, before the close of pleadings, file a request to make a substantive amendment to a previously filed document. The request must include the information referred to in Schedule 13 and a copy of the amended document that the person proposes to file.

(2) Any party may file a response to the request. The response must be filed within three business days after the day on which they receive a copy of the request and must include

- (a) the information referred to in Schedule 14; and**
- (b) a description of any prejudice that would be caused to the party if the request were granted including, if applicable, an explanation of how the proposed amendments would hinder or delay the fair conduct of the dispute proceeding.**

(3) The person that filed the request may file a reply to the response. The reply must be filed within one business day after the day on which they receive a copy of the response and must include the information referred to in Schedule 15.

(4) The reply must not raise issues or arguments that are not addressed in the response or introduce new evidence unless a request has been filed to that effect and the request has been granted by the Agency.

(5) The Agency may

(a) deny the request; or

(b) approve the request in whole or in part and, if the Agency considers it just and reasonable to do so, provide parties that are adverse in interest with an opportunity to respond to the amended document.

Annotation: Request to amend document

Types of amendments

There are two types of amendments or changes that can be made to documents: substantive and non-substantive.

Substantive amendments: A substantive amendment would have a direct impact on the matter in dispute. Examples include an amendment to the names of the persons involved in the dispute proceeding or information being added or taken out of a document such as an expert's report.

Any substantive amendment to a document will need to be approved by the Agency.

Non-substantive amendments:

Some examples of non-substantive amendments are:

- Correction of spelling of names and places; and
- Dates (if they have no substantive implications).

A request under the Dispute Adjudication Rules is not required to make a non-substantive amendment to a document.

The person must file a new copy of the document which clearly identifies the amendment being made by:

- Underlining any new text and striking out (or drawing a line through) any deleted text; and
- Adding "AMENDED" at the top right hand corner of the first page of the document.

Where a person submits a non-substantive amendment, but the Agency considers it to be a substantive amendment, the person will be notified of the requirement to follow the procedure for substantive amendments in subsection 33(1).

For more information, refer to section 14: Amended Documents

Time Limit for making a substantive amendment to a document

The request should be made as soon as the person learns of the change and in any event it must be made before pleadings close. Any delay in making the amendment

may result in the request being denied, particularly if prejudice or harm will be caused to the other parties.

Contents of a request to make a substantive amendment

A party that wants to make a substantive amendment to a document must file a request with the Agency to explain the change and why it needs to be made. The request must include the information set out in Schedule 13. A person filing a request may either use Form 13 or another document and the other parties must be provided with a copy of the request on the same day that it is filed with the Agency.

The person must file a new copy of the document that clearly identifies the amendment being made by:

- Underlining any new text and striking out (or drawing a line through) any deleted text; and
- Adding “AMENDED” at the top right hand corner of the first page of the document.

For more information, refer to section 14: Amended Documents

Agency form: [Form 13 – Request](#)

Response to a request to make a substantive amendment

A party may respond to a request to amend a document.

Any party opposing the request must include a description of any prejudice or harm that would be caused to the party if the request were granted, and, if applicable, whether permitting the amendment will hinder or delay the fair conduct of the proceeding. The response must include the information set out in Schedule 14. A person filing a response to a request may either use Form 14 or another document and the other parties must be provided with a copy of the response to the request on the same day that it is filed with the Agency.

The response must be filed within three business days after the party receives a copy of the request.

Agency form: [Form 14 – Response to Request](#)

Replying to the response to a request to amend a document

A reply to the response to a request to amend a document, if any, must be filed within one business day of the party receiving the response. It should clearly address the issues raised in the response and must not raise any new issues.

A person filing a reply may either use form 15 or another document and the other parties must be provided with a copy of the reply on the same day that it is filed with the Agency.

Agency form: [Form 15 –Reply to Response to Request](#)

A reply that raises new issues, arguments or evidence that were not addressed in the answer may not be struck in its entirety from the Agency's record. The Agency may strike the new material from the reply on its own initiative. Should the person filing the reply take the position that the Agency requires the new material to make an informed decision, it may make a request to the Agency under section 34 of the Dispute Adjudication Rules to have the new material accepted by the Agency. The Agency has discretion to accept new material that is relevant and necessary to its consideration of the case and, where appropriate, may give parties adverse in interest an opportunity to respond to the new material.

For more information, refer to section 34: Request to File Document Whose Filing is Not Otherwise Provided For in Rules

Outcome of a request to make a substantive amendment

After receiving a request to amend a document, the Agency may:

- Deny the request; or
- Approve the request, in whole or in part.

If the Agency approves the request, it may provide parties adverse in interest with the opportunity to respond to the amended document and will set out the process to be followed and the time limits to be met in a decision to the parties.

34. Request to File Document Whose Filing is not Otherwise Provided For in Rules

(1) A person may file a request to file a document whose filing is not otherwise provided for in these Rules. The request must include the information referred to in Schedule 13 and a copy of the document that the person proposes to file.

(2) Any party may file a response to the request. The response must be filed within three business days after the day on which they receive a copy of the request and must include

- (a) the information referred to in Schedule 14; and**
- (b) a description of any prejudice that would be caused to the party if the request were granted including, if applicable, an explanation of how the proposed filing would hinder or delay the fair conduct of the dispute proceeding.**

(3) The person that filed the request may file a reply to the response. The reply must be filed within one business day after the day on which they receive a copy of the response and must include the information referred to in Schedule 15.

(4) The reply must not raise issues or arguments that are not addressed in the response or introduce new evidence unless a request has been filed to that effect and the request has been granted by the Agency.

(5) The Agency may

(a) deny the request; or

(b) approve the request and, if pleadings are closed and if the Agency considers it just and reasonable to do so, reopen pleadings to provide the other parties with an opportunity to comment on the document.

Annotation: Request to file document whose filing is not otherwise provided for in Rules

This section applies where a person seeks to file a document that is not identified in the Dispute Adjudication Rules or that the Agency has not required to be filed.

A request must be made and approved by the Agency. Without this approval, the documents will not form part of the record and will not be considered by the Agency when making its final decision. *Where a request to file a document whose filing is not provided for is filed after the close of pleadings, it does not need to be accompanied by a request to extend the time limit under section 30.*

For more information, refer to section 12: [Filing After Time Limit](#)

Content of a request to file document whose filing is not otherwise provided for in Rules

In their request the person must include the information referred to in Schedule 13 as well as a copy of the document that the person proposes to file. A person filing a request may either use Form 13 or another document and the other parties must be provided with a copy of the request on the same day as it is filed with the Agency.

The person making the request is responsible for demonstrating that the document should be accepted and form part of the record. In making a request the person should refer to the following factors (whichever are applicable) which the Agency may take into account:

- Was the document available before pleadings were closed or before the expiry of the time limit?
- Could the document have been obtained with reasonable effort (due diligence) before pleadings closed?

- Is the document relevant and necessary to the matter?
- Will the document advance the proceedings or assist the Agency in making its decision?
- Should the document be allowed on the record to avoid a miscarriage of justice – for instance, to correct an error in the record?
- Would the late filing of the new document allow a party to split or reargue their case?
- Will the other party suffer prejudice or harm?

Agency form: [Form 13 – Request](#)

Response to a request to file document whose filing is not otherwise provided for in Rules

A party may respond to a request to file documents whose filing is not otherwise provided for in the Dispute Adjudication Rules.

Any party opposing the request must include a description of any prejudice or harm that would be caused to the party if the request were granted, including, if applicable, whether permitting the request will hinder or delay the fair conduct of the proceeding. The response must also include the information set out in Schedule 14. A party filing a response to a request may either use Form 14 or another document and the other parties must be provided with a copy of the response on the same day that it is filed with the Agency.

The response must be filed within three business days after the party receives a copy of the request.

Agency form: [Form 14 – Response to Request](#)

Replying to the response to a request to file a document whose filing is not otherwise provided for in Rules

A reply to the response, if any, must be filed within one business day of the party receiving the response. It should clearly address the issues raised in the response and must not raise any new issues. A person filing a response to a request may either use form 15 or another document and the other parties must be provided with a copy of the response on the same day that it is filed with the Agency.

Agency form: [Form 15 – Reply to Response to Request](#)

A reply that raises new issues, arguments or evidence that were not addressed in the answer may not be struck in its entirety from the Agency's record. The Agency may strike the new material from the reply on its own initiative. Should the person filing the

reply take the position that the Agency requires the new material to make an informed decision, it may make a request to the Agency under section 34 of the Dispute Adjudication Rules to have the new material accepted by the Agency. The Agency has discretion to accept new material that is relevant and necessary to its consideration of the case and, where appropriate, may give parties adverse in interest an opportunity to respond to the new material.

For more information, refer to section 34: Request to File Document Whose Filing is Not Otherwise Provided For in Rules

Outcome of a request to file document whose filing is not otherwise provided for in Rules

After receiving a request to file documents after a time limit, the Agency may:

- Deny the request; or
- Approve the request, in whole or in part.

If the Agency approves the request, it may provide parties adverse in interest with the opportunity to respond to the documents and will set out the process to be followed and the time limits to be met in a decision to the parties.

For more information, refer to section 12: Filing After Time Limit

35. Request to Withdraw Document

(1) Subject to section 36, a person may file a request to withdraw any document that they filed in a dispute proceeding. The request must be filed before the close of pleadings and must include the information referred to in Schedule 13.

(2) If the Agency grants the request, it may impose any terms and conditions on the withdrawal that it considers just and reasonable, including the awarding of costs.

Annotation: Request to withdraw document

A party may request to withdraw any document filed in a dispute proceeding before the Agency. The request must include the information set out in Schedule 13. A person filing a request may either use Form 13 or another document. This request must be made before the close of pleadings and the other parties must be provided with a copy of the request on the same day as it is filed with the Agency.

If you need help determining whether pleadings are closed, please refer to the list of [current cases](#) before the Agency.

The parties will be notified as to the Agency's decision on the matter and, if it approves the withdrawal, any terms and conditions the Agency may determine just and reasonable, such as the applicant paying the costs of another party.

For example, the Agency could require the applicant to pay the costs paid by the respondent in having an expert report prepared to address a document that was filed by the applicant if the applicant later decides to withdraw that document.

For more information, refer to:

- Section 26: Close of Pleadings
- Appendix A: Agency Contact Information

Agency form: [Form 13 – Request](#)

36. Request to Withdraw Application

(1) An applicant may file a request to withdraw their application. The request must be filed before a final decision is made by the Agency in respect of the application and must include the information referred to in Schedule 13.

(2) If the Agency grants the request, it may impose any terms and conditions on the withdrawal that it considers just and reasonable, including the awarding of costs.

Annotation: Request to withdraw application

An applicant may request to withdraw their application and discontinue their dispute proceeding before the Agency. This request must be made before the Agency issues its final decision. All other parties must be provided with a copy of the request on the same day that it is filed with the Agency.

The request must include the information set out in Schedule 13. A person filing a request may either use Form 13 or another document. The parties will be notified as to the Agency's decision on the matter and, if it approves the withdrawal, any terms and conditions that the Agency may determine just and reasonable, such as the applicant paying the costs of another party. For example, the Agency could require the applicant to pay the costs incurred by the respondent for that part of the dispute proceeding where the respondent incurred costs preparing expert reports to respond to the application.

Agency form: [Form 13 – Request](#)

Dispute Proceedings: Case Management

37. Formulation of Issues

The Agency may formulate the issues to be considered in a dispute proceeding in any of the following circumstances:

- (a) the documents filed do not clearly identify the issues;
- (b) the formulation would assist in the conduct of the dispute proceeding;
- (c) the formulation would assist the parties to participate more effectively in the dispute proceeding.

Annotation: Formulation of issues

It is essential – for both the Agency and the parties – to have the issues in the dispute proceeding clearly identified.

If the submissions filed in a dispute proceeding do not clearly identify the issues, the Agency may, where appropriate, identify or clarify the issues. This will help the Agency conduct an efficient dispute proceeding and identify areas where further information may be required. It will also give the parties a better understanding of the issues before the Agency and allow for clearer and more directed responses.

In some situations, the Agency might require the parties to attend a conference by means of a telephone conference call or by personal attendance in order to identify or clarify the issues.

For more information on conferences, refer to section 40: Conference

An application may be considered incomplete if the applicant has not clearly identified the issues. In these cases, the applicant will be given 20 business days to complete their application.

For more information, refer to section 18: Application

38. Preliminary Determination

The Agency may, at the request of a party, determine that an issue should be decided as a preliminary question.

Annotation: Preliminary determination of issues

In some circumstances, the Agency may make a decision on a certain matter at the outset, before continuing with the dispute proceeding. These matters are often referred to as “preliminary matters”. For example, where there is a serious question about whether the party has standing to appear before the Agency, the Agency will usually

consider that issue as a preliminary matter and issue a decision on the preliminary issue before starting to gather pleadings and information on the merits of the application.

How to make a request for the preliminary determination of an issue

To request that an issue be determined as a preliminary matter, the process for making a general request to the Agency should be followed.

For more information, refer to: section 27: Requests – General Request

Agency form: [Form 13 – Request](#)

Staying the proceeding

The Agency may stay the dispute proceeding if the preliminary matter is a central issue, such as the Agency's jurisdiction to consider the issue(s) raised in the application.

This means that the dispute proceeding will stop while the Agency considers the preliminary matter. The Agency will not usually address any other issues raised in the dispute proceeding during the stay.

For more information, refer to section 41: Stay of Proceeding, Order or Decision

39. Joining of Applications

The Agency may, at the request of a party, join two or more applications and consider them together in one dispute proceeding to provide for a more efficient and effective process.

Annotation: Joining of applications

The Agency may, where appropriate, decide to join applications filed by different parties and consider them together in one dispute proceeding.

For example, this could occur if one or more applications raise similar issues, whether they are against the same respondents or different respondents. Note that the information contained in the various applications would be provided to all parties, subject to any request for confidentiality being made and a ruling from the Agency that information is confidential and should not be circulated.

How to make a request for the joining of applications

To request the joining of applications, the process for making a general request to the Agency should be followed.

For more information, refer to section 27: Requests – General Request

Agency form: [Form 13 – Request](#)

40. Conference

(1) The Agency may, at the request of a party, require the parties to attend a conference by a means of telecommunication or by personal attendance for the purpose of

- (a) encouraging settlement of the dispute;**
- (b) formulating, clarifying or simplifying the issues;**
- (c) determining the terms of amendment of any document;**
- (d) obtaining the admission of certain facts or determining whether the verification of those facts by affidavit should be required;**
- (e) establishing the procedure to be followed in the dispute proceeding;**
- (f) providing for the exchange by the parties of documents proposed to be submitted;**
- (g) establishing a process for the identification and treatment of confidential information;**
- (h) discussing the appointment of experts; and**
- (i) resolving any other issues to provide for a more efficient and effective process.**

(2) The parties may be required to file written submissions on any issue that is discussed at the conference.

(3) Minutes are prepared in respect of the conference and placed on the Agency's record.

(4) The Agency may issue a decision or direction on any issue discussed at the conference without further submissions from the parties.

Annotation: Conference

A conference is a meeting to discuss and resolve procedural matters or other issues. It can be held in person, by teleconference (telephone) or by web conference.

A conference may be conducted by Agency staff, counsel or the Agency Panel assigned to the case.

A conference may be held during any proceeding. However, if the proceeding is to be dealt with by way of an oral hearing, then at the time that an oral hearing is called, a pre-hearing conference will typically be held to work out the details of the procedures to be used in that case.

The result of a conference is usually a procedural direction, which is a decision issued by the Agency setting out specific procedural requirements and instructions to the

parties for the processing of the application. For example, a procedural direction might direct the parties to file specific information and if some of that information is confidential, it will also set out the rules as to how it is to be treated and who can have access to that information and under what terms and conditions.

Where the Agency and the parties agree on procedural matters, this agreement will be reflected in the procedural direction. Where the parties do not agree, the Agency will decide the matter based on the positions of the parties, as set out either in the minutes of the meeting and/or any written submissions made by the parties. Note that parties will have the opportunity to comment on the minutes.

Minutes are prepared for all conferences, circulated to the parties to ensure accuracy and placed on the Agency's record.

How to make a request for a conference

To request a conference, the process for making a general request to the Agency should be followed.

For more information, refer to section 27: Requests – General Request

Agency form: [Form 13 – Request](#)

41. Stay of Proceeding, Order or Decision

(1) The Agency may, at the request of a party, stay a dispute proceeding in any of the following circumstances:

- (a) a decision is pending on a preliminary question in respect of the dispute proceeding;**
- (b) a decision is pending in another proceeding or before any court in respect of an issue that is the same as or substantially similar to one raised in the dispute proceeding;**
- (c) a party to the dispute proceeding has not complied with a requirement of these Rules or with a procedural direction issued by the Agency;**
- (d) the Agency considers it just and reasonable to do so.**

(2) The Agency may, at the request of a party, stay a decision or order of the Agency in any of the following circumstances:

- (a) a review or re-hearing is being considered by the Agency under section 32 of the Act;**
- (b) a review is being considered by the Governor in Council under section 40 of the Act;**
- (c) an application for leave to appeal is made to the Federal Court of Appeal under section 41 of the Act;**

(d) the Agency considers it just and reasonable to do so.

(3) In staying a dispute proceeding or a decision or order, the Agency may impose any terms and conditions that it considers to be just and reasonable.

Annotation: Stay of proceeding, order or decision

What is a stay?

When the Agency stays a dispute proceeding, it means that the proceeding is stopped for a period of time. The dispute proceeding may be restarted at a later date. It means that the Agency is stopping the proceeding while another matter is being decided that has relevance to the matter that is before the Agency.

When the Agency stays a decision or order, it means that it will not enforce compliance with that Agency decision or order for the duration of the stay.

The Agency may decide on its own or at the request of another party to stay a dispute proceeding, or a decision or order of the Agency.

The Agency is much more likely to stay a proceeding than it is to stay a decision or order. The Agency's position is that its decisions and orders are properly made and final and binding unless and until they are overturned by either an appeal court or the Governor-in-Council. As such, the Agency's policy is to ensure compliance with its decisions and orders regardless of whether reviews or appeals are pursued. Should a respondent against whom a decision or an order is made wish to obtain a stay of the decision or order pending a review or appeal, it is the responsibility of that party to either seek a stay of the decision or order from the Agency or from the appeal court in the context of the appeal proceedings.

The Agency determines on a case-by-case basis whether it is appropriate to order a stay.

How to make a request for a stay

To request a stay of a proceeding, order, or decision, the process for general requests under section 27 must be followed.

A stay can delay either the issuance of the final decision or the implementation of any relief/remedies that were ordered by the Agency. As a result, the party making the request must clearly demonstrate to the Agency that the stay is justified.

In deciding whether to grant a stay, the Agency uses a three-part test that has been established by the courts (see below). A party, when providing reasons for the request for a stay, must provide submissions on all three parts of the test for a stay.

The Agency may also provide other parties to the dispute proceeding with the opportunity to comment on the request for a stay and the party requesting the stay will have an opportunity to reply to any responses received.

For more information, refer to section 27: Requests – General Request

Agency form: [Form 13 – Request](#)

Three-part test for a stay

To decide whether a stay should be granted, the Agency is guided by the three-part test in the Supreme Court of Canada decision *RJR - Macdonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311 (RJR Macdonald). The Agency must determine whether:

1. There is a serious question to be tried based on a preliminary assessment of the merits of the case;
2. The party seeking the stay would suffer irreparable harm if the stay wasn't granted; and,
3. The party seeking the stay will suffer the greater harm if the stay is refused than the other party(ies) if the stay is granted (referred to as the balance of inconvenience to the parties).

Related decisions:

- [Decision No. LET-R-267-1999](#)
- [Decision No. LET-R-174-2000](#)
- Decision No. LET-AT-A-124-2013

The parties will be notified as to the Agency's decision on the matter and, if it approves the stay, any terms and conditions the Agency may determine appropriate, such as one party paying the costs of another party.

42. Notice of Intention to Dismiss Application

(1) The Agency may, by notice to the applicant and before considering the issues raised in the application, require that the applicant justify why the Agency should not dismiss the application if the Agency is of the preliminary view that

- (a) the Agency does not have jurisdiction over the subject matter of the application;**
- (b) the dispute proceeding would constitute an abuse of process; or**
- (c) the application contains a fundamental defect.**

(2) The applicant must respond to the notice within 10 business days after the date of the notice, failing which the application may be dismissed without further notice.

(3) The Agency may provide any other party with an opportunity to comment on whether or not the application should be dismissed.

Annotation: Notice of intention to dismiss application

In certain cases it seems apparent that the Agency does not have jurisdiction over a matter, or that the application does not properly raise an issue, or that the issue is irrelevant or has already been decided. In these cases, the Agency may express a preliminary view that the application should be dismissed but it will give the applicant an opportunity to address the Agency's preliminary view and justify why the application should not be dismissed. In other words, the applicant has the opportunity to change the Agency's initial view of the matter.

If the applicant does not convince the Agency to change its preliminary view, the application will be dismissed, which means that it will not be considered by the Agency.

Time limit for the applicant to respond to the Agency's preliminary view

The applicant must file a response to the Agency's preliminary view within 10 business days after being given notice of the Agency's preliminary view.

If the applicant does not respond within that time limit, the application will be dismissed without further notice.

Time limit for other parties to respond to the preliminary view

The Agency might provide other parties with an opportunity to comment on whether the application should be dismissed. The Agency will establish time limits for the filing of submissions by the other parties and will communicate this information in a decision.

Impact of dismissal

If an application is dismissed under this provision, this is a substantive, final decision by the Agency and the applicant will not be able to pursue the same matter before the Agency again.

This is different from a situation where an applicant is informed that their incomplete application is being closed as they have not provided the missing information. In this case, the Agency has not considered the application, the file is simply closed and the applicant is free to pursue the matter in the future.

For more information, refer to section 18: Application

Three situations where the Agency can dismiss an application

- 1. The Agency does not have jurisdiction over the subject matter of the application:** The Agency can only issue decisions on matters within its mandate,

as set out in the *Canada Transportation Act* and other related [legislation or regulations](#). In cases where the matter is clearly outside the Agency's mandate, the applicant will be notified and the application will be returned.

2. **Abuse of proceedings:** An abuse of proceedings could include cases where:
 - The supporting reasons are frivolous or vexatious;
 - Pleadings were initiated with the intent to cause distress or harm to others;
 - A proceeding was initiated for the purpose of delay; or,
 - A proceeding was an unjustified attempt to have a matter redetermined where it was already resolved in an earlier proceeding.
3. **Fundamental defect:** This includes situations where an issue is irrelevant or has already been determined.

43. Transitional Provision

The *Canadian Transportation Agency General Rules*, as they read immediately before the coming into force of these Rules, continue to apply to all proceedings before the Agency that were commenced before the coming into force of these Rules except proceedings in respect of which the application filed before that time was not complete.

Annotation: General Rules

The *Canadian Transportation Agency General Rules* (the Rules that existed before the coming into force of these Dispute Adjudication Rules) will continue to apply to all applications that are accepted as complete before June 4, 2014. If an application is filed before June 4 but is not accepted as complete until June 4 or after, these new Dispute Adjudication Rules will apply once the application has been accepted as complete.

44. Repeal

The *Canadian Transportation Agency General Rules*¹ are repealed.

45. Coming into Force

These Rules come into force on June 4, 2014, but if they are published after that day, they come into force on the day on which they are published.

¹ SOR/2005-35

List of schedules

Schedule 1: Translation — Required Information

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The name of the person filing the documents and, if the information has not already been provided to the Agency, the person's complete address, telephone number and, if applicable, email address and facsimile number.
3. A list of the translated documents that indicates, for each document, the language of the original document.
4. An affidavit of the translator that includes
 - a. the translator's name and the city or town, the province or state and the country in which the document was translated;
 - b. an attestation that the translator has translated the document in question and that the translation is, to the translator's knowledge, true, accurate and complete;
 - c. the translator's signature and the date on which and the place at which the affidavit was signed; and
 - d. the signature and the official seal of the person authorized to take affidavits and the date on which and the place at which the affidavit was made.
5. The name of each party to which a copy of the documents is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 2: Verification by Affidavit

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The name of the person filing the documents and, if the information has not already been provided to the Agency, the person's complete address, telephone number and, if applicable, email address and facsimile number.
3. An affidavit that includes
 - a. the name of the person making the affidavit and the city or town, the province or state and the country in which it was made;
 - b. a full description of the information being verified, a list of any supporting documents and a copy of each of those documents marked as appendices;
 - c. an attestation that the person has personal knowledge of the information and that the information is, to their knowledge, true, accurate and complete or, if the person does not have personal knowledge of the information, a statement indicating the source of the

- information and an attestation that the information is, to their knowledge, true, accurate and complete;
- d. the person's signature and the date of signing; and
 - e. the signature and the official seal of a person authorized to take affidavits and the date on which and the place at which the affidavit was made.
4. The name of each party to which a copy of the verification is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 3: Verification by Witnessed Statement

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The name of the person filing the documents and, if the information has not already been provided to the Agency, the person's complete address, telephone number and, if applicable, email address and facsimile number.
3. A statement before a witness that includes
 - a. the name of the person making the statement and the city or town and the province or state and the country in which it was made;
 - b. a full description of the information being verified, a list of any supporting documents and a copy of each of those documents marked as appendices;
 - c. an attestation that the person has personal knowledge of the information and that the information is, to their knowledge, true, accurate and complete or, if the person does not have personal knowledge of the information, a statement indicating the source of the information and an attestation that the information is, to their knowledge, true, accurate and complete;
 - d. the person's signature and the date of signing; and
 - e. the name and signature of the person witnessing the statement and the date on which and place at which the statement was signed.
4. The name of each party to which a copy of the verification is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 4: Authorization of Representative

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The name of the person giving the authorization and, if the information has not already been provided to the Agency, the person's complete address, telephone number and, if applicable, email address and facsimile number.

3. The name of the person's representative and the representative's complete address, telephone number and, if applicable, email address and facsimile number.
4. A statement, signed and dated by the representative, indicating that the representative has agreed to act on behalf of the person.
5. A statement, signed and dated by the person giving the authorization, indicating that they authorize the representative to act on their behalf for the purposes of the dispute proceeding.
6. The name of each party to which a copy of the authorization is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 5: Application

1. The applicant's name, complete address, telephone number and, if applicable, email address and facsimile number.
2. If the applicant is represented by a member of the bar of a province, the representative's name, firm, complete address, telephone number and, if applicable, email address and facsimile number.
3. If the applicant is represented by a person that is not a member of the bar of a province, a statement to that effect.
4. The respondent's name and, if known, their complete address, telephone number and, if applicable, email address and facsimile number.
5. The details of the application that include
 - a. any legislative provisions that the applicant relies on;
 - b. a clear statement of the issues;
 - c. a full description of the facts;
 - d. the relief claimed; and
 - e. the arguments in support of the application.
6. A list of any documents submitted in support of the application and a copy of each of those documents.

Schedule 6: Answer to Application

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The respondent's name, complete address, telephone number and, if applicable, email address and facsimile number.
3. If the respondent is represented by a member of the bar of a province, the representative's name, firm, complete address, telephone number and, if applicable, email address and facsimile number.
4. If the respondent is represented by a person that is not a member of the bar of a province, a statement to that effect.

5. The details of the answer that include
 - a. a statement that sets out the elements that the respondent agrees with or disagrees with in the application;
 - b. a full description of the facts; and
 - c. the arguments in support of the answer.
6. A list of any documents submitted in support of the answer and a copy of each of those documents.
7. The name of each party to which a copy of the answer is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 7: Reply to Answer

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The name of the person filing the reply.
3. The details of the reply that include
 - a. a statement that sets out the elements that the applicant agrees with or disagrees with in the answer; and
 - b. the arguments in support of the reply.
4. A list of any documents submitted in support of the reply and a copy of each of those documents.
5. The name of each party to which a copy of the reply is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 8: Intervention

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The intervener's name, complete address, telephone number and, if applicable, email address and facsimile number.
3. If the intervener is represented by a member of the bar of a province, the representative's name, firm, complete address, telephone number and, if applicable, email address and facsimile number.
4. If the intervener is represented by a person that is not a member of the bar of a province, a statement to that effect.
5. The details of the intervention that include
 - a. a statement that indicates the day on which the intervener became aware of the application;
 - b. a statement that indicates whether the intervener supports the applicant's position, the respondent's position or neither position; and
 - c. the information that the intervener would like the Agency to consider.

6. A list of any documents submitted in support of the intervention and a copy of each of those documents.
7. The name of each party to which a copy of the intervention is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 9: Response to Intervention

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The name of the person filing the response.
3. The details of the response that include
 - a. a statement that sets out the elements that the person agrees with or disagrees with in the intervention; and
 - b. the arguments in support of the response.
4. A list of any documents submitted in support of the response and a copy of each of those documents.
5. The name of each party to which a copy of the response is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 10: Position Statement

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The name of the person filing the position statement or, if the person is represented, the name of the person on behalf of which the position statement is being filed, and the person's complete address, telephone number and, if applicable, email address and facsimile number.
3. If the person is represented by a member of the bar of a province, the representative's name, firm, complete address, telephone number and, if applicable, email address and facsimile number.
4. If the person is represented by a person that is not a member of the bar of a province, a statement to that effect.
5. The details of the position statement that include
 - a. a statement that indicates whether the person supports the applicant's position, the respondent's position or neither position; and
 - b. the information that the person would like the Agency to consider.
6. A list of any documents submitted in support of the position statement and a copy of each of those documents.

Schedule 11: Written Questions or Request for Documents

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The name of the person filing the written questions or the request for documents and, if the information has not already been provided to the Agency, the person's complete address, telephone number and, if applicable, email address and facsimile number.
3. The name of the party to which the written questions or the request for documents is directed.
4. A list of the written questions or of the documents requested, as the case may be, and an explanation of their relevance to the dispute proceeding.
5. A list of any documents submitted in support of the written questions or the request for documents and a copy of each of those documents.
6. The name of each party to which a copy of the written questions or the request for documents is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 12: Response to Written Questions or Request for Documents

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The name of the person filing the response to the written questions or the request for documents.
3. A list of the documents produced.
4. A list of any documents submitted in support of the response and a copy of each of those documents.
5. The name of each party to which a copy of the response is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 13: Request

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The name of the person filing the request and, if the information has not already been provided to the Agency, the person's complete address, telephone number and, if applicable, email address and facsimile number.
3. The details of the request that include
 - a. the relief claimed;
 - b. a summary of the facts; and
 - c. the arguments in support of the request.

4. A list of any documents submitted in support of the request and a copy of each of those documents.
5. The name of each party to which a copy of the request is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 14: Response to Request

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The name of the person filing the response.
3. An identification of the request to which the person is responding, including the name of the person that filed the request.
4. The details of the response that include
 - a. a statement that sets out the elements that the person agrees with or disagrees with in the request; and
 - b. the arguments in support of the response.
5. A list of any documents submitted in support of the response and a copy of each of those documents.
6. The name of each party to which a copy of the response is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 15: Reply to Response to Request

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The name of the person filing the reply.
3. An identification of the response to which the person is replying, including the name of the person that filed the response.
4. The details of the reply that include
 - a. a statement that sets out the elements that the person agrees with or disagrees with in the response; and
 - b. the arguments in support of the reply.
5. A list of any documents submitted in support of the reply and a copy of each of those documents.
6. The name of each party to which a copy of the reply is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 16: Request to Intervene

1. The applicant's name, the respondent's name and the file number assigned by the Agency.

2. The name of the person that wishes to intervene in the dispute proceeding, their complete address, telephone number and, if applicable, email address and facsimile number.
3. If the person is represented by a member of the bar of a province, the representative's name, firm, complete address, telephone number and, if applicable, email address and facsimile number.
4. If the person is represented by a person that is not a member of the bar of a province, a statement to that effect.
5. The details of the request that include
 - a. a demonstration of the person's substantial and direct interest in the dispute proceeding;
 - b. a statement specifying the date on which the person became aware of the application;
 - c. a statement that indicates whether the person supports the applicant's position, the respondent's position or neither position; and
 - d. a statement of the participation rights that the person wishes to be granted in the dispute proceeding.
6. A list of any documents submitted in support of the request and a copy of each of those documents.
7. The name of each party to which a copy of the request is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 17: Request for Confidentiality

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The name of the person filing the request and, if the information has not already been provided to the Agency, the person's complete address, telephone number and, if applicable, email address and facsimile number.
3. The details of the request that include
 - a. an identification of the document or the portion of the document that contains confidential information;
 - b. a list of the parties, if any, with which the person would be willing to share the document; and
 - c. the arguments in support of the request, including an explanation of the relevance of the document to the dispute proceeding and a description of the specific direct harm that could result from the disclosure of the confidential information.
4. A list of any documents submitted in support of the request and a copy of each of those documents.

5. The name of each party to which a copy of the request is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Schedule 18: Request for Disclosure

1. The applicant's name, the respondent's name and the file number assigned by the Agency.
2. The name of the person filing the request.
3. The details of the request that include
 - a. an identification of the documents for which the party is requesting disclosure;
 - b. a list of the individuals who need access to the documents; and
 - c. an explanation as to the relevance of the documents for which disclosure is being requested and the public interest in its disclosure.
4. A list of any documents submitted in support of the request and a copy of each of those documents.
5. The name of each party to which a copy of the request is being sent and the complete address, the email address or the facsimile number to which it is being sent.

Appendix A: Agency Contact Information

Documents must be sent to the Secretary of the Canadian Transportation Agency.

By mail

Secretary
Canadian Transportation Agency
Ottawa, Ontario
K1A 0N9

By courier

Secretary
Canadian Transportation Agency
15 Eddy Street
17th Floor, Mailroom
Gatineau, Quebec
J8X 4B3

By fax

819-953-5253

By e-mail

secretariat@otc-cta.gc.ca

For further information:

Canadian Transportation Agency
Ottawa, Ontario K1A 0N9
Tel: 1-888-222-2592
TTY: 1-800-669-5575
Web: www.cta.gc.ca
E-mail: info@otc-cta.gc.ca

If you need help determining whether pleadings are closed, please refer to the list of [current cases](#) before the Agency.

For more information, refer to section 26: Close of Pleadings