
1. Interpretation

- 1.1. This By-law is made pursuant to section 18(1) of the Regulation.
- 1.2. Except as specified in the transitional provisions, this By-law applies to all Depots effective February 19, 2014.
- 1.3. Unless the context otherwise requires, the Interpretation Act (Alberta) and the Environmental Protection and Enhancement Act (Alberta), as amended, apply to this Bylaw.
- 1.4. Words importing the singular include the plural and vice versa; words importing gender include the masculine, feminine and neuter genders; and words importing persons include individuals, bodies corporate, partnerships, trusts and unincorporated associations.
- 1.5. The headings used throughout this By-law are inserted for reference purposes only, and are not to be considered or taken into account in construing the terms or provisions of any article of this By-law nor to be deemed in any way to qualify, modify or explain the effect of any such terms or provisions.

2. Definitions

- 2.1. In this By-law, unless the context otherwise requires:
 - a. “Application” means an application for a Permit;
 - b. “BCMB” means the Beverage Container Management Board. The Beverage Container Management Board is the regulatory authority established under the Environmental Protection and Enhancement Act (Alberta) and the Regulation to establish, maintain and administer a waste minimization and recycling program for beverage containers;
 - c. “BCMB Management” means the staff of the BCMB;
 - d. “Board” means the Board of Directors of the BCMB;
 - e. “Complaints Director” means an employee of the BCMB who has been designated as the Complaints Director for the purposes of this By-law;
 - f. “Depot” means a place operated as a business for the collection of empty beverage containers;

- g. “Depot Manager” means the person primarily responsible for operating the Depot whether or not that person is also the Permit Holder;
- h. “Hearing Director” means an employee of the BCMB who has been designated as the Hearing Director for the purposes of this By-law;
- i. “Hearing Panel” means a panel appointed in accordance with section 7 of this By-law;
- j. “Metro Area” means the City of Edmonton and the City of Calgary;
- k. “Permit” means a permit to operate a Depot issued by the Beverage Container Management Board as required by section 14 of the Regulation;
- l. “Permit Holder” means an individual or an incorporated entity that has been issued a Permit;
- m. “Regulation” means the Beverage Container Recycling Regulation, Alta Reg 101/97 as amended.
- n. “Rural Area” means a municipality with an official population of less than 10,000 according to the Government of Alberta’s Municipal Affairs’ most recent Population List.
- o. “Rural Area – Large” means a municipality with an official population of more than 4,000 and less than 10,000 according to the Government of Alberta’s Municipal Affairs’ most recent Population List.
- p. “Rural Area – Small” means a municipality with an official population of 4,000 or less according to the Government of Alberta’s Municipal Affairs’ most recent Population List.
- q. “Urban Area” means a municipality with an official population greater than or equal to 10,000 according to the Government of Alberta’s Municipal Affairs’ most recent Population List other than the City of Edmonton and the City of Calgary.

2.2. Unless otherwise indicated, terms that are defined in the Regulation have the same meaning when they are used in this By-law.

3. Requirements of Permit Holders

General Requirements

- 3.1. A Permit may only be issued to an individual or individuals or to an incorporated entity.
- 3.2. Where a Permit Holder is an individual or individuals, the individual or individuals are responsible for compliance with the Regulation, BCMB By-laws, bylaws and policies and with the terms and conditions of the Permit.
- 3.3. Where a Permit Holder is an incorporated entity, the Permit Holder is responsible for compliance with the Regulation, BCMB By-laws, bylaws and policies and with the terms and conditions of the Permit, and the Permit Holder must identify at least one individual who is jointly and severally responsible with the Permit Holder in this regard.
- 3.4. The Permit Holder must be the owner or lessee of the location where the Depot is operated.
- 3.5. A Permit for the operation of a Depot is only valid for the location specified in the Permit

Information Requirements

- 3.6. A Permit Holder that is an incorporated entity shall provide, on a yearly basis, a current corporate search disclosing the Directors and Shareholders of that entity, and such further and other corporate information as the BCMB may reasonably require in order to ascertain the identity of the directors and shareholders of that entity.
- 3.7. A Permit Holder that is an incorporated entity, must provide written notice to the BCMB of any proposed transfer of shares, voting rights or any interest in that entity no later than 60 days before the proposed transfer. Upon receipt of such written notice, the BCMB may request further information regarding the proposed transfer, including financial and other information, and the Permit Holder must provide the requested information.
- 3.8. If BCMB Management is of the view that the proposed transfer would result in a change in the effective control of the Permit Holder, then within 30 days after receiving written notice and any other information requested from the Permit Holder in accordance with the preceding paragraph, the BCMB shall notify the Permit Holder that:
 - a. the Permit will continue in effect with or without amendments; or

- b. that the operation of the Permit is suspended until the Permit Holder complies with certain requirements specified by the BCMB; or
 - c. the Permit is cancelled.
- 3.9. If a Permit Holder that is an incorporated entity transfers shares, voting rights or any interest in that entity and fails to provide the necessary written notice and any other information requested by the BCMB, the BCMB may cancel the Permit, or may suspend the operation of the Permit until the Permit Holder has provided the notice and provided such other information, at which time section 3.8 shall apply.

Financial Requirements

- 3.10. Unless otherwise specified by the BCMB, the Permit Holder must at all times maintain operating funds or a line of credit in the following amounts:
- a. for a depot located in a Rural Area - Small - \$5,000
 - b. for a depot located in a Rural Area – Large - \$20,000
 - c. for a depot located in an Urban Area - \$30,000
 - d. for a depot located in a Metro Area -\$40,000

Language Requirements

- 3.11. All individual Permit Holders and all Depot Managers will be required to prove English proficiency in one of two ways:
- a. Proof of birth and/or education in an English-speaking country; or
 - b. A Canadian Language Benchmark score of six (6) or better on speaking and listening and score of four (4) on reading and writing.
- 3.12. Individual Permit Holders and Depot Managers who are unable to provide the documents referenced in section 3.11 must take a Canadian Language Benchmark Assessment Test through an institution approved by the BCMB and must then provide evidence satisfying the requirement in section 3.11 b.
- 3.13. During the operating hours of a Depot, there must be one individual at the Depot who satisfies the requirements of section 3.11.

4. Depot Requirements

- 4.1. Unless otherwise provided in the Permit, every Depot must comply with the requirements set out in this section.

Facility Requirements

- 4.2. A Depot must meet or exceed the following minimum interior size requirements:
- a. In Metro Areas, a Depot must have a minimum of 5,000 square feet interior space.
 - b. In Urban Areas, a Depot must have a minimum of 3,000 square feet interior space.
 - c. In Rural Areas, a Depot must have a minimum of 1,500 square feet interior space.
- 4.3. For the purpose of this section a counting/sorting station is defined as an outside window for receiving beverage containers, or 1.5 lineal metres of counter space within a Depot:
- a. In Metro Areas, a Depot must have a minimum of 5 counting/sorting stations.
 - b. In Urban Areas, a Depot must have a minimum of 4 counting/sorting stations.
 - c. In Rural Areas, a Depot must have a minimum of 2 counting/sorting stations.
- 4.4. A Depot must have adequate loading facilities, including:
- a. depressed loading dock; and/or
 - b. large double doors or overhead doors.
- 4.5. A Depot must have a secure, indoor storage area for the storage of beverage containers and shipping containers supplied by the collection system agent appointed under the Regulation or by a manufacturer of non-refillable containers providing its own collection service;
- 4.6. A Depot must have adequate heating and lighting to ensure the comfort and safety of customers and staff.
- 4.7. A Depot must be equipped with a wash sink, or some other BCMB approved method that allows customers to wash their hands after returning beverage containers.

- 4.8. A Depot must have the signage as specified by the BCMB from time to time, but which, at a minimum:
- a. identifies the Depot by name and makes clear that the purpose of the location is the collection of empty beverage containers;
 - b. describes the hours of operation of the Depot;
 - c. describes the types of beverage containers that can be returned to the Depot and their applicable refund rates;
 - d. sets out the offences prescribed by the Regulation and the applicable penalties; and
 - e. contains any logos or trademarks specified by the BCMB.

Yard and Premises Requirements

- 4.9. In Metro Areas, a Depot must have designated customer parking for a minimum of twelve (12) vehicles.
- 4.10. In Urban Areas, a Depot must have designated customer parking for a minimum of ten (10) vehicles.
- 4.11. In Rural Areas, a Depot must have designated customer parking for a minimum of five (5) vehicles.
- 4.12. Depot yard facilities must be suitable for good access in all weather conditions.
- 4.13. A Depot must provide trash receptacles for customer use for disposal of trash associated with the return of used beverage containers.
- 4.14. The exterior/interior of the depot must be maintained for safety, and as otherwise required in the Permit.

Equipment Requirements

- 4.15. A Depot must have, or have access to:
- a. a forklift; or
 - b. where a depot has a depressed loading dock, a pallet jack for loading beverage containers.

4.16. A Depot must have:

- a. a suitable method of litter control;
- b. a telephone and an active email address;
- c. a cash register which is capable of generating a customer receipt showing the number of beverage containers at each refund rate, and the total refund as well as the name, address and telephone number of the Depot;

4.17. Effective January 1, 2016, Depots handling in excess of ten (10) million containers must have an Industry approved Point of Return (POR) system which displays to the customer the number of beverage containers at each refund rate, and the total refund payable to the customer.

4.18. Depots must provide accurate cash refunds on all registered beverage containers submitted by the general public to that Depot.

4.19. When requested by the customer, a Depot Operator must provide the customer with a receipt from the cash register.

4.20. A Depot must pay the cash refund to a customer on the depot premises.

Cleanliness and Image Requirements

4.21. All staff working at a Depot must be knowledgeable about products being handled and refunds being paid to customers.

4.22. All public areas, including public washrooms, at a Depot must be clean and adequately maintained.

4.23. Effective January 1, 2015 all Depot employees must wear an Industry approved and branded uniform.

Operating Requirements

4.24. A Depot Operator, Depot Manager and all Depot staff shall, in all dealings with customers, the collection system agent appointed under the Regulation, any collection service provider and the general public, adhere to the highest standards of honesty, integrity, fair dealings and ethical conduct.

4.25. Unless otherwise specified in the Permit, or unless otherwise approved by BCMB Management, a Depot must be operated as proposed in the original application for the Permit for that Depot.

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- 4.26. A Depot in a Metro Area must be open to accept beverage containers no less than 52 hours per week including a minimum of 8 hours on Saturday.
 - 4.27. A Depot in an Urban Area with a population greater than 20, 000 must be open to accept beverage containers no less than 40 hours per week including a minimum of 8 hours on Saturday.
 - 4.28. A Depot in an Urban Area with a population of less than 20, 000 must be open to accept beverage containers no less than 28 hours per week including a minimum of 6 hours on Saturday.
 - 4.29. A Depot in a Rural Area located in a town, village or hamlet with a population greater than 4,000 must be open to accept beverage containers no less than 28 hours per week including a minimum of 6 hours on Saturday.
 - 4.30. A Depots in a Rural Area located in a town, village or hamlet with a population less than 4,000 must be open to accept beverage containers no less than 16 hours per week including a minimum of 6 hours on Saturday.
 - 4.31. A Depot must be capable of staffing all sorting/counting stations during peak volume periods.

5. Notice Requirements

- 5.1. Any written notice from the BCMB relating to this By-Law or any other BCMB By-Law, bylaw, policy or guideline relating to the operation or administration of a Depot may be served on a Depot by leaving a copy of that written communication with the Permit Holder, Depot Manager or any staff member employed by that Depot at the Depot location indicated on the Permit for that Depot, or by being sent by recorded mail to the Permit Holder at the last address for the Permit Holder provided by that Permit Holder to the BCMB.
- 5.2. Service of the written notice referred to in section 5.1 is effected on the Permit Holder:
 - a. If the notice is left with an individual in accordance with section 5.1, on the date that it is left; and
 - b. If the document is sent by recorded mail, on the date that acknowledgment of receipt is signed.

6. Regulatory Requirements

- 6.1. Each and every Permit Holder, Depot Manager and individual identified by a Permit Holder in accordance with section 3.3 is bound by:
- a. the Beverage Container Recycling Regulation, Alta Reg 101/97 as amended;
 - b. the Beverage Container Management Board Administrative Bylaw;
 - c. the Beverage Container Management Board Administrative Compliance Bylaw;
 - d. the Quality Control Progressive Action Policy;
 - e. the Uniform Code of Accounts Compliance By-law; and
 - f. the Service Agreement between the Alberta Bottle Depot Association and the duly appointed Collection System Agent(s).
- 6.2. Each and every Permit Holder must be in compliance with all other requirements of all applicable legislation, municipal bylaws and other enactments, including:
- a. The Environmental Protection and Enhancement Act (Alberta);
 - b. The Beverage Container Recycling Regulation 101/97;
 - c. Beverage Container Management Board Bylaws;
 - d. Beverage Container Management Board Operating Permit;
 - e. Municipal Bylaws;
 - f. Provincial Statutes;
 - g. Worker's Compensation Act;
 - h. Alberta Safety Codes Act;
 - i. Alberta Occupational Health and Safety Act;
 - j. Alberta Gaming and Liquor Commission Operating Guidelines;

- k. Alberta Labour Standards; and
 - l. Any other applicable Federal, Provincial or Municipal legislation.
- 6.3. All Permit Holders are required to attend at least one BCMB Regional Meeting per year, the entirety of the annual ABDA Conference, and such other Industry sanctioned meetings as may be required and designated by the BCMB from time to time.
- 6.4. The BCMB may request from a Permit Holder, a Depot Manager or an individual identified by section 3.3 any information it may require in order to properly regulate Depot operations and Depot reporting requirements, and the Permit Holder, Depot Manager or individual shall provide the requested information.

7. Suspension and Cancellation of Depot Permits

Appointment of Hearing Panels

- 7.1. For the purpose of each hearing under this section, a panel shall be appointed by the Board Chair and the President of the BCMB in consultation with the Hearing Director. The Board hereby delegates its authority to suspend and cancel Permits to the Hearing Panel appointed for each particular hearing in accordance with this section.
- 7.2. A Hearing Panel shall consist of either three voting Directors representing each of the three membership sectors referenced in the BCMB Societies Act Bylaws or three voting Directors, a majority of who represent the General Membership Sector as referenced in those Bylaws.

Initial Review by Complaints Director

- 7.3. Subject to section 7.5, any conduct of a Depot that comes to the attention of the BCMB, whether by way of a complaint or otherwise, shall be reviewed by the Complaints Director.
- 7.4. A review under section 7.3 shall be completed within 90 days unless the Complaints Director, in his or her sole discretion, determines that further time is required. Circumstances that the Complaints Director may consider in determining whether further time is required include:
- a. the failure of the Permit Holder or others to respond to requests for information in a timely fashion or at all;
 - b. insufficient investigative, administrative or other resources, whether external or internal;

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- c. the receipt of additional information after the commencement of the review;
 - d. the complexity of the matter.
- 7.5. Conduct of a Depot that is of a type that is specifically dealt with under another BCMB by-law or under the terms of the Service Agreement between the Alberta Bottle Depot Association and the duly appointed Collection System Agent or Collection System Provider, shall be dealt with in accordance with that other by-law or Service Agreements unless and until there is a possibility that the conduct at issue could lead to the suspension or cancellation of that Depot's Permit, in which case the conduct shall be referred to the Complaints Director for a review under section 7.3, and thereafter shall be governed by the procedure set out in this By-law.
- 7.6. During the course of a review under section 7.3, the Complaints Director may do either or both of the following:
- a. Require the Permit Holder to answer any inquiries or furnish any information that the Complaints Director considers relevant to the review;
 - b. Direct that the conduct be investigated pursuant to sections 7.8 and 7.12, inclusive.
- 7.7. Upon the completion of a review under section 7.3, the Complaints Director may:
- a. Determine that no further action is required;
 - b. Direct the investigator, or appoint another investigator to undertake further investigation and submit a further report to the Complaints Director;
 - c. Refer the matter to the Hearing Director for a hearing by a Hearing Panel if, in the opinion of the Complaints Director, there is a reasonable prospect of establishing that the Permit should be suspended or cancelled and it is in the public interest to proceed with such a hearing; or
 - d. Impose sanctions other than the suspension or cancellation of the Permit.
- 7.8. The Complaints Director shall notify the following parties in writing of the action he or she has determined should be taken under 7.7 within 7 days of that determination:
- a. the Permit Holder;
 - b. the person who brought the conduct to the attention of the BCMB, if external to the BCMB;

- c. the President of the BCMB; and
- d. any other party that the Complaints Director identifies as being directly affected by such determination.

Investigation

- 7.9. An investigation directed under section 7.6 may be conducted by an employee of the BCMB other than the Complaints Director, or by a person engaged by or on behalf of the BCMB for that purpose.
- 7.10. Unless it would significantly harm the investigation, or adversely affect a regulatory or criminal investigation of the same matters, the existence of which investigation is known to the investigator, the investigator or the Complaints Director must give the Permit Holder of the Depot under investigation reasonable particulars of the conduct to be investigated, and an opportunity to respond.
- 7.11. An investigator or the Complaints Director may direct the Permit Holder of the Depot under investigation:
 - a. To answer any questions the investigator may have relating to the conduct under investigation;
 - b. To produce any records or information in the Depot's possession or control relating to the conduct under investigation.
- 7.12. During an investigation of a Depot, if an investigator identifies any other conduct that could be a breach of the Depot's Permit, the Regulation or any BCMB By-law or that is contrary to the public interest, the investigator shall report such additional conduct to the Complaints Director, and may at the direction of the Complaints Director conduct additional investigations.
- 7.13. An investigator shall complete a report respecting the investigation for the use of the Complaints Director in making a determination under section 7.7.

Hearing Process

- 7.14. Upon receipt of a referral from the Complaints Director in accordance with section 7.7(c), the Hearing Director shall set a date for a hearing.
- 7.15. The Hearing Panel Rules of Practice and Procedure that shall apply to hearings in accordance with this By-law are attached to this By-law as Schedule "A."

SCHEDULE "A"

Hearing Panel Rules of Practice and Procedure

PRE-HEARING PROCEDURES

1. Notice of Hearing

- 1.1. The Hearing Director must give notice of the hearing to the Complaints Director, the Permit Holder of the Depot whose conduct is at issue in the hearing, and any other person directly affected by the outcome of the hearing that the Hearing Director determines should be notified of the hearing.
- 1.2. Notices must be in writing and state the date, time, place and purpose of the hearing.
- 1.3. Notices must state that the parties who are being notified of the hearing under this section are entitled to be represented by legal counsel.
- 1.4. Notices of the hearing may be served in person or by registered mail, fax or email.
- 1.5. Service of the Notices may be effected on the counsel of any person being notified.

2. Directions regarding preliminary and interim matters

- 2.1. The Chair of a Hearing Panel may:
 - 2.1.1. hear any preliminary or interim applications that deal with procedural or administrative matters.
 - 2.1.2. provide any preliminary or interim directions and make preliminary or interim rulings that are, in the opinion of the Chair of the Hearing Panel, required to facilitate the effective scheduling and conduct of the hearing;
 - 2.1.3. direct that the hearing or any preliminary or interim application be recorded by a court reporter or other means;
 - 2.1.4. obtain clerical or administrative services necessary to support the work of the Chair of the Hearing Panel and the Hearing Panel; and
 - 2.1.5. instruct independent legal counsel for the Hearing Panel.
- 2.2. The Chair of a Hearing Panel may refer any matter under section 2.1 to the Hearing Panel for hearing and determination.

2.3. The Chair of the Hearing Panel or the Hearing Panel, as the case may be, may determine whether any submissions are to be made:

2.3.1. in an in-person hearing;

2.3.2. in a teleconference, videoconference or other form of electronic meeting; or

2.3.3. in writing.

3. Pre-Hearing Disclosure

3.1. Unless the Chair of a Hearing Panel directs otherwise, each party participating in the hearing must disclose the following to any other party participating in the hearing at least 21 days before the date of the hearing:

3.1.1. any documents on which the party intends to rely;

3.1.2. the names of all witnesses, if any, whom the party intends to call at the hearing; and

3.1.3. a brief summary of what each witness is expected to say.

4. Written Submissions

4.1. Unless the Chair directs otherwise, each party participating in the hearing must file a written submission with the Hearing Panel and serve a copy on any other party participating in the hearing, accordance with the following timeline:

4.1.1. the Complaints Director's submission must be filed and served at least 14 days before the hearing date;

4.1.2. the Permit Holder's written submission and any written submission of any other party must be filed and served at least 7 days before the hearing date.

HEARING PROCEDURES

5. Public Hearing

- 5.1. Subject to section 5.2, a hearing is public.
- 5.2. The Chair of a Hearing Panel may, on a preliminary or interim application by a party or on the Chair of the Hearing Panel's own motion, or the Hearing Panel may, at the request of a party or on its own motion at any time, direct that a hearing be held in private, in whole or in part.
- 5.3. In exercising the authority under section 5.2, the Chair of a Hearing Panel or a Hearing Panel, as the case may be, will consider whether a private hearing is necessary for any of the following reasons:
 - 5.3.1. the need to protect the safety of a person or the public;
 - 5.3.2. probable prejudice to a civil action or the prosecution of an offence;
 - 5.3.3. the presence of the public could compromise the ability of a witness to testify;
 - 5.3.4. the need to preserve a person's confidential personal, health, property or financial information outweighs the desirability of having the hearing open to the public; or
 - 5.3.5. a party demonstrates to the satisfaction of the Hearing Panel there is another reason that a private hearing outweighs the desirability of having a public hearing.

6. Right to counsel

- 6.1. A party participating in a hearing may be represented by legal counsel before the Hearing Panel.
- 6.2. The Hearing Panel may have independent legal counsel to advise it.

7. Opening Statements

- 7.1. Unless the Chair of the Hearing Panel directs otherwise, at the beginning of a hearing a party may give a brief opening statement describing the issues that the party will address at the hearing and evidence that the party anticipates calling.

8. Order of the Presentation of Evidence and Arguments

- 8.1. Unless the Chair of the Hearing Panel directs otherwise, the presentation of evidence and agreements will occur in the following order:
 - 8.1.1. evidence of the Complaints Director;
 - 8.1.2. evidence of the Permit Holder;
 - 8.1.3. rebuttal evidence, if any;
 - 8.1.4. argument of the Complaints Director;
 - 8.1.5. argument of the Permit Holder; and
 - 8.1.6. rebuttal argument, if any.

9. Attendance of Witnesses

- 9.1. If a party requests that a Notice to Attend be issued and provides the Chair with the name and address of the person, the Chair may issue a Notice to Attend.
- 9.2. The requesting party will be responsible for serving any Notice to Attend that the party requested.
- 9.3. Each party will pay the costs associated with calling its own witnesses.

10. Failure to Attend Hearing

- 10.1. If a person is served with a written Notice of Hearing, or is summoned to attend by a Notice to Attend, and does not arrive at the scheduled time, the Hearing Panel may adjourn the hearing or proceed in that person's absence.

11. Evidence

- 11.1. At the discretion of the Chair of the Hearing Panel, any person appearing before the Hearing Panel may be required to give sworn evidence.
- 11.2. A witness called at a hearing by a party is subject to cross examination by the other parties.
- 11.3. The rules of evidence which apply to judicial hearings do not apply to hearings before the Hearing Panel
- 11.4. The Rules of Court do not apply to hearings before the Hearing Panel.

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- 11.5. Unless otherwise directed by the Chair of the Hearing Panel, witnesses other than the Complaints Director and the Permit Holder's representative, may, at the Hearing Panel's direction, be excluded from the hearing room until the Hearing Panel hears their evidence.
 - 11.6. The Chair of the Hearing Panel may permit the testimony of a witness to be made by a sworn written statement.
 - 11.7. A witness whose testimony is in the form of a sworn written statement must be available for cross-examination if the Chair of the Hearing Panel considers it is necessary for the fairness of the proceedings.

12. Consideration of a Matter without Oral Hearing

- 12.1. With the consent of the parties, the Hearing Panel may consider a case without holding an oral hearing. In that case, all information concerning the matter being considered must be submitted in writing

13. Adjournment of Matters before the Hearing Panel

- 13.1. The Hearing Panel may adjourn a hearing on its own initiative or if requested to do so by a Party and on any conditions the Hearing Panel considers appropriate.

14. Hearing Panel Decision

- 14.1. A decision of the Hearing Panel shall be given within a reasonable time after the conclusion of the hearing.
- 14.2. The Hearing Panel shall give notice of its decision and reasons to the Hearing Director, who will then provide copies of the decision to the parties to the hearing and to the President of the BCMB

15. Residual Authority of the Hearing Panel

- 15.1. Except as provided for by these Rules, the Hearing Panel governs its own process and has control over its proceedings.