



Environmental Appeal Board

Expedited Hearings

Rules and Procedures

Version 2.0

June 26, 2026

Rule X1: Scope of Ruleset

1. The Expedited Hearing Rules (the “Ruleset”) apply to appeals designated for expedited processing by the Environmental Appeal Board (the “Board”) upon application by a party to those appeals.
2. Only appeals of annual quotas issued under section 60(1) of the *Wildlife Act*, RSBC 1996, c. 488, are eligible for designation under the Ruleset. Over time and in subsequent versions of these rules, appeals under additional sections and acts will become eligible for designation under the Ruleset.
3. To the extent that the Ruleset conflicts with any other rules of the Board, the Ruleset takes precedence. For any issue not explicitly addressed by the Ruleset, the Board’s other rules apply.
4. Any examples which are presented in the Ruleset are there for the assistance of the reader and are not part of the Ruleset itself. If an example conflicts with the Ruleset, the words of the Ruleset take precedence.

Rule X2: Appeals to be Expedited

1. Appeals which are designated by the Board for an expedited hearing constitute a class of applications (the “Class”) as defined in section 11(5) of the *Administrative Tribunals Act*, SBC 2004, c. 45 (the “ATA”). The purpose of doing so is to further access to justice within the province by improving the Board’s ability to provide substantive decisions on the appeals before they become moot.
2. For the purposes of this Ruleset, the following definitions apply:
 - **Designation:** the Board’s assignment of an appeal to the Class.
 - **Designate (and other conjugations of the verb):** the act of Designation.
 - **Designated Appeal:** an appeal that has been Designated.
 - **Applying Party:** the party which applied for Designation, leading to the Board considering Designation of an appeal.
 - **Non-Applying Party:** any party to or participant in an appeal for which an application for Designation has been submitted or accepted, other than the Applying Party.

3. Designated Appeals will proceed by way of a written, new (*de novo*) hearing: the parties are allowed to present evidence that was not considered when the appealed decision was made.
4. The Board may Designate any appeal before it upon application by a party to that appeal. When the Board receives such an application, it will consider whether the grounds of appeal and the remedy are appropriate for the expedited process, as well as other logistical concerns. Indications of this unsuitability include where:
 - a. the appellant does not have reliable and consistent access to email;
 - b. there is insufficient time available for the expedited process to complete, such that a practical remedy could be available;
 - c. significant time, resources, or both are required to adjudicate preliminary matters such as stay applications, contentious document production requests, or summons for witness attendance at hearings;
 - d. there are numerous, legally complicated, or factually complicated grounds for appeal, including, for example, where extensive cross-examination or extensive expert evidence is necessary to adjudicate the appeal;
 - e. the appellant seeks production of documents that contain confidential Indigenous knowledge as described in section 100.3 of the *Wildlife Act*, unless the appellant already has in their possession written consent of the governing body of the relevant First Nation, for both an order by the Board that the knowledge be produced under section 34(1)(b) of the *ATA* and that the knowledge to be provided to the Board for use in hearing and deciding the appeal under section 100.3(2)(a) of the *Wildlife Act*;
 - f. the appellant seeks to have the appeal grouped with any pre-existing appeals, unless, depending on the particular circumstances of the case, other appeals are also being considered for inclusion in this expedited process as described in Rule X5.3; or
 - g. the number or nature of potential parties involved is incompatible with an expedited process in the particular circumstances of that case.
5. An appellant may apply for their appeal to be Designated by selecting the appropriate box on their Notice of Appeal, provided that the appeal must be

decided within six months to provide that appellant with any practical remedy. If satisfied that those criteria are met for a given appeal, the Board will inform the respondent as soon as possible about the possibility of an expedited appeal and assign the appeal to a Case Manager for further handling.

6. Any party may apply for an appeal to be Designated using the process set out under Section 8.0 of the Board's *Practice and Procedure Manual* (the "*Manual*"), but only if that party has not previously applied for the appeal to be Designated, either under Rule X2.5 or Rule X2.6.
7. Where a party applies for an appeal to be Designated as described in Rule X2.5 or X2.6, the Applying Party must provide a list to the Board of all documents or classes of documents that they wish to have produced by any Non-Applying Parties as well as a list of the documents the Applying Party has that are relevant to the issues under appeal and admissible before the Board. If the application for Designation was submitted pursuant to Rule X2.5, these lists must be provided at the first meeting with the Board. If the application for Designation was submitted pursuant to Rule X2.6, these lists must be provided along with the application, along with up to one page per document or class of documents (grouping documents into classes where possible) explaining why they are relevant, admissible, and likely in the care or control of a particular Non-Applying Party.
8. Upon receiving an application from an appellant which the Board considers satisfies the requirements of Rule X2.5 or X2.6, the Board may meet with the appellant to discuss whether the grounds of appeal and/or requested remedy need to be amended or particularized for the Appeal to be Designated. The Board will invite any Non-Applying Parties to the appeal to attend this meeting as observers only.

After this meeting, if necessary and if the appellant is the Applying Party, the Board may, if necessary, provide the appellant with an opportunity to consider whether to adjust the grounds of appeal or the requested remedy but will set a deadline for the party to communicate their acceptance of those terms. If the appellant does not do so by the deadline, the application for Designation will be denied.

At this meeting, the Board will also discuss the list of documents the appellant seeks from any Non-Applying Parties, as well as the relevant and admissible documents in the possession of the appellant, to determine which the Board considers it should order production under Rule X6.1.

9. After receiving an application for Designation under Rule X2.5 or Rule X2.6, the Board may also provide the Applying Party with a list of documents they must provide to any Non-Applying Parties by way of document production, before the appeal may be Designated, based on the list of documents the Applying Party provided to the Board under Rule X2.7. Failure to provide the required documents by the due date will result in the appeal not being Designated.
10. Upon being satisfied that the grounds of appeal and requested remedy are sufficiently narrow and particularized for an appeal to be Designated, the Board will allow all parties to the appeal to make submissions, all due at the same time, as to whether the appeal should be Designated. These submissions will be required on an expedited basis and are limited to three pages in length, exclusive of evidence and authorities, unless the Board orders otherwise. There is no right of reply, except where the Board orders otherwise. Should the parties to the appeal all agree that Designation is appropriate, the Board may Designate the appeal without submissions.
11. After receiving submissions as described in Rule X2.10, the Board will Designate the appeal unless one or more of the following are established on a balance of probabilities to the satisfaction of the Board, through the submissions provided:
 - a. the grounds and remedy are not sufficiently narrow and particularized as described in Rule X2.10;
 - b. it is not practicable for the appeal to be heard and decided if it is Designated, as contemplated in Rule X2.4;
 - c. the appellant will not have sufficient time to implement any remedy that may be granted by the Board in respect of the appeal, even if it is Designated;
 - d. the appeal cannot be either heard or decided fairly if it is Designated; or
 - e. it is not in the interests of justice for the appeal to be Designated.

Rule X3: Potentially Affected Indigenous Communities

1. The respondent must identify for the Board all Indigenous communities from which they received information, or with which they consulted, on the issues under appeal, prior to issuing the decision under appeal. These communities, and the names and contact information of their governing bodies as defined in section 1 of the *Wildlife Act*, to the best knowledge of the Respondent, must be provided to the Board by the end of the first phase, established under Rule X5.1.

Rule X4: Removing an Appeal from the Expedited Process

1. Any party to a Designated Appeal may request the Board de-Designate that appeal. They may do so as a right if added to the appeal after it was Designated. However, if a party had the opportunity to make submissions as to whether the appeal should have been Designated, they may only file such an application with respect to any changed circumstances associated with the appeal that warrant its reassessment of the Designation of the appeal at issue.
2. A party cannot apply for de-Designation because of perceived or anticipated impacts to a different party.
3. A request for de-Designation must not be more than three pages in length (exclusive of any evidence or authorities filed in support) unless the Board orders otherwise. The submission process related to a de-Designation application will be completed as soon as possible but generally will not halt the expedited appeal process.
4. If all parties to the appeal agree that de-Designation is appropriate, the Board may de-Designate the appeal without submissions.
5. The Board may consider de-Designation of a Designated Appeal where there is a change in the relevant circumstances (for example, where the Applying Party files an application for a preliminary decision or where a new party is to be added to the appeal), but must first provide the parties an opportunity to make submissions as to whether it should do so. In deciding whether to de-Designate the appeal, the Board will focus on the change in relevant circumstances and the test as described in Rule X2.4.

6. Submissions with respect to whether the Board should de-Designate an appeal must not exceed three pages, exclusive of evidence and authorities filed in support, unless the Board orders otherwise. The final reply on a request to de-designate must not exceed one page, exclusive of evidence and authorities filed in support, unless the Board orders otherwise.
7. Where an appeal is de-Designated, the Board will reconsider any unimplemented procedural or preliminary rulings that had been made with tests or limitations defined under these Rules, so that its rules of general application may be used instead once the appeal is de-Designated. The possibility of redetermining such decisions will not be considered in an application for the de-Designation of an appeal.

Rule X5: Schedule for Expedited Hearing

1. The pre-hearing process for Designated Appeals follows a four-phase schedule. The phases are, in order:
 - expedited production (first phase);
 - appellant's written submissions (second phase);
 - written submissions of other parties (third phase); and
 - reply submissions and additional evidence (fourth phase).

The first phase of the expedited hearing starts when the Board Designates an appeal, and the Board will define the duration of each phase in the circumstances of each appeal. The fourth phase will involve more than reply submissions only in unusual circumstances, where additional evidence is necessary to decide a Designated Appeal, and where obtaining that evidence remains practicable within the expedited process.

2. The Board will inform the parties via email the date the appeal is Designated. Whenever possible, this communication will include a schedule setting out when each phase of the process begins and ends.
3. The Board will only group Designated Appeals with other Designated Appeals, and only where they can be heard more efficiently as a result. If a Designated Appeal is to be grouped with a non-Designated Appeal the Designated Appeal will cease to be a Designated Appeal, unless the Board orders otherwise.

Rule X6: Expedited Production

1. When notified by the Board of a Designated appeal, any Non-Applying Party must, subject to Rule X6.2, provide to the other parties any and all documents the Board orders produced using its authority under section 34(3)(b) of the ATA, based on the documents or classes of documents identified by the Applying Party pursuant to Rule X2.7. These documents must be:

- relevant to the appeal,
- admissible before the Board (for example, not privileged documents),
- within the care or control of the Non-Applying Party, and
- not previously provided to the appellant.

Unredacted copies of these documents must be provided by the end of the first phase, unless the party requests an exemption from this requirement, as described in Rule X6.2. The application for exemption must be made before the end of the first phase, by a deadline set by the Board based on the particular circumstances of the appeal. An application for exemption must, for each document or class of documents, specify whether the party in question seeks to not produce the document or to produce a redacted version of the document (in which case, the party must also identify what specific information is proposed to be redacted).

Any Non-Applying Party must also provide a list of documents or classes of documents that they believe are in relevant, admissible, within the care or control of other parties to the appeal, and which were not previously provided. This must be done by the date set by the Board for the production of documents sought by the appellant. The Non-Applying Party(ies) must explain why these documents should be produced by establishing that they are relevant, admissible, and within the care or control of another party. Where possible, this list must discuss documents by class rather than by individual document, and the submission associated with each requested class or document must be no longer than one page.

2. To file a request for an exemption under Rule X6.1, a party must identify the specific documents or classes of documents for which an exemption is sought and the reason(s) why an exemption is sought. Where possible, documents must be described in classes. Such a request must be, at most, one page per document or class of documents for which an exemption is sought and submitted to the Board before the deadline for production of documents under Rule X6.1. Reasons for

requests for exemption may include (but are not limited to): disagreement on relevance, arguments about privilege, or other confidentiality concerns.

Where an exemption request is sought, the party seeking production of documents will have an opportunity to reply to that request. The maximum allowable length of the reply is one page or half the total length of the request for an exemption, whichever is greater.

3. After reviewing the list(s) of documents provided by any parties pursuant to Rule X6.1, the Board may order the production of documents using an identical process of ordering production and requiring requests for exemption, as described in Rule X6.1 and Rule X6.2. The Board will set the deadline for the production of documents and for the request for exemption based on the particular circumstances of the case, but in any event the latter of these deadlines will be by the end of the second phase.
4. Anyone receiving production under Rule X6.1 or Rule X6.3 must use produced documents for the purposes of the appeal only. They must not share, disclose, or otherwise make available any of the documents listed above to any non-party (other than the Board and any witnesses, as required). If these documents are shared with a witness, it must be on the condition that the witness must not communicate, share, or otherwise disclose or make available that information to anyone else, other than the Board and the parties to the appeal.

Rule X7: Written Submissions

1. The appellant must provide submissions by the end of the second phase. These submissions must give the argument(s) and evidence which support the specific reason(s) why the appellant disagrees with the decision under appeal and what remedy they seek from the Board (for example, the appealed decision being rescinded or varied).
2. The respondent and any other parties or participants in the appeal must provide submissions by the end of the third phase. The submissions must give the argument(s) and evidence that support the specific outcome sought by that party; typically, this means providing reason(s) why the Board should not provide the remedy requested by the appellant.

3. Where a party wishes to rely on expert evidence, they must explain in which subject areas the witness is being put forward as an expert (for example: tinhorn sheep biology, hydraulic engineering, statistics, etc.) and identify the education, training, or experience which the party says qualifies the witness as an expert, while the expert evidence itself must comply with the rest of the Rules, including the requirements of Rule X8.
4. Submissions that reference any authorities (legislation, case law, and other decisions) must include an electronic link to publicly and freely available authorities, such as CanLII, or an electronic copy of an authority that is not free for public access.
5. Submissions, exclusive of any evidence and authorities filed in support, must not exceed ten pages, unless the Board orders otherwise. The portion of any submission which exceeds the limit imposed on it under this Ruleset, unless that exceedance has been authorized by the Board through an order, will not be considered by the Board and will not form a part of the record of the decision of the appeal.

Rule X8: Evidence in Expedited Hearings

1. Witness testimony must be accompanied by a statement signed by the witness affirming that this testimony relates the truth, the whole truth, and nothing but the truth, either in those words or words of similar effect. A witness is not required to provide testimony through an affirmed affidavit if they have provided such a statement. Where a witness does not provide such a statement, the weight of their evidence may be negatively affected, but this does not make the testimony inadmissible.
2. An expert witness must additionally recognize, in writing, that they have an ethical responsibility to be impartial in providing their opinion and that their role is to assist the Board and not any party to the appeal. If they fail to do so, the weight of their evidence may be negatively affected, but this does not make the testimony inadmissible.
3. Witnesses seeking to provide expert opinions to the Board must include an up-to-date copy of their *curriculum vitae*.

4. All witnesses must provide, with their witness testimony, their availability during phase four to answer questions from the panel, if the panel so chooses to ask questions of the witness. Witness testimony must not exceed five pages, excluding the *curriculum vitae* of any proposed expert witnesses, unless the Board orders otherwise.
5. While evidence is generally due along with written submissions as described in Rule X7.1 and X7.2, the Board may require parties to produce expert evidence to the other parties as early as it is available and before that party's submissions are due.
6. In determining if a witness' evidence will be accepted as expert evidence, the Board will apply the guiding legal test at the time of the determination to establish if the evidence is properly that of an expert such that it may be relied upon by the Board for that purpose.

Rule X8 Example

As set out in the *Manual*, an expert witness is a person who, through experience, training, and/or education, is qualified to give an opinion on certain aspects of the subject matter of the appeal. To be an expert, the person must be qualified by the Board to have knowledge that goes beyond common knowledge and their opinion must be admissible, relevant, and of assistance to the Board (see, for example, paragraph 84 of *Thomas H. Coape-Arnold v. Delegate of the Director, Environmental Management Act*, 2019 BCEAB 5 (CanLII)).

The following statement on the obligations of an expert witness, found at paragraph 83 of *Daniel Norton v. Director of Fish and Wildlife*, 2023 BCEAB 39 (CanLII), is instructive:

There is no requirement in the *Manual* that an expert witness must be at arms-length from the party calling the expert as a witness. The most important consideration, as described by the Supreme Court of Canada in *White Burgess Langille Inman v. Abbott and Haliburton Co.*, 2015 SCC 23 (CanLII), is whether an expert can give an independent opinion, based on their own judgment and an objective assessment of the relevant facts, without preference to one party or another. Experts may be employed or retained by a party, so long as they fulfill their obligations as described above.

Rule X9: Cross-Examination and Panel Questions

1. No party has the right to cross-examine any witness within the expedited appeal process. If any party wishes to cross-examine the witness of any other party or participant, they must request an opportunity to do so from the Board. The deadline for the respondent to make this request is the end of the third phase. The deadline for the appellant to make this request is four business days after the end of the third phase.
2. Any request to cross-examine a witness must include the specific questions or the areas of questioning that are to be the subject of the cross-examination and must explain why the requesting party should be allowed to ask the questions or address the areas of questioning in their application. The Board will generally grant a request to cross-examine only where cross-examination is necessary either for a party to respond to evidence presented by another party or for the applying party to advance their argument. The request must also include any limitations on the availability of the requesting party to cross-examine the witness in phase four.
3. A request to cross-examine a witness must not exceed three pages, unless the Board orders otherwise. If the Board considers that the requesting party is not reasonably available during phase four, it may deny the request to cross-examine the witness or may allow the witness to respond in writing to any specific questions framed by the party seeking to cross-examine them, as reframed by the Board if necessary, that the Board considers appropriate for the expedited process.
4. If the Board considers the witness to be cross-examined is not reasonably available in phase four, the Board may decline to consider some or all of the evidence from that witness, or may allow the witness to respond to questions from the parties and/or the Board in writing. Otherwise, the Board will convene a videoconference or telephone hearing for the purposes of the cross-examination and may limit the time available for cross-examination, depending on the issues to be addressed in cross-examination and the time constraints on the Board, any party, and the witness.
5. Where cross-examination occurs by writing, the Board will provide the specific questions to be answered in cross-examination to the party producing the witness and allow that party to provide any objections, which are limited to a maximum of one page per objection. The cross-examining party will have a final reply with respect to the objections. These submissions on the suitability of questions will be

required on an expedited timeframe and shall not exceed three pages total, if in writing, unless the Board orders otherwise.

6. Where the Board considers it necessary to ask witnesses questions on its own initiative, the Board will follow one of two processes. First, it may advise the parties the question(s) or area(s) of questioning and schedule a time for live examination via videoconference, giving all parties a chance to object to questions, ask follow-up questions of any witness, and to make submissions at that time. Otherwise, the Board may arrange for examination in writing, providing specific questions to all parties, giving an opportunity for submissions on the suitability of the questions (with limits set case-by-case but not exceeding three pages total), and setting a deadline for a reply to any questions, whether revised based on submissions or in their original form.

Rule X10: Supplemental Submissions

1. When granted the right to cross-examine a witness, or where the panel examines a witness pursuant to Rule X9, all parties will have the opportunity to make supplemental submissions after the process is complete. These supplemental submissions will be limited to 10 minutes, unless the Board orders otherwise if done in person or, unless the Board orders otherwise, limited to three pages (or three additional pages if included with the remainder of submissions as described in Rule X10.3) if done in writing or if the Board authorizes written submissions to follow the cross-examination. These supplemental submissions may only relate to the evidence presented during the cross-examination. Any portion of these supplemental submissions that does not relate to the evidence presented during the cross-examination, as determined by the Board, will not be considered by the Board.
2. Where supplemental submissions following cross-examination are in writing, they are due three business days after cross-examination or panel examination is completed, unless the Board orders otherwise.
3. There is no separate right of reply to supplemental submissions, apart from the appellant's general right to reply on the merits as described in Rule X11, unless the Board orders otherwise. The Board may order supplemental submissions to be provided alongside submissions or reply on the merits if those have not already been provided. In any case, supplemental submissions must not exceed three pages (if written) or ten minutes (if presented orally), unless the Board orders

otherwise. If the supplemental submissions are in writing, they are due three business days after the supplemental submissions of the cross-examining party are due, unless the Board orders otherwise.

Rule X11: Reply

1. The appellant has an opportunity to reply to the submissions from the respondent and third party. Reply submissions must only address matters that relate to an issue (including evidence provided under cross-examination) or a defense that the respondent or a third party raised which the appellant could not have reasonably anticipated when preparing their initial submissions.

A reply is to be a maximum of three pages in length, with a maximum of three more pages allowed if cross-examination occurred, unless the Board orders otherwise. Reply submissions are due one week after the end of phase three, unless the Board orders otherwise.

2. Any reply submissions that could have reasonably been anticipated by the appellant when preparing their initial submissions, as determined by the Board, will not be considered by the Board.
3. In circumstances where a party other than the appellant files submissions initially, on either a preliminary matter or the merits of the appeal, this rule applies to that party's right of reply as though they were the appellant, as contemplated within this Rule, unless these Rules indicate otherwise or unless the Board orders otherwise. In such circumstances, this rule does not apply to the appellant.

Rule X12: Formatting of Documents

1. Where documents are limited by length within this Ruleset, they may only have an average number of words per page of 400 or less.
2. If a party provides documents that do not conform with the requirements of Rule X13.1 or with length requirements set by the Board (either in the Ruleset or as ordered by the Board), the Board may refuse to consider those documents in whole or in part, as it considers appropriate in the circumstances.
3. All documents in a Designated appeal must be provided in electronic format.

Rule X13: Extensions of Time and Effect of Missed Deadlines

1. All deadlines within this Ruleset expire at 4:30 p.m. on the specified day.
2. Any party that seeks an extension of time to meet any deadline within the Ruleset must do so at least one day before the deadline in question and must do so by way of written application. This application must contain the reason why the deadline cannot be met and the length of the extension sought. The application must not exceed three pages in length, unless the Board orders otherwise, and must be provided to all parties as well as to the Board.
3. Due to the nature of this expedited process, extensions of time will only be granted in exceptional circumstances, where it would be impossible for a party to meet the deadline despite the exercise of all reasonable diligence. The Board will not accept any late evidence or submissions provided unless it has already authorized an extension of time.
4. In the event that the appellant fails to comply with any deadline within the expedited process, the Board will immediately begin the process of summarily dismissing the appeal under section 31(1)(e) of the *ATA* for failure to comply with an order of the Board or failing to diligently pursue the appeal. The appellant will have the opportunity to make submissions on this issue, as required by section 31(2) of the *ATA*. The Board will dismiss the appeal in these circumstances unless the appellant demonstrates, in their submissions and on a balance of probabilities, that it was impossible for them to comply with the deadline in question or to request an extension, as set out in Rule X13.2, in advance of the deadline despite the exercise of all reasonable diligence. Additionally or alternatively, if the missed deadline pertained to disclosure or production of documents, the Board may not allow the admission of any such documents, draw an adverse inference against that party in respect of that evidence, or both.
5. If a party other than the appellant fails to comply with any deadline under the expedited process, the appeal will continue without the evidence, submission, or both of that party, either on the specific matter for which submissions were due or on all matters in the appeal, unless the Board orders otherwise, as discussed in Rule X13.6. Additionally or alternatively, if the missed deadline pertained to disclosure or the production of documents, the Board may draw an adverse inference against that party in respect of that evidence.

6. A party described in Rule X13.5 will have an opportunity to explain why they failed to comply with the deadline and why they should be allowed to provide evidence and submissions in the process. The appeal continue without the evidence, submission, or both, that should have been provided but was not unless the party demonstrates, in their submissions and on a balance of probabilities, that it was impossible for them to comply with the deadline in question or to request an extension in advance of the deadline in question, despite the exercise of all reasonable diligence.
7. Where a party is to be provided with an opportunity to provide submissions as described in X13.4 or X13.6, the Board will inform that party of the opportunity as soon as possible. The deadline for these submissions will be three business days after the missed deadline, unless the Board orders otherwise, although parties may request additional time in advance of the deadline. The length of these submissions must not exceed three pages, unless the Board orders otherwise. The Board will only extend deadlines in such circumstances where the party established that it would be impossible for them to meet the deadline despite the exercise of all reasonable diligence.

Rule X14: Outcome and Reasons for the Decision

1. If a decision on the appeal is needed on such a short timeframe that the Board determines that the outcome of the appeal would only be effective if delivered before delivery of its underlying reasons, the Board may communicate the appeal outcome separate from the reasons for the decision.

The outcome defines whether the appeal is confirmed, reversed, varied, or returned to the decision-maker with or without directions. It constitutes the “final decision” of the Board. The outcome does not include the rationale for the decision. If the decision is varied, the Board will state how the decision under appeal is varied as part of the outcome.

The reasons for a decision contain the Board’s reasoning and analysis of the issue(s) under appeal.

The Board will generally deliver an outcome separate from the reasons for the decision only where the remedy granted is to vary the decision, return the matter to the original decision-maker, or make a new decision the decision-maker could have made and which the Board considers appropriate in the circumstances. Where the Board separates the outcome and reasons for a decision, it will

endeavour to complete the reasons for the decision as soon as is reasonably practicable.