

**11.** Section 14.02 is amended by substituting “\$0.40” for “\$0.26”.

**12.** Section 14.06 is amended by substituting “\$0.55, as of (*insert here the enforcement date of this decree*), and \$0.60, as of 31 May 1999,” for “\$0.35”.

**13.** Section 17.01 is amended:

1. by substituting “31 May 1999” for “31 May 1996”;
2. by substituting “the year 1999” for “the year 1996”.

**14.** This decree comes into force on the day of its publication in the *Gazette officielle du Québec*.

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### Draft Regulation

Transport Act  
(R.S.Q., c. T-12)

### Commission des transports du Québec — Procedure

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting the rules of procedure of the Commission des transports du Québec, the text of which appears below, may be made by the Commission des transports du Québec upon the expiry of 45 days following this publication.

The purpose of this regulation which replaces the Rules of practice and rules for the internal management of the Commission des transports du Québec (O.C. 147-82, 20 January 1982) presently in force, is to promote the quick and easy processing of applications submitted to the Commission des transports du Québec and, generally, to guide the exercise of the administrative function of the Commission. It contains, in particular, rules regarding the presentation of observations by interested persons and rules regarding the holding of public hearings if the need arises.

Further information may be obtained relating to this regulation from Mr. Léonce Girard, Secretary and Director of Legal Affairs and Secretariat, Commission des transports du Québec, 200, chemin Sainte-Foy, 7<sup>e</sup> étage, Québec (Québec) G1R 5V5, by telephone at (418) 643-5970 or by fax at (418) 646-8423.

Any person having comments to make on this matter is asked to forward them in writing, before the expiry of the 45-day period, to Mr. Léonce Girard, Secretary and

Director of Legal Affairs and Secretariat, Commission des transports du Québec, 200, chemin Sainte-Foy, 7<sup>e</sup> étage, Québec (Québec) G1R 5V5. These comments will be analysed by the Commission des transports du Québec.

*The President of the Commission  
des transports du Québec,*  
LOUIS GRAVEL

## Rules of procedure of the Commission des transports du Québec

Transport Act  
(R.S.Q., c. T-12, s. 48)

### DIVISION I PRELIMINARY PROVISIONS

**1.** The purpose of these rules is to insure the prompt and simple processing of an application in keeping with the duty to act fairly.

**2.** If the means of exercising a right has not been provided for within these rules, it may be compensated by any means not inconsistent with them or with any provision of the law.

**3.** At any time, any defect of form or procedural irregularity may be remedied upon permission of the Commission.

**4.** The Commission may release a person from his failure to act within the time prescribed by law if that person establishes that he was unable, for serious and valid reason, to act sooner and if the Commission considers that no other person concerned suffers serious prejudice.

### DIVISION II DEFINITIONS

**5.** In these rules, unless the context indicates otherwise, the following definitions apply:

“application”: any application, including a procedure by filing, and a question treated at the Commission’s own initiative;

“special permit”: permit issued in answer to an emergency where no permit holder is able to ensure the required services;

“temporary permit” permit issued in case of an exceptional and unforeseeable emergency.

### DIVISION III GENERAL APPLICATION PROVISIONS

#### §1. *Delays*

**6.** If a delay expires on a day when the offices of the Commission are closed, such delay is extended to the following working day.

**7.** In the computation of any delay, the starting day is not counted but the expiry day is.

**8.** Unless the law to which these rules apply contains contrary provisions, the delay to present observations is of at least ten days.

It is determined either in the notice published according to section 16, in the notice prescribed by section 5 of the Act respecting administrative justice or in any other notice given by the Commission.

#### §2. *Transmission of a document*

**9.** The transmission of a document may be made, among others, by electronic mail, regular or registered mail, certified mail, bailiff, fax, or any other means providing proof of expedition or reception.

However, an application for a temporary permit may be forwarded by any written communication, by telegram or fax among others.

**10.** Where circumstances require, the Commission may authorise another means of transmission.

**11.** Any transmission by the Commission to a carrier or a person registered with the Commission, to the last recorded address, is deemed to have been validly made to this carrier or person.

**12.** An application accessory to a main application must be forwarded to the Commission and to the persons concerned at least five days prior to its presentation date.

#### §3. *Representation*

**13.** The attorney who represents a person must notify the Commission of the fact, in writing.

**14.** The attorney who ceases to represent a person must notify the Commission of the fact, as well as the other persons in the record, in writing, indicating the date of termination of his mandate.

### DIVISION IV PROCESSING OF APPLICATIONS AND OBSERVATIONS

#### §1. *General rules*

**15.** An application is forwarded to the Commission on the form provided, if any, to its offices in Québec or Montreal, accompanied by the required documents, and the costs and fees prescribed by regulation.

#### §2. *Publication of an application*

**16.** In the cases where these rules demand it or when the Commission orders it, a notice of the application is published by the Commission, at the applicant's expense, in at least one daily newspaper circulating in the territory to which the application refers.

**17.** A notice must be published in the following cases:

1° the application for a permit and for the modification of a permit:

a) for bulk trucking except for the application for a forest rental permit and the authorisation to use a rented truck;

b) for bus transport except that for a permit for a period of less than 60 days;

2° the permit, modification or specialisation application for transport by taxi;

3° the application for a bulk trucking brokerage permit and that for the modification or renewal of such, apart from the exception provided for in the third paragraph of section 19;

4° the application for reinstatement of a bulk trucking permit and of a transportation by bus permit concerned by sections 22.3 of the Regulation respecting bulk trucking and 15.2 of the Regulation respecting transportation by bus;

5° the application for a certificate of aptitude relating to rail transportation;

6° the application for a special permit except:

a) that concerning the transport of snow during a period of less than seven months;

b) that concerned by section 34 of the Regulation respecting bulk trucking;

c) that concerning the bulk transport of a material referred to in section 63 of the Regulation respecting bulk trucking;

d) that concerning bulk trucking where the applicant demonstrates he has the support of the brokerage permit holders of the zone and that of the recognised regional corporation, if any, to which his permit and his application relate;

7° the application for particular fixing of tariffs as well as the application for modification or revocation of filed tariffs;

8° the application to discontinue, partly or totally, urban or interurban bus transport;

9° in the case of urban or interurban bus transport, the filing of a modification of schedule, frequency or route when treated as an application in accordance with section 21;

10° a filing of tariffs when treated as an application in accordance with section 20;

11° any other application that the Commission could designate in its policies and practices.

**18.** The application for a temporary permit is not subject to the publication of a notice.

**19.** In the case of an application for a brokerage permit or of an application for modification of a brokerage permit, in addition to the publication of the notice referred to in paragraph 3 of section 17, the Commission notifies each bulk trucking permit holder of the region or the zone concerned and the brokers of that region and zone, if any, of the nature of the application, of the date, time and place where they may present observations.

In the case of an application to renew a brokerage permit, no notice is required other than the one that must be published according to paragraph 3 of section 17.

However, upon reading the record, if the applicant establishes that he represents at least 40 % of the bulk trucking permit holders of his brokering zone, or 40 % of the interested holders of said zone, and if the previous time, the brokerage permit had been renewed after publication of a notice, then no publication of a notice is required and the decision is rendered on record.

**20.** The Commission may refuse the filing of tariffs; in that case, the filing is treated as an application requiring publication of a notice at the expense of the applicant, as provided for in section 44 of the Rules of prac-

tice and rules for the internal management of the Commission des transports du Québec (Decree 147-82, 20 January, 1982).

Sections 42 to 45.3 of the Rules of practice and rules for the internal management of the Commission des transports du Québec or any other regulation taken by the Government in accordance with the third paragraph of section 46 of the Transport Act (R.S.Q., c. T-12) determine the forms of filing and terms of coming into force of tariffs.

**21.** In the case of bus transport, the modification of schedule, frequency or route which will have been posted in the applicant's buses for ten consecutive days prior to its filing comes into force on the 15th day following its filing with the Commission or at any other later date indicated by the applicant.

The Commission may refuse a filing; in that case, the filing is treated as an application requiring publication of a notice at the expense of the applicant in the case provided for in paragraph 9 of section 17.

**22.** Notice of an application to discontinue, partly or totally, urban or interurban bus transport services must be posted in the applicant's buses for ten consecutive days prior to transmission of the application to the Commission.

**23.** The notice referred to in sections 21 and 22 must indicate that any interested person may present observations to the Commission within at least ten days following the last day of posting.

### §3. *Observations*

**24.** A person may, within the time indicated in the notice or in the notice prescribed by section 5 of the Act respecting administrative justice, published or transmitted to him, as the case may be, present observations in favour of or in opposition to an application.

**25.** To be admissible, the observations must:

1° have been transmitted to the Commission and the applicant, if any, within the time indicated;

2° be useful for the making of the decision;

3° be accompanied by the fees prescribed by regulation.

The observations transmitted to the Commission by an applicant or a permit holder who received the notice prescribed by section 5 of the Act respecting administrative justice are made without costs.

**26.** The Minister of Transport and the Attorney General may, at any time, without notice or costs, present observations to the Commission, in any matter submitted to the Commission.

## **DIVISION V** **DECISIONS OF THE COMMISSION**

### *§1. General rules*

**27.** Where there are observations opposing an application, the Commission makes its decision after having given the persons concerned the opportunity to present additional observations if it deems so necessary.

**28.** The president or the vice-president he designates, if he deems it necessary, may decide that many applications submitted to the Commission be processed simultaneously and decided based on the same elements of information or that those provided relative to one application be used for the other.

He may also decide that one application be processed first, the others being suspended until a decision is made relative to the first application.

**29.** The president or the vice-president he designates may replace with another member, with the consent of the persons concerned, a member who has processed an application, where the latter is ill, becomes incapable of acting as such, resigns, retires or dies before a decision is rendered.

**30.** The president or the member he designates may decide that an application is processed in priority or immediately, according to the terms he determines.

**31.** Applications accessory to a main application are processed in priority by the member designated by the president, which member also decides any question raised to him.

**32.** The designated member may dispose of such applications upon reading of the record or after having met with the persons concerned at the date indicated in the application or at any other time agreed upon with them, or refer them to the member who is treating the related main application.

**33.** The Commission may, in its policies and practices, provide for the terms of processing of these applications, in particular the time and place of the meetings referred to in the preceding section.

### *§2. Hearings*

**34.** The Commission holds hearings each time a person concerned indicates he wishes to present observations at a hearing, unless it appears in the record that it is not necessary to resolve the question.

It also holds hearings each time it deems it necessary, whether there are observations or not.

**35.** The Commission notifies the persons concerned or their representative, with reasonable delay, in a way it deems appropriate, of the date, time and place of the hearing.

**36.** If, at the date set for the hearing, a person concerned is absent, the Commission may proceed without further notice or delay.

**37.** The person who requires the presence of a witness may summon him by way of an appearance notice issued by the Commission and served at least five days prior to the hearing date.

A person may, in the same way, be summoned to produce documents.

**38.** The Commission may postpone the hearing to another date or adjourn it.

It may set conditions to the postponement or adjournment.

No postponement is granted solely based on the consent of the persons concerned.

The petition for postponement made before the set date is filed in writing to the president or the designated vice-president.

**39.** The hearings of the Commission may be recorded on audio or video magnetic tapes. The recording is part of the record.

Any recording by any person is forbidden unless previously authorised by the Commission.

**40.** Where circumstances demand or allow it, the Commission may hold hearings by means of telephone or video conferencing. The hearing is then considered to have been held in the Commission's offices in Québec or Montreal.

**41.** Each of the persons concerned may present observations.

**42.** An interpreter under solemn declaration may assist any person, at his expense.

**43.** Minutes of all hearings are drawn up; these minutes must contain the names of the persons concerned, attorneys and witnesses, mention of all documents produced and reference to any decision made during the hearing.

#### **DIVISION VI** ELEMENTS OF INFORMATION

**44.** The Commission bases its decision on the elements of information and documents contained in the record.

**45.** The Commission may accept or request any element of information or document it deems useful to resolve the questions at hand.

**46.** The expert witness gives an opinion on a question within the scope of his expertise; he may be declared expert when his competence or experience has been established or has been recognised by the persons concerned.

#### **DIVISION VII** CORRECTION AND REVIEW OF A DECISION

**47.** The Commission forwards a copy of the decision to the persons concerned and their attorney, by mail or any other means.

**48.** A decision of the Commission containing an error in writing or in calculation or any clerical error or which, by obvious inadvertence, grants more than was applied for or omits ruling on part of the application, may be corrected by the signatory of the decision.

**49.** An application for review of a decision is notified to the Commission within 30 days following the coming into force of the decision and is referred to the president, or to the member he designates, who determines the terms of processing.

**50.** A person whose application has been rejected may not reapply within six months of this reject, unless within this period, new facts occur which, had they existed at the time of the application, could have changed the decision.

#### **DIVISION VIII** MISCELLANEOUS PROVISIONS

**51.** An applicant may, at any time, withdraw his application by written declaration. Upon receiving the declaration, the Commission or the member processing the application closes the record.

**52.** The Commission may declare an application abandoned if a year has elapsed since the date of transmission of the last document or of the observations on record.

It must notify the persons concerned or their representative of its intention.

**53.** Where the Commission notes that a permit has become obsolete, it may cancel such without other formality, having insured that no right is affected and no one suffers any prejudice.

**54.** Unless decided otherwise by the Commission, the recognition regarding a league of taxi owners or a regional corporation of truckers is automatically renewed yearly.

#### **DIVISION IX** FINAL PROVISIONS

**55.** This regulation replaces the Rules of practice and rules for the internal management of the Commission des transports du Québec, prescribed by Order in council 147-82, of January 20, 1982, with the exception of sections 22 and 35, of section 40 as fees are concerned, of sections 42 to 45.3, of sections 120 to 123 and of annex I, which continue to apply with the necessary adaptations.

**56.** This regulation comes into force on the 15th day following its publication in the *Gazette officielle du Québec*.

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