

# Summary of New Rules for alcohol- and drug-related administrative licence suspension (ALS) appeals (September 15, 2020)

In June 2020, the Alberta government announced its new roadside sanctions program, SafeRoads Alberta. This program will replace the alcohol- and drug-related administrative licence suspension (ALS) appeals currently being heard by the Board.

Recognizing that the Board will be wrapping up its business in preparation for SafeRoads Alberta, the Board has introduced **new Rules** related to ALS appeals. A copy of the new Rules can be found on our website: [atsb.alberta.ca](https://atsb.alberta.ca).

Some of the new Rules clarify existing processes and procedures; others introduce procedural changes.

**A summary of significant changes can be found below.**

## One panel member to determine jurisdiction to start an appeal – New Rule 5

Under section 45 of the *TSA*, people wishing to commence an appeal have 30 calendar days to file their appeal with the Board. This deadline was modified for suspensions issued during the recent public health emergency, but the 30-day deadline is now back in force. If an application for an appeal is filed with Board after the 30-day deadline, the appeal may not be commenced and the Board, therefore, does not have the authority (“jurisdiction”) to hear it.

For applications that are filed at a time that appears to be beyond the 30-day appeal period, the Board must first consider whether it has the jurisdiction to hear the appeal. Previously, this consideration was completed by a panel of three Board members. Under new Rule 5, these matters will be considered in an in-writing hearing, by a single Board member.

## Last minute evidence and new submissions – New Rule 6

There is a deadline for the filing of any new documentary evidence or submissions. Specifically, unless all parties consent, new documentary evidence or submissions cannot be filed within the five business days before the hearing.

- If all parties *do consent*, the new documentary evidence or submissions in question must be served on all parties and filed with the Board as least three business days before the date of the hearing.
- If all parties *do not consent*, the Board may, at its discretion, adjourn the hearing for at least seven business days for the purpose of allowing all parties sufficient time to view the new evidence and/or submissions.

#### Deemed abandonment – New Rule 8

If, prior to the hearing, there is a period of 120 calendar days in a row where the Appellant fails to meet any requirements placed upon them in relation to their appeal, the Board will take steps to deem the appeal abandoned. Specifically:

- Such Appellants will receive a Notice of Failure to Act. If they wish to proceed with their appeal, they will have 10 business days to inform they Board of that intent. If they do so, their hearing will be scheduled within 120 calendar days.
- If Appellants do not respond within 10 business days, their appeal will be deemed abandoned.

After that, should an Appellant wish to restore their appeal, they will have 30 calendar days from the date of deemed abandonment to provide a written request to the Board, along with reasons why the Board should restore their appeal.

#### Reconsideration – New Rule 10

The Board can only reconsider a decision if, in its opinion, the circumstances in respect of the matter have substantially changed from the time of the Original Decision.

To apply for a reconsideration of a decision of the Board (an Original Decision), Appellants must provide the Board with a written request within 30 calendar days of the Original Decision. Along with the written request, Appellants must also provide submissions indicating how the circumstances have changed substantially since the Original Decision.

Within 10 business days from the date the Board receives the written request and submissions, the Board will assess whether, in its opinion, the circumstances have changed. If they have not,

the decision will not be reconsidered. If they have, the Board will schedule a reconsideration hearing.