

ITS G Guide 02

Decisions, Reconsiderations, and Appeals

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1.0 Introduction

This guide outlines the processes for reconsideration, review and appeal of decisions made under The Technical Safety Act and the Technical Safety Regulation.

It explains:

- when a decision, order or penalty may be reconsidered, reviewed or appealed;
- how to request reconsideration, review or appeal;
- when a stay may be requested; and
- what information to include with a request or appeal.

These processes apply to:

- permits, licences and certificates;
- Director's Orders Requiring a Higher Standard;
- Inspector's orders; and
- administrative penalties.

Important:

These processes cannot be used to:

- bypass variance or alternative solution provisions; or
- authorize unsafe work or operation of regulated equipment.

2.0 Permit, Licence, or Certificate Decisions (Section 45)

When This Applies

When Inspection and Technical Services suspends, cancels, or refuses to issue or renew a permit, licence, or certificate.

Why These Decisions Occur

These decisions may be issued when:

- work or equipment does not comply with applicable legislation, codes or standards;
- an unsafe condition or technical safety risk has been identified;
- false, misleading or incomplete information was provided;
- work was performed without proper authorization or by an unlicensed individual; or
- a permit, licence or certificate holder has failed to comply with applicable requirements, terms or conditions.

How You Will Be Notified

When a decision is made, Inspection and Technical Services will issue a Notice of Decision that includes:

- the decision and its effective date; and
- written reasons for the decision.

Requesting Reinstatement

Reinstatement is not automatic. A person must apply for reinstatement by submitting ITS G Form 09-Request for Reinstatement with evidence demonstrating that all deficiencies, conditions, or corrective measures have been fully addressed.

Inspection and Technical Services may require additional evidence, inspection verification, testing, engineering documentation, or other technical evidence before determining whether reinstatement is appropriate.

Requesting Reconsideration

A person affected by a decision may request reconsideration by submitting ITS G Form 07-Request for Reconsideration or Review within 14 days after being given the decision.

The request must clearly:

- identify the decision being reconsidered;
- explain why the decision should be changed; and
- include relevant technical, factual or legislative information.

Incomplete requests may delay the review.

Supporting Documentation Requirements

Supporting documents must:

- be clear, accurate and complete;
- directly address the issue under reconsideration;
- reference applicable legislation, codes or standards that explain why the decision should be changed;
- include engineering documents signed and sealed by a professional engineer where required; and
- provide relevant evidence, such as photographs, reports, manufacturer information or test results.

Requesting a Stay

A stay temporarily pauses the effect of a decision or part of a decision during reconsideration. Stays are not automatic.

A person must apply for a stay by submitting ITS G Form 08-Request for Stay or Suspension of a Decision or Order with the request for reconsideration.

Submitting a reconsideration request does not suspend the decision unless a stay is granted.

A stay request must:

- be submitted together with the request for reconsideration;
- identify the specific decision;
- describe any safety impacts if the decision remains in effect;
- explain how technical and public safety will be maintained during the stay; and
- reference applicable legislation, codes or standards, where relevant.

Inspection and Technical Services may grant or deny a stay after considering the circumstances and associated technical safety risks.

A stay cannot authorize work or the temporary operation of regulated equipment where unsafe conditions exist.

Director Reconsideration

The Director will review the request for reconsideration and will issue a reconsideration decision confirming, varying, or rescinding the original decision.

If a person is not satisfied with the reconsideration decision, they may appeal to the Technical Safety Appeal Board within 14 days after being given a copy of the reconsideration decision.

Appeal

If a person is not satisfied with the reconsideration decision, they may appeal the decision. Appeals are heard by the Technical Safety Appeal Board.

To file an appeal, a person must complete ITS G Form 10-Notice of Appeal to the Technical Safety Appeal Board.

An appeal must be filed with the Minister within 14 days after the person is given a copy of the reconsideration decision. A copy of the appeal must be provided to the Director as soon as practicable after filing.

The appeal must include a copy of the reconsideration decision and any supporting documentation.

3.0 Higher Standards (Section 55)

When This Applies

Inspection and Technical Services may require regulated equipment or regulated work to comply with a higher standard than a prescribed requirement where the higher standard is necessary to minimize a technical safety risk.

Why These Decisions Occur

A Director's Order Requiring a Higher Standard may be issued when:

- equipment or work presents unique risks not adequately addressed by existing requirements;
- new technologies require additional safeguards; or
- the design, condition, use or location of equipment creates a technical safety risk not adequately addressed by the prescribed requirements.

How You Will Be Notified

You will receive a Director's Order Requiring a Higher Standard outlining the higher standard and the reasons why it is required.

Requesting Reconsideration

A person may request reconsideration by submitting ITS G Form 07-Request for Reconsideration or Review, within 14 days after being given the Director's Order Requiring a Higher Standard.

The request must clearly:

- identify the decision being reconsidered;
- explain why the decision should be changed; and
- include relevant technical, factual or legislative information.

Incomplete requests may delay the review.

Supporting Documentation Requirements

Supporting documents must:

- be clear, accurate and complete;
- directly address the issue under review;
- reference applicable legislation, codes or standards that explain why the decision should be changed;
- include engineering documents signed and sealed by a professional engineer where required; and
- provide relevant evidence, such as photographs, reports, manufacturer information or test results.

Requesting a Stay

A stay temporarily pauses the effect of the Director's Order Requiring a Higher Standard during reconsideration. Stays are not automatic.

A person must apply for a stay by submitting ITS G Form 08-Request for Stay or Suspension of a Decision or Order with the request for reconsideration.

Submitting a reconsideration request does not suspend the Director's Order Requiring a Higher Standard unless a stay is granted.

A stay request must:

- be submitted with the request for reconsideration;
- identify the specific Director's Order Requiring a Higher Standard;
- describe any safety impacts if the order remains in effect;
- explain how technical and public safety will be maintained during the stay; and
- reference applicable legislation, codes or standards where relevant.

Inspection and Technical Services may grant or deny a stay after considering the circumstances and associated technical safety risks.

A stay cannot authorize work or the temporary operation of regulated equipment where unsafe conditions exist.

Director Reconsideration

The Director will review the request for reconsideration and issue a reconsideration decision confirming, varying, or rescinding the original order.

If a person is not satisfied with the reconsideration decision, they may appeal to the Technical Safety Appeal Board within 14 days after being given a copy of the reconsideration decision.

Appeal

If a person is not satisfied with the reconsideration decision, they may appeal the decision. Appeals are heard by the Technical Safety Appeal Board.

To file an appeal, a person must complete ITS G Form 10-Notice of Appeal to the Technical Safety Appeal Board.

An appeal must be filed with the Minister within 14 days after the person is given a copy of the reconsideration decision. A copy of the appeal must be provided to the Director as soon as practicable after filing.

The appeal must include a copy of the reconsideration decision and any supporting documentation.

4.0 Orders (Sections 71–73)

When This Applies

When an Inspector issues an order requiring correction, repair, or removal from service.

Why These Decisions Occur

Orders may be issued when:

- equipment or work does not comply with applicable legislation, codes or standards;
- an unsafe condition or technical safety risk is identified;
- false, misleading or incomplete information was provided;
- work was performed without proper authorization or by an unlicensed individual; or
- a prior order or variance condition has not been met.

How You Will Be Notified

Orders may be issued verbally or in writing. If issued verbally, a written order will follow within 72 hours.

Equipment that presents an immediate safety hazard may also be sealed out of service until compliance is verified and authorization to remove the seal is granted.

Confirming Compliance with an Order

Compliance with an Inspector's order is not assumed. Once corrective measures have been completed, the person responsible must provide evidence of compliance before the order can be closed or any seal can be removed.

A person must demonstrate compliance by submitting an [Order Compliance Submission and Verification Form](#) and any relevant supporting documentation required by Inspection and Technical Services.

Until compliance is verified and confirmed in writing by Inspection and Technical Services:

- the order remains in effect; and
- sealed or restricted equipment must not be used or operated.

Written authorization must be issued by Inspection and Technical Services before a seal is removed or equipment is returned to service.

Requesting Director Review

A person may request a review an Inspector's order by submitting [ITS G Form 07-Request for Reconsideration or Review](#), within 14 days after being given the order.

The request must clearly:

- identify the order being reviewed;
- explain why the order should be varied or rescinded; and
- include relevant technical, factual or legislative information.

Incomplete requests may delay the review.

Supporting Documentation Requirements

Supporting documents must:

- be clear, accurate and complete;
- directly address the issue under review;
- reference applicable legislation, codes or standards that explain why the order should be varied or rescinded;
- include engineering documents signed and sealed by a professional engineer where required; and
- provide relevant evidence, such as photographs, reports, manufacturer information or test results.

Requesting a Stay

A stay temporarily pauses the effect of the Inspector's order or part of that order during the review. Stays are not automatic.

A person must apply for a stay by submitting ITS G Form 08-Request for Stay or Suspension of a Decision or Order with the request for reconsideration.

Submitting a review request does not suspend the Inspector's order unless a stay is granted.

A stay request must:

- be submitted together with the request for review;
- identify the specific order;
- describe any safety impacts if the order remains in effect;
- explain how technical and public safety will be maintained during the stay; and
- reference applicable legislation, codes or standards, where relevant.

Inspection and Technical Services may grant or deny the stay after considering the circumstances and any associated technical safety risks.

A stay cannot authorize work or the temporary operation of regulated equipment where unsafe conditions exist.

Director Review

The Director will review the request for review and issue a decision confirming, varying or rescinding the Inspector's order.

If the order is confirmed or varied, the person must comply with the order. If the order is not complied with, Inspection and Technical Services may apply to the court for an order enforcing compliance.

If a person is not satisfied with the review decision, they may appeal to the Technical Safety Appeal Board within 14 days after being given a copy of the review decision.

Appeal

If a person is not satisfied with the review decision, they may appeal the decision. Appeals are heard by the Technical Safety Appeal Board.

To file an appeal, a person must complete ITS G Form 10-Notice of Appeal to the Technical Safety Appeal Board.

An appeal must be filed with the Minister within 14 days after the person is given a copy of the review decision. A copy of the appeal must be provided to the Director as soon as practicable after filing.

The appeal must include a copy of the review decision and any supporting documentation.

5.0 Administrative Penalties (Sections 74–76)

When This Applies

Administrative penalties may be issued when a person or organization contravenes or fails to comply with provisions of The Technical Safety Act, the Technical Safety Regulation, or an order.

Why These Decisions Occur

Administrative penalties may be issued for a range of non-compliance, including but not limited to:

- performing regulated work without holding the required licence, permit, certificate or other authorization;
- operating regulated equipment without a valid permit;
- employing or allowing others to perform regulated work without the required licence or authorization; or
- failing to comply with an order or other requirement within the prescribed timeframe.

How You Will Be Notified

Inspection and Technical Services will issue a Notice of Administrative Penalty that includes:

- The person or organization required to pay the penalty
- The contravention
- The penalty amount
- How and when the penalty must be paid

Payment and Compliance

A person or organization that receives a Notice of Administrative Penalty is responsible for paying the administrative penalty.

Paying an administrative penalty does not remove the requirement to correct the underlying non-compliance. Any related order, permit requirement, licence requirement or other safety requirement must still be complied with.

Requesting Reconsideration

A person who receives a Notice of Administrative Penalty may request reconsideration by submitting ITS G Form 07-Request for Reconsideration or Review within 14 days after being given the notice.

The request must clearly:

- identify the penalty being reconsidered;
- explain why the penalty should be changed; and
- include relevant technical, factual or legislative information.

Incomplete requests may delay the review.

Supporting Documentation Requirements

Supporting documents must:

- be clear, accurate and complete;
- directly address the issue under review;
- reference applicable legislation, codes or standards that explain why the administrative

- penalty should be changed;
- include engineering documents signed and sealed by a professional engineer where required; and
- provide relevant evidence, such as photographs, reports, manufacturer information or test results.

Requesting a Stay

When a person submits a request for reconsideration of an administrative penalty:

- the requirement to pay the penalty is automatically stayed
- no separate stay request is required

This stay remains in effect until a reconsideration decision is issued.

Director Reconsideration

The Director will review the request for reconsideration, and will issue a reconsideration decision confirming, revoking or varying the administrative penalty.

If a person is not satisfied with the reconsideration decision, they may appeal to the Manitoba Court of King's Bench.

Appeal

If a person is not satisfied with the reconsideration decision, they may appeal the decision to the Manitoba Court of King's Bench within 30 days after being given a copy of the reconsideration decision.

To file an appeal, the person must file a Notice of Appeal with the Court and provide a copy to the Director. The Court may confirm, vary or rescind the reconsideration decision.

6.0 Delinquent Payments (Section 48)

When This Applies

This applies when a person has not paid a fee or penalty owing under The Technical Safety Act or the Technical Safety Regulation.

Why These Decisions Occur

A permit, licence or certificate may be suspended or cancelled when:

- permit, licence, inspection or service fees remain unpaid;
- administrative penalties remain unpaid; or
- any other outstanding balance, fee or penalty owing under The Technical Safety Act or the Technical Safety Regulation has not been paid.

The suspension or cancellation remains in effect until the amount owing is paid in full and any required reinstatement process is completed.

How You Will Be Notified

A person will receive:

- a notice of delinquency advising that payment is overdue; and
- a notice of suspension or cancellation for non-payment, if payment is not received by the deadline set out in the notice of delinquency.

Requesting Reinstatement

Reinstatement is not automatic. Once the outstanding amount has been paid in full, the person must apply for reinstatement by submitting ITS G Form 09-Request for Reinstatement.

Review and Appeal

Decisions related to delinquent payment are not subject to reconsideration or appeal. The matter may be resolved by paying the amount owing and applying for reinstatement.

7.0 Appeal to the Technical Safety Appeal Board (Sections 79-83)

Appeals of reconsideration or review decisions are heard by the Technical Safety Appeal Board appointed by the Minister.

The Board is made up of members who are knowledgeable about safety matters relating to regulated equipment or regulated work.

The Appeal Board may confirm, change or cancel the reconsideration or review decision, or dismiss the appeal.

When This Applies

This applies when a person wishes to appeal a reconsideration or review decision.

Note: Administrative penalty reconsideration decisions are appealed to the Manitoba Court of King's Bench, not to the Technical Safety Appeal Board.

Filing an Appeal

To file an appeal with the Board, a person must complete ITS G Form 10-Notice of Appeal to the Technical Safety Appeal Board.

The appeal must be filed with the Minister within 14 days after the person is given the reconsideration or review decision. A copy of the appeal must be provided to the Director as soon as practicable after filing.

The appeal should include:

a copy of the reconsideration or review decision being appealed;
an explanation of why the decision should be changed; and
any supporting documents the person wants the Board to consider.

Supporting documents may include photographs, reports, manufacturer information, test results, engineering documents, or references to applicable legislation, codes or standards.

Incomplete appeal materials may delay the appeal process.

Requesting a Stay of the Decision

A stay temporarily pauses the effect of a decision, or part of a decision, during the appeal process. Stays are not automatic.

A request for a stay must be submitted together with **the** Notice of Appeal.

A stay request should:

- identify the decision, or part of the decision, the person wants stayed;
- explain why a stay is being requested;
- describe any technical or public safety risks that may result if the decision is stayed or remains in effect; and
- explain how safety will be maintained during the stay.

The Board may grant or deny the stay after considering the circumstances and any technical safety risks.

A stay does not authorize regulated equipment to be used or operated, or regulated work to be performed, if unsafe conditions exist.

Board Decision

The Board will consider the appeal and any supporting materials. The Board may request additional information before making a decision.

After hearing the appeal, the Board may confirm, change or cancel the Director's reconsideration or review decision, or dismiss the appeal.

Decisions of the Technical Safety Appeal Board are final and binding.

8.0 Reference Documents

- The Technical Safety Act
- The Technical Safety Regulation
- ITS G Form 07-Request for Reconsideration or Review
- ITS G Form 08-Request for Stay or Suspension of a Decision or Order
- ITS G Form 09-Request for Reinstatement
- ITS G Form 10-Notice of Appeal
- **Form-Order Compliance Submission and Verification**

9.0 Contact

Inspection and Technical Services

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