

CITATION:	Dudak (Re), 2026 ABSRA 54
DECISION DATE:	January 2, 2026

SAFEROADS ALBERTA

INTRODUCTION

1. At around 1:49 p.m., on December 12, 2025, Sheriff Pereira, with the Alberta Sheriffs Branch, conducted a traffic stop on the Recipient on Highway 2, at or near Leduc, Alberta. The peace officer issued a Notice of Administrative Penalty (“NAP”) to the Recipient on the following ground under Section 88.03(1) of the *Traffic Safety Act*, R.S.A. 2000, c. T-6 (“TSA”):
 - a. the Recipient operated a motor vehicle with a blood alcohol concentration (“BAC”) that is equal to or exceeds 50 milligrams of alcohol in 100 millilitres of blood (“mg%”) (“BAC-Over”).
2. On December 13, 2025, the Recipient applied for a written review (“Review”) of the NAP under Section 7(1) of the *Provincial Administrative Penalties Act*, S.A. 2020, c. P-30.8 (“PAPA”). My role as an adjudicator under Section 10 of PAPA is to conduct the Review and determine if the Recipient has established all grounds necessary to cancel the NAP on a balance of probabilities. The Recipient bears the burden of proof pursuant to Section 18(1) of PAPA.
3. The grounds on which I may cancel a NAP are set out in Section 4 of the *SafeRoads Alberta Regulation*, Alta Reg. 224/2020 (“Regulation”). In his written submissions, the Recipient has not enumerated any specific grounds to cancel for me to consider. However, upon reviewing his materials, he appears to argue the approved screening device (“ASD”) testing was not conducted properly, and that the results cannot be considered reliable. As such, I infer this Review raises the following grounds:
 - a. Section 4(d)(iv): that the Recipient did not within 2 hours of ceasing to operate a motor vehicle have a BAC equal to or exceeding 50 mg%; and
 - b. Section 4(d)(vi): that the approved instrument or approved screening device used to test the Recipient
 - (A) had not been annually maintained, or
 - (B) was used outside of its calibration period.
4. The Recipient has also made allegations pertaining to the overall fairness of the investigation, as well as *Charter* arguments. As set out in Appendix A, I do not have authority to find *Charter* breaches or grant *Charter* remedies, but I will consider the arguments and evidence pertaining to them under my assessment of the grounds to cancel the NAP and the overarching duty of fairness.

5. The Recipient has also made arguments regarding a careless driving ticket he received as part of Sheriff Pereira's investigation. However, this is not the venue for such arguments, and I cannot consider them or make any findings on them as the scope of this Review only pertains to the NAP issued for IRS: Warn.
6. I conducted the Review on December 30, 2025. The materials I considered in the Review are set out in **Appendix B**. For the reasons below, I have determined the outcome of the Review as follows: **the NAP is confirmed pursuant to Section 21(1)(a) of PAPA.**

SUMMARY OF EVIDENCE

7. Prior to addressing the submissions of the Recipient, I find it first helpful to summarize the evidence before me. In this case, I note I have the benefit of audio/video evidence from Sheriff Pereira, which I accept provides an irrefutable version of events.
8. In reviewing the footage, the Recipient's vehicle can be seen passing Sheriff Pereira, and a traffic stop is conducted at approximately 1:49 p.m. Sheriff Pereira initiates contact with the Recipient at his driver's side window. The audio is difficult to make out with the road noise, but Sheriff Pereira can be heard telling the Recipient he "clocked him at...", presumably in reference to speeding, and then asks him for his licence. Sheriff Pereira then removes an ASD from his jacket pocket and advises, "This is a mandatory alcohol screening. You are required to immediately provide a breath sample". He then asks the Recipient about recent alcohol consumption and tobacco use and provides instructions on how to provide a sample. This occurs at 1:51 p.m. The Recipient makes three attempts, all of which the officer indicates are "insufficient". Sheriff Pereira advises the Recipient, "You only get three chances per mouthpiece" and can be seen changing the mouthpiece, preparing the ASD and providing the Recipient with instructions on how hard to blow. His fourth attempt results in too soft of air, and Sheriff Pereira advises him to blow harder. During the fifth attempt, Sheriff Pereira gives the same advice. The Recipient can be heard saying, "I'm trying", and Sheriff Pereira provides further advice of forming a tight seal. During the Recipient's sixth attempt, Sheriff Pereira tells him to stop, and that he can hear him "dropping his breath". Sheriff Pereira can be seen changing the mouthpiece a third time and preparing the ASD. The Recipient's seventh attempt then results in a "CAU". There is some discussion between Sheriff Pereira and the Recipient, and Sheriff Pereira can be heard saying something along the lines of, "There is alcohol in your system. I can tell you that right now... So, you are impaired, and right now you're facing a 72-hour licence suspension and a 72-hour vehicle seizure". He then instructs the Recipient to roll up his windows, turn off his vehicle and give him the keys, and this occurs at 1:54 p.m. He then asks for the Recipient's licence and registration and advises him he can remain in the vehicle until the paperwork is finished. There then appears to be some discussion around the seizure, and Sheriff Pereira can be heard saying, "It doesn't matter, he's impaired", presumably speaking to the Recipient's passenger. Sheriff Pereira returns to his vehicle at 1:55 p.m.
9. At 1:58 p.m., Sheriff Pereira can be heard radioing for a secondary unit as the highway traffic is not slowing down while they are pulled over at the roadside. Sheriff Pereira also asks his partner to retrieve his secondary ASD. Sheriff Pereira then makes reference to

something freezing or not loading, presumably the electronic system utilized to generate paperwork, commonly referred to as the “Advanced Projects Information System” or “APIS” and indicates he will have to use a paper/handwritten form instead, where he can be heard rustling with paper at 2:09 p.m.

10. At 2:10 p.m., the Recipient can be seen exiting his vehicle. Sheriff Pereira advises him that he is preparing paperwork and to “sit tight”. The Recipient appears to question the seizure again and indicates his passenger can drive the vehicle. Sheriff Pereira states it does not matter and that is “not how it works”, and to wait in the vehicle. The Recipient appears to indicate something about it being cold in the vehicle, and Sheriff Pereira replies, “OK, well, it’s better than being out in the wind. I have to have your keys. I can’t have the car running because it’s a keyless start and if you take off on me, we’re going to have a big problem”. Both officers return to the vehicle and discuss having to fill out a paper form. Then, at 2:14 p.m., the officers appear to gain access to APIS and can be heard printing the relevant paperwork.
11. At 2:16 p.m., Sheriff Pereira returns to the Recipient and explains the NAP and seizure notices. At this time, Sheriff Pereira also provides the passenger the “registered owner copy” of the seizure notice and advises her of the duration of the seizure and where it is being held, as well as that she could appeal it by following a QR code printed on the form. He then advises the Recipient of the roadside appeal and provides an explanation of it, including the potential outcomes of a second test and it being completely voluntary and on a different device. The Recipient indicates he wants a roadside appeal, and there is some discussion about if it is the same result versus a lower result. The roadside appeal form is signed, and Sheriff Pereira can be observed preparing the ASD with a new mouthpiece. The Recipient produces a suitable sample on his first attempt and the result comes back as “CAU”. Sheriff Pereira states, “It’s a caution so it’s confirmed”, and returns to his police vehicle, stating he will be back with the Recipient later. This occurs at 2:21 p.m.
12. At 2:23 p.m., Sheriff Pereira arranges for a tow. Following this, his partner asks if he should tell the Recipient to call someone, and Sheriff Pereira confirms, stating they can call a cab, or they can give them a courtesy ride. At 2:24 p.m., Sheriff Pereira’s partner returns the Recipient’s registration and insurance and asks if he has anyone he can call or if they can take a cab. A cab company is called, and the officer speaks with them briefly, before asking the Recipient and his passenger to make the arrangements. He then returns to the police vehicle. Then, at 2:28 p.m., Sheriff Pereira states he will check to see if the Recipient and his passenger want to sit in the police vehicle. While at the Recipient’s vehicle, there is some discussion about the vehicle, and why it cannot be started, with Sheriff Pereira again explaining he has had people “take off” on him after the fact. The passenger says something indiscernible and Sheriff Pereira replies, “OK. I’m just offering because it’s warm. Would extend that offer to you guys to stay warm. It’s well within your choice. You’re not handcuffed, you’re not anything, you’re just sitting there to stay warm”. Sheriff Pereira returns to the police vehicle at 2:29 p.m. and tells his partner, “She said she’d rather sit in there in the cold than sit here so that’s fine”.

13. At 2:34 p.m., Sheriff Pereira returns to the Recipient and provides him his paperwork, telling him, "The initial reason for the stop was for the speed. I had you at 145 [km/hr] in a 110 [km/hr] zone. So, you're going to get a ticket for the speed. You're also going to get a ticket today for careless driving. The weather conditions, the speed, heavy traffic, and you're impaired". He goes on to ask the Recipient if he has any questions, and he states he does not. There is some discussion about deadlines to appeal, and the Recipient's passenger asks about their location, presumably for a ride/taxi. Sheriff Pereira can be heard speaking to someone on the phone about how to access their location, and Sheriff Pereira tells the Recipient he can give them a ride to a Tim Hortons. They agree and can be seen collecting items from their vehicle and transferring over to the police vehicle. The video then blurs and mutes at 2:10 p.m., presumably for privacy once they enter the car.
14. In reviewing the Recipient's written materials, he appears to have provided mostly legal arguments. However, he has provided the following evidence of the occurrence itself, stating:
- a. Sheriff Pereira did not explain his legal rights or the breathalyzer procedure at any time, and he felt coerced to provide a sample while under the threat of refusal and the statement that "only six attempts are allowed", despite his medical disclosure of breathing difficulties;
 - b. he advised Sheriff Pereira he was experiencing breathing difficulties due to allergies and the extreme cold;
 - c. Sheriff Pereira refused to allow his passenger to drive the vehicle;
 - d. Sheriff Pereira did not ask his passenger if she was safe or okay at any time, despite prolonged exposure to extreme cold on a highway; and
 - e. after the vehicle was seized, no transportation assistance was offered, and they were "forced to obtain a ride".
15. The Recipient also provided a written statement from his passenger, E.A., who states the Recipient, at all times, appeared safe and in control of the vehicle. E.A. also states she heard the officer tell the Recipient he only had six attempts to provide a sample, and that the test took place outside in cold weather conditions. She states they were left in their vehicle in the extreme cold and that no assistance, alternate transportation or safety instructions were provided. E.A. also states she was not advised of her rights or options as the registered owner of the vehicle, including any right to request a review or appeal.
16. As an aside, although E.A.'s evidence regarding the seizure of her vehicle is not overly relevant to the issuance of the NAP, I note I am able to assess the credibility of any evidence submitted in order to determine how much weight I can assign it and whether it is reliable. On this particular point, I note the video clearly depicts Sheriff Pereira advising E.A. of all aspects of the seizure, along with her right to appeal it, at 2:18 p.m. when explaining all paperwork. This causes me to question the sincerity of E.A.'s statements, and I note I also have similar concerns with the Recipient's evidence, since it is also

apparent from the video that Sheriff Pereira did offer transportation and checking on their well-being through offering them to wait in the police vehicle. I am unclear if the Recipient or E.A. reviewed the audio/video evidence submitted in this Review, but I will rely on it as it provides an unbiased account of the investigation.

SECTION 4(d)(iv): DID THE RECIPIENT NOT HAVE WITHIN 2 HOURS OF CEASING TO OPERATE A MOTOR VEHICLE A BAC EQUAL TO OR EXCEEDING 50 MG%?

17. To succeed at this ground, the Recipient must establish on a balance of probabilities that his BAC was under 50 mg% within two hours of the time of operation.
18. Under this ground, the Recipient has made arguments regarding the breath testing procedure, including the number of attempts, the weather conditions, and the fact no numeric value was recorded.
19. First, for clarity, I note that an ASD will only provide a numeric value if the reading is between 0 and 59 mg%. A “CAU” or “Caution” will be displayed between 60 and 99 mg%, and this is provided in the SafeRoads Alberta Technical Materials Library (“TML”) document, ASD-1 Alco-Sensor FST Operator’s Manual (“ASD-1”).
20. Next, with regard to the ASD’s functionality and the testing conditions, as an adjudicator conducting these reviews, I am aware of the procedure to be followed, including the powering on of the ASD and the self-tests it performs, the placing of a new mouthpiece, and the various sounds an ASD makes over the course of a breath testing sequence. I also rely on the ASD-1, which sets out the prescribed procedure an officer should follow when administering a breath test. In reviewing the video evidence provided by Sheriff Pereira, I find he performed all of the required steps, including asking the Recipient the preliminary subject testing questions, powering the device on, attaching a new, clean mouthpiece, and allowing the ASD to perform its blank tests. In addition, in the video, the ASD can be heard making the appropriate sounds in response to the testing conditions.
21. For example, the ASD can be heard beeping once after it has been powered on and performs its battery and temperature checks, and beeps twice each time it is ready for the Recipient to provide his next attempt. Further, while the Recipient is blowing, a continuous tone is heard, followed by three beeps when each attempt is deemed inadequate. All of this information is contained in ASD-1 and is audible and observable throughout the video. Further, Sheriff Pereira vocalizes to the Recipient that the device is showing “insufficient”, which I accept to be in reference to the messages that can be displayed following an inadequate sample, such as “FLO INS”, which means the breath flow was not consistent to meet sampling requirements.
22. While I acknowledge the testing conditions may have been less than ideal, with the weather being cold and windy, the Recipient stating that he expressed issues with allergies/breathing difficulties, and him taking six attempts prior to providing a suitable sample, the fact remains that a suitable sample was obtained. Considering all of the positive evidence in relation to the functionality of the ASD, Sheriff Pereira following the procedure of ASD-1, and nothing to indicate the ASD was too cold, or failed its blank tests

each time it was powered on, which would have been two times for each set of three attempts, and a third time for the Recipient's seventh attempt, I find the ASD was functioning properly and capable of providing an accurate and reliable reading of the Recipient's breath. I also rely on the photograph evidence of Sheriff Pereira for each ASD used to test the Recipient to indicate the devices were properly calibrated and maintained.

23. Given the evidence before me, I do not find the Recipient has satisfied me that the ASD "CAU" results indicating his BAC was 50 mg% or above were unreliable. As such, the Recipient has failed to establish his BAC was under 50 mg% at the time of driving.
24. The Recipient has not established this ground to cancel.

SECTION 4(f)(vi): WAS THE APPROVED INSTRUMENT OR SCREENING DEVICE USED TO TEST THE RECIPIENT NOT ANNUALLY MAINTAINED OR WAS IT USED OUTSIDE OF ITS CALIBRATION PERIOD?

25. To succeed at this ground, the Recipient must establish on a balance of probabilities at least one of the following: that the testing instrument was not annually maintained or that it was used outside of its calibration period.
26. Although not explicitly argued by the Recipient, I considered this ground out of fairness, as he has indicated concern or hesitation around the ASD testing procedure as a whole, which I accept includes the functionality of the ASD and its maintenance history.
27. Relying on my reasons above, I accept Sheriff Pereira has provided evidence of the ASDs used to test the Recipient, and that the ASDs were properly calibrated and maintained.
28. The Recipient has not established this ground to cancel.

WAS THE RECIPIENT'S RIGHT TO FAIRNESS BREACHED?

29. The Recipient argues that fairness was breached because police error or misconduct resulted in egregious unfairness to the Recipient and his passenger. In particular, the Recipient argues the police acted unreasonably by:
- a. not advising the Recipient of allegations of impaired driving at the time of the stop;
 - b. failing to consider the Recipient's statements of suffering from allergies affecting his breathing throughout breath testing;
 - c. administering the ASD test in improper conditions, resulting in several "insufficient" attempts, despite his best efforts;
 - d. threatening the Recipient with "refusal" if he was unable to produce a suitable sample, and advising him that only six attempts would be afforded;

- e. not advising the Recipient of the basis for the penalties being imposed and the nature of the evidence relied upon, including the “CAU” reading and what it meant;
 - f. leaving the Recipient and his passenger in -20 degree weather, not assessing safety or welfare, where the Recipient experienced symptoms consistent with illness as a result;
 - g. not offering any transportation assistance after the vehicle was immobilized; and
 - h. refusing to allow the sober passenger to drive the vehicle.
30. Regarding any alleged *Charter* breaches, I note I do not have constitutional jurisdiction and therefore cannot declare something to be a breach of the *Charter*. However, I can have reference to the rationales underlying findings of *Charter* breaches for my consideration of whether something constitutes “egregious unfairness”. The purpose of the TSA is to ensure traffic and public safety by removing impaired drivers from the road. NAPs can be cancelled if a recipient establishes a ground to cancel or events occur that are so offensively unfair to warrant cancelling the NAP.
31. In looking at the Recipient’s submissions, I note he has provided citations for several cases that purportedly support his position for one reason or another¹²³⁴. However, upon review of the case citations, I note they do not appear to exist. Each citation provided by the Recipient actually belongs to a completely different case, wholly irrelevant to impaired driving or any of the arguments being made⁵⁶⁷⁸. While it is unclear if the Recipient utilized artificial intelligence to prepare his written materials, as an adjudicator, I am aware of instances of applications such as ChatGPT manufacturing false caselaw and/or case summaries. Regardless, I find the citations provided are unrelated to the matter before me, and I am unable to consider any of the cases provided.
32. Turning back to the Recipient’s arguments, I will first address the allegations of Sheriff Pereira not properly advising or informing him of his investigation and the breath testing procedure, which have been captured under Paragraphs 26a. to 26e, set out above.
33. In reviewing the details of this occurrence, I accept Sheriff Pereira performed a traffic stop on the Recipient for speeding and subsequently went on to administer a mandatory alcohol screening (“MAS”) demand, which he is empowered to do on all motorists, without any suspicion of alcohol consumption. When such a demand is made, a motorist is legally required to comply with it, meaning a suitable sample must be obtained, otherwise they will face a penalty of “refusal” under Section 88.1(e) of the TSA. So, while the Recipient argues the testing was unfair or impractical given the number of failed attempts or him

¹ *R v. Hufsky*, 2008 SCC 33.

² *R v. Beland*, 2010 ONCA 120.

³ *R v. Perrier*, 2011 ABCA 268.

⁴ *R v. Vilcnik*, 2006 SKCA 40.

⁵ *R. v. Wittwer*, 2008 SCC 33.

⁶ *Novotny v. Fowler*, 2010 ONCA 120.

⁷ *Anderson v. Amoco Canada Oil and Gas*, 2011 ABCA 268.

⁸ *R. v. Kong*, 2006 SCC 40.

stating he had issues due to allergies, the testing procedure was required to continue, and a suitable sample was ultimately obtained after seven attempts and a span of about two to three minutes. The Recipient does not appear to ask the officer any questions, either before or during the testing sequence, and when the "CAU" reading is obtained, Sheriff Pereira advises the Recipient, "There is alcohol in your system. I can tell you that right now... So, you are impaired, and right now you're facing a 72-hour licence suspension and a 72-hour vehicle seizure", at which point Sheriff Pereira returns to his police vehicle and completes the necessary paperwork, explaining it to the Recipient in detail later on.

34. With regard to what the Recipient describes as a threat from Sheriff Pereira regarding "refusal", I note it is fairly common for officers to provide a warning to motorists that if they are unable to provide a suitable sample in compliance with the breath demand, they will be charged with failing or refusing to comply, which carries the same penalties as blowing and having a BAC over the legal limit. Having reviewed the breath testing procedure in its entirety, I do not hear Sheriff Pereira mention anything to do with "refusal", however, even if he did, I do not find any such advisement from Sheriff Pereira would have been intended as threatening or menacing, but simply advising the Recipient of the consequences or jeopardy of him not providing a sample in response to his demand. Further, I was not able to hear Sheriff Pereira advise the Recipient that "only six attempts are allowed" and question the reliability of this evidence in light of Sheriff Pereira going on to allow the Recipient a seventh attempt, where a suitable reading was ultimately obtained. Regardless, given the sequence of events depicted on the video, I find Sheriff Pereira conducted a textbook impaired driving investigation and was not required to provide the Recipient with any information over and above what he did provide. Further, I accept the ASD test was conducted appropriately, with Sheriff Pereira operating the ASD properly, and providing ongoing instruction that rendered a suitable sample, and that the Recipient was properly advised of his paperwork and opportunity to perform a roadside appeal test, where that test was conducted properly as well. The Recipient has not satisfied me that there was any egregiousness or unfairness stemming from these allegations.
35. Next, with regard to the allegations made under Paragraphs 26f and 26g above, I acknowledge the weather was cold, as indicated by the Recipient's evidence that the temperature was -22 degrees with a wind chill of -28 degrees. However, I do not agree that Sheriff Pereira failed to assess their safety or welfare, or that he did not offer transportation. Given the circumstances, I can understand why Sheriff Pereira required the Recipient to turn the vehicle off and provide him the keys, as it was a keyless start, and I note this was communicated to the Recipient on two separate occasions. First, at approximately 2:10 p.m., the Recipient exits his vehicle, and Sheriff Pereira explains he needs to have the keys when a comment was made about the cold. Second, at around 2:28 p.m. Sheriff Pereira offers to have the Recipient, and his passenger sit in his patrol car, and again explains the reason their vehicle cannot be started. In reviewing the video, the Recipient's vehicle ignition was turned off at approximately 1:54 p.m. Sheriff Pereira offered to have them sit in his car at 2:29 p.m., and while they initially declined, they ultimately accepted a courtesy ride from Sheriff Pereira when they were unable to secure a taxi, and entered the patrol car at around 2:40 p.m. All in all, the Recipient and his

passenger were left to sit in their vehicle without the engine running for approximately 35 minutes until an offer was made for them to sit in the patrol car. While I acknowledge Sheriff Pereira's offer to have them sit in his vehicle could have come sooner, I note they declined his offer when he made it and remained in their vehicle for a further 10 minutes. I also note that both the Recipient and his passenger were wearing coats and appeared to be dressed appropriately for the weather conditions. Considering the evidence in its totality, while I acknowledge it was less than ideal to sit on the side of the road for this period of time, I am not satisfied that it rises to a level of egregiousness that would warrant the cancellation of the NAP.

36. To be clear, in order to establish the cancellation of the NAP on the basis of egregious unfairness, a recipient must satisfy me that the alleged conduct was so outstandingly bad, shocking, horrifying, or flagrant to rise to the requisite level of egregiousness that it would outweigh the public interest in traffic and public safety promoted by the immediate roadside sanction scheme of the TSA. I am not satisfied the conduct of police as raised by the Recipient resulted in any egregious unfairness.
37. Lastly, and this is more so a technical argument or interpretation of the TSA, is the allegation that Sheriff Pereira erred in failing to allow the Recipient's passenger, who was also the registered owner of the vehicle, drive the vehicle away from the scene and avoid the seizure penalty.
38. On this point, I note the Recipient has cited Sections 77 and 80 of the TSA in relation to vehicle seizures or immobilizations, however, I note the appropriate Section for the seizure of a motor vehicle in relation to an IRS: Warn is Section 88.03.
39. Section 80 of the TSA relates to "sale and rental of vehicles", and as such, I fail to see its relevance and presume it was cited in error. Next, while Section 77 indicates an officer "may" remove a vehicle, which suggests some discretion, it involves stationary vehicles that have been abandoned or left unattended, which is not the proper authority for seizures relating to an IRS: Warn. In reading Section 88.03, which sets out the steps an officer "shall" take when a person has been deemed to have a BAC of 50mg% or more, which is evidenced by a "CAU" reading on an ASD, it states the officer "**shall** seize the driver's motor vehicle for 3 days", being the vehicle involved in the committing the contravention. "Shall" is very different language than "may", and it is, as Sheriff Pereira explains, part of the process, namely, to act as a penalty for the offence and mitigate any repeat offences. As such, I see no egregiousness here, either.
40. For all of the reasons above, the Recipient has not satisfied me that the NAP should be cancelled for egregious unfairness.

DECISION

41. The Recipient must establish a ground to cancel every basis of the NAP. In this case, I have found:

a. NAP for IRS: Warn the Recipient did not establish a ground to cancel

42. The Recipient has failed to establish a ground to cancel. The NAP is confirmed.

43. In accordance with Section 24(2) of the [Provincial Administrative Penalties Act](#), SA 2020, c P-30.8, the Recipient may seek judicial review of this decision no later than 30 days after the date on which the decision or order was received. Please see Appendix C for the full text of Section 24(2).

44. More information about how to seek judicial review may be found at the Alberta Court of King's Bench website here: <https://albertacourts.ca/kb/resources/announcements/filing-procedure-judicial-review-of-saferoads-decisions>.

45. The preferred method of service on the Director for filed documents is via e-mail at jsg.servicehmk@gov.ab.ca. Additional authorized methods of service can be found in Part 11 of the [Alberta Rules of Court](#), Alta Reg 124/2010.

“Original signed by A. Leedham”

Adjudicator A. Leedham

Representation:
J. Dudak, the Recipient

APPENDIX A

ROLE OF THE ADJUDICATOR

An adjudicator with SafeRoads Alberta is delegated the authority to carry out certain functions of the Director under Section 10 of the *Provincial Administrative Penalties Act*, S.A. 2020, c. P-30.8 (“PAPA”). This includes the power to: 1) cancel the Notice of Administrative Penalty (“NAP”) if satisfied on a balance of probabilities that a ground or grounds prescribed in Section 4 of the *SafeRoads Alberta Regulation*, Alta Reg. 224/2020 (the “Regulation”) is met; and 2) confirm the NAP if not so satisfied. An adjudicator is also authorized under Section 21(2) to confirm the NAP with a substituted administrative penalty if the adjudicator is satisfied that the contravention was committed, but finds that previous contraventions attributed to the Recipient had not in fact been committed.

As set out in Section 18(1) of PAPA, the burden of proof in the review is on the Recipient.

An adjudicator does not have authority beyond the powers delegated under PAPA. In particular, there is no authority to cancel the NAP for a ground or grounds not set out in Section 4 of the Regulation. This includes for reasons of hardship, which are not recognized as a ground to cancel in the Regulation.

An adjudicator is not a court of competent constitutional jurisdiction under Section 11 of the *Administrative Procedures and Jurisdiction Act*, RSA 2000, c A-3. Accordingly, an adjudicator does not have the power to find *Charter* breaches, nor grant a *Charter* remedy under Section 24 of the *Charter*. Nevertheless, an adjudicator is required to “balance *Charter* interests or values against (the) statutory mandate.”⁹

In the context of a roadside sanction scheme for the promotion of traffic and public safety, this means that the duty of fairness requires an adjudicator to consider whether the impugned circumstances or police conduct underlying the claimed *Charter* breaches renders the evidence irrelevant or unreliable, such that it would be unfair to consider it or give it any weight.¹⁰ An adjudicator may also cancel the NAP because the adjudicator finds that the circumstances of the NAP are so egregiously unfair that they outweigh the public interest in traffic and public safety.¹¹

⁹ *Borradaile v British Columbia (Superintendent of Motor Vehicles)*, 2020 BCSC 363 at para 21, citing the Supreme Court of Canada in *Dore v Barreau du Quebec*, 2012 SCC 12 and *Loyola High School v Quebec (Attorney General)*, 2015 SCC 12

¹⁰ *Thomson v Alberta (Transportation Safety Board)*, 2003 ABCA 256 at para 69.

¹¹ *Baker v Alberta (Transportation Safety Board)*, 2004 ABQB 244 at paras 63 and 69.

APPENDIX B

EVIDENCE BEFORE THE ADJUDICATOR

INFORMATION FROM POLICE

- Advanced Projects Information System (“APIS”) Contravention Summary
- Notice of Administrative Penalty #C00425003A
- Occurrence Report of Sheriff Pereira
- Officer Notes of Sheriff Pereira
- Officer Notes for Tickets of Sheriff Pereira
- Audio/Video Files (6)
- Records pertaining to Approved Screening Device (ASD/FST) #255718
- Records pertaining to Approved Screening Device (ASD/FST) #255771
- Violation Ticket – Speeding
- Violation Ticket – Careless Driving
- Operator’s Licence
- Roadside Appeal Form – System Generated
- Roadside Appeal Form – Signed
- Seizure Notice – Driver Copy – System Generated

INFORMATION FROM THE RECIPIENT

- Application for Review filed December 13, 2025, including “Grounds for Review” and “Additional Request Notes”
- “Weather and Driving Documentation” filed December 15, 2025
- “Emily Witness Statement” filed December 15, 2025
- “REQUEST FOR REVIEW_20251215” filed December 15, 2025
- “Legal Context of BAC Validity” filed December 15, 2025
- “Relevant Canadian Case Law Supporting Written Review” filed December 27, 2025

PAPA SECTION 4 TECHNICAL MATERIALS

- The SafeRoads Alberta technical materials library, which may be accessed at:
<https://saferoads.alberta.ca/technical-material>.

APPENDIX C

RIGHT OF JUDICIAL REVIEW

Provincial Administrative Penalties Act, S.A. 2020, c. P-30.8

Judicial review

24(1) Subject to subsection (2), no decision or order of the Director or adjudicator is to be questioned or reviewed in any court by application for judicial review or otherwise, and no order is to be made, process entered or proceedings taken in any court whether by way of certiorari, injunction, declaratory judgment, prohibition, mandamus, quo warranto, application to quash or set aside or otherwise, to question, review, prohibit or restrain any decision or order of the Director or adjudicator or any of the Director's or adjudicator's proceedings.

(2) A decision or order of the Director or adjudicator may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the application is filed with the Court of King's Bench and served on the Director or adjudicator no later than 30 days after the date on which the decision or order was received by the applicant.

(3) On an application for judicial review under subsection (2), the standard of review is reasonableness.