

CHAPTER 13

DIVISION OF MOTOR VEHICLES CASES

Authority

N.J.S.A. 52:14F-5(e), (f) and (g).

Source and Effective Date

R.1992 d.213, effective April 21, 1992. See: 24 N.J.R. 321(a), 24 N.J.R. 1873(b).

Executive Order No. 66(1978) Expiration Date

Chapter 13, Division of Motor Vehicles Cases, expires on April 21, 1997.

Chapter Historical Note

Chapter 13, Division of Motor Vehicle Cases, was adopted as R.1987 d.200, effective May 4, 1987 but operative July 1, 1987. See: 18 N.J.R. 728(a), 18 N.J.R. 1728(a), 19 N.J.R. 715(a). Pursuant to Executive Order No. 66(1978), Chapter 13 was readopted as R.1992 d.213. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. APPLICABILITY

1:13-1.1 Applicability

(a) The rules of this chapter shall apply to hearings transmitted by the Division of Motor Vehicles (DMV) except fatal accident cases, which shall be conducted in accordance with N.J.S.A. 39:5-30(b) and (e).

(b) Any aspect of the hearing not covered by these special hearing rules shall be governed by the Uniform Administrative Procedure Rules (U.A.P.R.) contained in N.J.A.C. 1:1. To the extent that these rules are inconsistent with the U.A.P.R., these rules shall apply.

Amended by R.1990 d.220, effective May 7, 1990.

See: 22 N.J.R. 91(a), 22 N.J.R. 1353(b).

In (a): stylistic revisions and added in new (a)3.

Amended by R.1991 d.330, effective July 1, 1991.

See: 23 N.J.R. 928(a), 23 N.J.R. 2010(a).

Deleted (a)1-3, regarding specific transmissions, thereby expanding application of rules to all motor vehicle hearings except fatal accident cases.

SUBCHAPTERS 2 THROUGH 3. (RESERVED)

SUBCHAPTER 4. AGENCY RESPONSIBILITY BEFORE TRANSMISSION TO THE OFFICE OF ADMINISTRATIVE LAW

1:13-4.1 Agency conference; failure to reach settlement

(a) The Division of Motor Vehicles shall, pursuant to N.J.A.C. 13:19-1.2, conduct a conference in any case where the hearing request sets forth disputed material facts which the licensee intends to raise at the hearing. The conference shall be conducted pursuant to N.J.A.C. 13:19-1.3 through 13:19-1.8. If the hearing request does not set forth disputed material facts but does present legal issues and arguments, the Director of the DMV may decide the case based upon the written record, may schedule a conference pursuant to N.J.A.C. 13:19-1.3 through 13:19-1.8 or may transmit the matter directly to the OAL for a hearing.

(b) If settlement is not reached, the parties shall use the conference to prepare the issues and evidence for the hearing, including:

1. Ascertaining whether the licensee disputes any facts recorded on the licensee's record abstract issued by DMV, and, if so, which facts and on what basis;
2. Ascertaining whether the licensee disputes the severity of the action proposed by DMV, and, if so, on what basis;
3. Ascertaining any discovery needs of the licensee; and

4. Ascertaining in excessive points cases whether the licensee is entitled to a time credit and, if so, the length thereof.

(c) At or forthwith after the conference, DMV shall supply the licensee with any material requested pursuant to N.J.A.C. 1:13-10.1 (Discovery), or any other appropriate documents.

(d) If settlement is not reached, DMV shall transmit the case to the Office of Administrative Law, including the documents set forth in N.J.A.C. 1:13-14.3(b) and (c).

(e) The licensee may accept the settlement offers by DMV by notifying the judge at any time before the hearing begins unless the Division has notified the licensee that the offer has been withdrawn because of changed circumstances or the discovery of additional information.

Amended by R.1991 d.330, effective July 1, 1991.

See: 23 N.J.R. 928(a), 23 N.J.R. 2010(a).

In (a), conformed text with N.J.A.C. 13:19-1.2 through 1.8. Added (e).

SUBCHAPTERS 5 THROUGH 9. (RESERVED)

SUBCHAPTER 10. DISCOVERY

1:13-10.1 Discovery in excessive points and surcharge cases

(a) Discovery in excessive points and surcharge cases shall be limited to the records of DMV with respect to the case. The records shall include a certified copy of the licensee's driving record abstract, relevant notices and orders of suspension, and certified proof of relevant mailings to the licensee. In surcharge cases, when the licensee is contesting the validity of any conviction or administrative suspension entered on the surcharge bill, the records shall also include any documentary evidence in the possession of DMV which supports the contested entry.

(b) DMV shall supply the licensee with a copy of the records set forth in N.J.A.C. 1:13-10.1(a).

(c) The licensee may make any discovery request either as part of the licensee's request to DMV for a hearing or at any pretransmission conference conducted by DMV.

Amended by R.1990 d.220, effective May 7, 1990.

See: 22 N.J.R. 1353(b).

Added technical change with language; "in excessive points and surcharge cases".

SUBCHAPTERS 11 THROUGH 13. (RESERVED)

SUBCHAPTER 14. CONDUCT OF CASES

1:13-14.1 Proceeding on the papers

DMV excessive points and surcharge cases may be conducted as proceedings on the papers, in accordance with N.J.A.C. 1:1-14.8.

1:13-14.2 Certification

(a) The licensee may return a completed certification to the Clerk pursuant to N.J.A.C. 1:1-14.8.

(b) In excessive points cases, the licensee shall indicate in the certification whether he or she disputes the facts recorded on the licensee's driving abstract issued by DMV or disputes the severity of the sanction proposed by DMV, or both, or wants to raise any other relevant issues.

(c) In surcharge cases, the licensee shall explain in the certification why the surcharge is not required or inaccurately calculated.

1:13-14.3 In-person hearings; telephone hearings

(a) If an in-person or telephone hearing is held, as provided by N.J.A.C. 1:1-14.8, such proceeding will be a summary hearing without any personal appearance by a DMV representative.

(b) In excessive points cases, DMV's case will be based on the licensee's driving record, the prehearing conference report, relevant notices and orders of suspension, certified proof of relevant mailings to the licensee, and any other documentary evidence or legal briefs necessary.

(c) In surcharge cases, DMV's case will be based on the documents in (b) above, and shall also include the surcharge bill and, if the licensee is contesting the validity of any conviction or administrative suspension entered on the surcharge bill, documentary evidence in the possession of DMV which supports the contested entry.

1:13-14.4 Failure to appear

If the licensee fails to appear at the hearing and fails to submit the certification required by N.J.A.C. 1:13-14.2, the provisions of N.J.A.C. 1:1-14.4 shall apply.

New Rule, R.1990 d.220, effective May 7, 1990.

See: 22 N.J.R. 91(a), 22 N.J.R. 1353(b).

Amended by R.1991 d.279, effective June 3, 1991 (operative July 1, 1991).

See: 23 N.J.R. 639(a), 23 N.J.R. 1786(a).