

Recodified from N.J.A.C. 14:7-2.4 and amended by R.2009 d.69, effective March 2, 2009.

See: 40 N.J.R. 4915(a), 41 N.J.R. 1083(a).

Section was "Procedures for assessment and payment of civil administrative penalties". Rewrote the section. Former N.J.A.C. 14:7-2.5, Procedures to request an adjudicatory hearing to contest an administrative order and notice of civil administrative penalty assessment and procedures for conducting adjudicatory hearings, recodified to N.J.A.C. 14:7-2.6.

14:7-2.6 Adjudicatory hearings

(a) To request an adjudicatory hearing to contest an Administrative Order and Notice of Civil Administrative Penalty Assessment issued pursuant to this subchapter, the alleged violator shall submit the following information in writing to the Secretary of the Board, Attention: Adjudicatory Hearing Request/Pipeline Safety, Board of Public Utilities, Two Gateway Center, Newark, New Jersey 07102:

1. The name, address and telephone number of the alleged violator and its authorized representative;
2. The alleged violator's defenses, stated in short and plain terms, to each of the Board's preliminary findings of fact contained in the Administrative Order and Notice of Civil Administrative Penalty Assessment;
3. An admission or denial of each of the Board's preliminary findings of fact contained in the Administrative Order and Notice of Civil Administrative Penalty Assessment. If the alleged violator is without knowledge or information sufficient to form a belief as to the truth of a finding, the alleged violator shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the alleged violator intends, in good faith, to deny only a part of or qualify a finding, the alleged violator shall specify so much of it as true and material and deny only the remainder. The alleged violator may not generally deny all of the findings but shall make all denials as specific denials of designated findings. For each finding denied, the alleged violator shall allege the fact or facts as the alleged violator believes it or them to be;
4. Information supporting the request and specific reference to or copies of other written documents relied upon to support the request;
5. An estimate of the time required for the hearing (in days and/or hours); and
6. A request, if necessary, for a barrier-free hearing location to accommodate physically disabled persons.

(b) If the Board does not receive the hearing request within 20 days after service on the violator of the Administrative Order and Notice of Civil Administrative Penalty Assessment being challenged, the Board shall deny the hearing request.

(c) If the alleged violator fails to include all the information required by (a) above or if upon review of the submis-

sion, the Board determines that there is no dispute of material facts, the Board may deny the hearing request.

(d) All adjudicatory hearings shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rule, N.J.A.C. 1:1.

Amended by R.1998 d.146, effective March 16, 1998.

See: 29 N.J.R. 5184(a), 30 N.J.R. 1050(a).

In (a), substituted a reference to N.J.S.A. 48:9-33 for a reference to the Act.

Recodified from N.J.A.C. 14:7-2.5 and amended by R.2009 d.69, effective March 2, 2009.

See: 40 N.J.R. 4915(a), 41 N.J.R. 1083(a).

Section was "Procedures to request an adjudicatory hearing to contest an administrative order and notice of civil administrative penalty assessment and procedures for conducting adjudicatory hearings". In the introductory paragraph of (a), substituted "this subchapter" for "N.J.S.A. 48:9-33"; in (a)2 and (a)3, inserted "preliminary"; in (b), substituted "service on" for "receipt by", and in (c), inserted "or if upon review of the submission, the Board determines that there is no dispute of material facts". Former N.J.A.C. 14:7-2.6, Civil administrative penalty determination, recodified to N.J.A.C. 14:7-2.7.

14:7-2.7 Civil administrative penalty determination

(a) The Board may assess a civil administrative penalty of not more than \$100,000 for each violation, for each day the violation persists, up to a maximum of \$1,000,000 for any related series of violations, against each person who violates the provisions of any law, rule, regulation or order relating to natural gas pipeline safety, including violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq., pertaining to natural gas pipeline safety, gas pipeline distribution facilities, hazardous liquid underground pipelines or hazardous liquid distribution facilities.

(b) In determining the amount of the civil administrative penalty assessed, or an amount agreed upon in compromise, the Board shall consider:

1. The nature, circumstances and gravity of the violation(s);
2. The degree of the violator's culpability;
3. Any history of prior violations;
4. The prospective effect of the penalty upon the ability of the violator to conduct business;
5. Any good faith effort by the violator to achieve compliance;
6. The violator's ability to pay the penalty; and
7. Any other factors justice may require.

(c) Neither the assessment of a civil administrative penalty nor the payment of any such civil administrative penalty shall be deemed to affect the availability of any other enforcement provision provided for by law, in connection with the violation for which the assessment is levied.

Recodified from N.J.A.C. 14:7-2.6 and amended by R.2009 d.69, effective March 2, 2009.
See: 40 N.J.R. 4915(a), 41 N.J.R. 1083(a).

In (a), substituted "\$100,000" for "\$25,000", "\$1,000,000" for "\$500,000", "N.J.S.A. 48:2-73 et seq." for "(P.L. 1994, c.118)", and inserted ", gas pipeline distribution facilities, hazardous liquid underground pipelines or hazardous liquid distribution facilities".