

CHAPTER 33
ENERGY FACILITY REVIEW BOARD

Authority

N.J.S.A. 52:27F-11g, 52:27F-15(c) and 48:2-12.

Source and Effective Date

R.1995 d.69, effective January 12, 1995.
See: 26 N.J.R. 4484(a), 27 N.J.R. 503(b).

Executive Order No. 66(1978) Expiration Date

Chapter 33, Energy Facility Review Board, expires on January 12, 2000.

Chapter Historical Note

Chapter 33, Energy Facility Review Board, was adopted as R.1990 d.29 and was originally codified as Chapter 8 of Title 14A (N.J.A.C. 14A:8), effective January 16, 1990. See: 21 N.J.R. 2009(a), 22 N.J.R. 244(a). Prior rules at Chapter 8, Energy Facility Review Board, expired on September 20, 1989.

Pursuant to Executive Order No. 66(1978), Chapter 8 was readopted as R.1995 d.69. See: Source and Effective Date. As a part of R.1995 d.69, Chapter 8 was recodified as Chapter 33 of Title 14, effective February 6, 1995. See: 26 N.J.R. 4484(a), 27 N.J.R. 503(b). See, also, section annotations.

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SUBCHAPTER 1. RULES OF PROCEDURE

14:33-1.1 Scope

Unless otherwise provided by statute or rule, the following rules shall govern the procedures of an Energy Facility Review Board established pursuant to N.J.S.A. 52:27F-15(c).

14:33-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Application” means any application, and all papers, documents and materials appurtenant thereto, submitted to a State instrumentality for any permit for the construction or location of any energy facility.

“Board” means an Energy Facility Review Board established pursuant to N.J.S.A. 52:27F-15(c).

“Department” means the Board of Public Utilities.

“Energy facility” means any plant or operation which produces, converts, distributes or stores energy or converts one form of energy to another.

“Director’s report” means the report, prepared by the Director of the Division of Energy Planning and Conservation pursuant to N.J.S.A. 52:27F-15(c), describing the findings of the Department with respect to an application.

“State instrumentality” means any State Department, division, commission, authority, council, agency or board charged with the regulation, supervision or control of any business, industry or utility engaged in the production, processing, distribution, transmission or storage of energy in any form.

14:33-1.3 Function of Board

In the event that the views of the Department, as contained in the Director’s report, with respect to an application differ from the views of the State instrumentality with the power of approval over such application, an Energy Facility Review Board shall be established. The Board created with respect to a specific application shall meet within 30 days of the issuance of a final decision by the State instrumentality with the power of approval over the application.

14:33-1.4 Membership of Board; chairman

The membership of the Board shall consist of the Director of the Division of Energy Planning and Conservation in the Department, the director or chief executive officer of the State instrumentality with the power of approval over the application, and a designee of the Governor. The designee of the Governor shall be the chairman.

14:33-1.5 Assistance to Board by staff of Department

The Board shall receive such assistance from the staff of the Department as the Board deems necessary to carry out its duties.

14:33-1.6 Correspondence with the Board

All correspondence with the Board shall be addressed to:

Secretary
Board of Public Utilities

Two Gateway Center
Newark, N.J. 07102

Amended by R.1995 d.69, effective February 6, 1995.
See: 26 N.J.R. 4484(a), 27 N.J.R. 503(b).

14:33-1.7 Notice of meetings of Board

Pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., the secretary of the Board shall give written advance notice of at least 48 hours of the time, date, location and, to the extent known, the agenda of any meeting of the Board, and shall state whether formal action may be taken. Such notice shall be delivered to all newspapers and wire services maintaining an office at the State House, in Trenton. Such notice shall be filed with the clerks of the municipality and of the county in which the proposed energy facility is to be constructed or located. Two copies of such notice shall be delivered to the Secretary of State, one for posting and one for filing.

14:33-1.8 Minutes of meetings of Board

A certified shorthand reporter shall prepare a transcript of any meeting of the Board, which shall show the time and place of the meeting, the members present, the subjects considered, the actions taken, and the vote of each member. The transcript shall constitute the minutes of the meeting. The secretary of the Board shall promptly make such transcript available for public inspection.

14:33-1.9 Review of record by Board

(a) Review by the Board shall be limited to a review of the record. The record before the Board shall consist of and be limited to:

1. The application, the final decision of the State instrumentality with the power of approval over the application and the entire record made by the State instrumentality with respect to the application; and

2. The Director's report and the record of any hearing conducted in connection with the preparation of the report.

14:33-1.10 Decision of Board

(a) The Board may affirm, reverse, or modify the final decision of the State instrumentality with the power of approval over the application.

(b) The Board shall issue its decision at a meeting conforming to the requirements of the Open Public Meetings Act no later than 90 days after the close of the Board's meeting concerning a specific energy facility application.

(c) The decision of the Board created with respect to a specific energy facility application:

1. Shall be binding with respect to such facility and shall be implemented forthwith by the State instrumentality with the power of approval over such application; and

2. Shall be deemed final agency action concerning the application.

14:33-1.11 Procedures governing the review of particular categories of applications

The Department may enter into Memoranda of Understanding with other State instrumentalities to establish procedures governing the review of particular categories of applications.