

SUBCHAPTER 7 ADJUDICATORY HEARINGS

7:45-7.1 Request for an adjudicatory hearing

- (a) Subject to the limitations of (h) below, a person, including a municipality, county, or municipal or county approving agency, may request an adjudicatory hearing to contest a decision on an application for an individual approval, a waiver, or authorization under a general permit.
- (b) To contest a decision listed at (a) above, a person shall submit a hearing request within 30 calendar days after receipt of the notice of decision under N.J.A.C. 7:45-3.6 or 12.2(c). If a person submits the hearing request after this time, the Commission shall deny the request.
- (c) A request for an adjudicatory hearing shall be submitted to the Commission at the address at N.J.A.C. 7:45-1.2(b) and shall set forth:
 1. The name, address and daytime telephone number of the person requesting the hearing;
 2. The date the person requesting the hearing received notice of the decision contested;
 3. The project number, as provided by the Commission;
 4. When the request is submitted by someone other than the applicant or permittee or his or her agent, evidence that a copy of the hearing request has been mailed to the applicant;
 5. The names and addresses of each person whom the requester represents, if other than the applicant or permittee;
 6. A copy of the Commission notice or decision for which a hearing is being requested;
 7. An estimate of the number of days required for to hear the appeal;
 8. A specific admission, denial or explanation of each fact appearing in the Commission notice or decision or a statement that the person is without knowledge thereof;
 9. A statement of each legal or factual question alleged to be at issue, and the relevance of that question to the decision; and
 10. Information supporting the request or other written documents relied upon to support the request, unless those documents are already in the possession of the Commission;
- (d) In some cases, a hearing request may result in a stay of operation of a general permit or individual approval being appealed, as follows:
 1. If a permittee requests a hearing to appeal any portion of its permit, the hearing request shall automatically stay operation of the permit, unless the permittee shows good cause in writing why the permit should continue in effect while being contested. All permitted activities shall stop upon the date the hearing request is submitted, and shall not be started again until the matter is resolved, unless the Commission grants an exception in writing; and
 2. If a person other than the permittee requests a hearing on a permit, the requester may include with the hearing request a request for a stay of the permit. The Commission shall stay operation of the permit only upon its determination that good cause exists. If a stay is imposed, all permitted activities shall stop upon the date the stay is imposed, and shall not be started again until the matter is resolved, unless the Commission grants an exception in writing.
- (e) The Commission shall notify the requester in writing if the request for a hearing is granted and, if denied, the reasons why. If a hearing request is granted, the Commission shall refer the matter to the Office of Administrative Law for an adjudicatory hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1

- (f) At the conclusion of any adjudicatory hearing in the Office of Administrative Law, the administrative law judge will submit an initial decision to the Commission. The Commission shall issue a final decision affirming, rejecting or modifying the initial decision, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.
- (g) The Commission's decision under (f) above shall be considered final agency action for the purposes of the Administrative Procedure Act, and shall be subject only to judicial review in the Appellate Division of the Superior Court, as provided in the Rules of Court.
- (h) Nothing in this section shall be construed to provide a right to an adjudicatory hearing in contravention of the Administrative Procedure Act, N.J.S.A. 52:14B-3.1 through 3.3.

