

§2751-B. Administrative penalties; opportunity to request hearing; notice of alleged violation and rights; requesting or waiving hearing

Before a final administrative penalty may be assessed against a person under section 2751-A, the person must be given an opportunity for a hearing after reasonable notice. Notwithstanding any provision of Title 5, section 9052 to the contrary, the Commissioner of Agriculture, Conservation and Forestry, referred to in this section as "the commissioner," shall use the following procedures in providing to a person notice of the violation or violations alleged and the opportunity to request a hearing. [PL 2025, c. 193, §5 (NEW).]

1. Notice. Notice must be served by personal service or by certified mail sent to the last address of record of the person on file with the Department of Agriculture, Conservation and Forestry, referred to in this section as "the department." If the person is not an applicant for or holder of a license, permit, registration or certification issued by the department, the notice must be served by personal service or by certified mail, return receipt requested. The notice must include:

A. A statement of the legal authority and jurisdiction under which the hearing is to be held; [PL 2025, c. 193, §5 (NEW).]

B. A statement of the matter at issue, including reference to the particular statute or administrative rule allegedly violated and a factual description of the alleged violation; [PL 2025, c. 193, §5 (NEW).]

C. The amount of the proposed administrative penalty and required corrective action, abatement or mitigation; [PL 2025, c. 193, §5 (NEW).]

D. A warning that the decision will become final and the penalty will be imposed if a hearing is not requested within 15 days of service of the notice, which must specify the steps a person must take to avoid waiving the right to a hearing; and [PL 2025, c. 193, §5 (NEW).]

E. Information regarding the manner of payment if the person elects to pay the penalty and waive the right to a hearing. [PL 2025, c. 193, §5 (NEW).]
[PL 2025, c. 193, §5 (NEW).]

2. Time for requesting hearing; written request required. A person who receives notification pursuant to this section is deemed to have waived the right to a hearing unless, within 15 days of service of the notice, the person requests a hearing in writing.
[PL 2025, c. 193, §5 (NEW).]

3. Waiver of right to hearing; final administrative penalty by default. If a person waives the right to a hearing, the commissioner shall by default issue a final administrative penalty under section 2751-A against the person for the violations alleged and imposing the penalty and any required corrective action, abatement or mitigation. A copy of the final administrative penalty must be served upon the person by personal service or by certified mail, return receipt requested.
[PL 2025, c. 193, §5 (NEW).]

SECTION HISTORY

PL 2025, c. 193, §5 (NEW).

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