

§ 20-183.8G. Administrative and judicial review.

(a) Right to Hearing. – A person who applies for a license or registration under this Part or who has a license or registration issued under this Part has the right to a hearing when any of the following occurs:

- (1) The Division denies the person's application for a license or registration.
- (2) The Division delivers to the person a written statement of charges of a violation that could result in the suspension or revocation of the person's license.
- (3) The Division summarily suspends or revokes the person's license following review and authorization of the proposed adverse action by a judge.
- (4) The Division assesses a civil penalty against the person.
- (5) The Division issues a warning letter to the person.
- (6) The Division cancels the person's registration.

(b) Hearing After Statement of Charges. – When a license holder receives a statement of charges of a violation that could result in the suspension or revocation of the person's license, the person can obtain a hearing by making a request for a hearing. The person must make the request to the Division within 10 days after receiving the statement of the charges. A person who does not request a hearing within this time limit waives the right to a hearing.

The Division must hold a hearing requested under this subsection within 30 days after receiving the request, unless the matter is continued for good cause. The hearing must be held at the location designated by the Division. Suspension or revocation of the license is stayed until a decision is made following the hearing.

If a person does not request a hearing within the time allowed for making the request, the proposed suspension or revocation becomes effective the day after the time for making the request ends. If a person requests a hearing but does not attend the hearing, the proposed suspension or revocation becomes effective the day after the date set for the hearing.

(c) Hearing After Summary Action. – When the Division summarily suspends a license issued under this Part after judicial review and authorization of the proposed action, the person whose license was suspended or revoked may obtain a hearing by filing with the Division a written request for a hearing. The request must be filed within 10 days after the person was notified of the summary action. The Division must hold a hearing requested under this subsection within 14 days after receiving the request.

(d) All Other Hearings. – When this section gives a person the right to a hearing and subsection (b) or (c) of this section does not apply to the hearing, the person may obtain a hearing by filing with the Division a written request for a hearing. The request must be filed within 10 days after the person receives written notice of the action for which a hearing is requested. The Division must hold a hearing within 90 days after the Division receives the request, unless the matter is continued for good cause.

(e) Review by Commissioner. – The Commissioner may conduct a hearing required under this section or may designate a person to conduct the hearing. When a person designated by the Commissioner holds a hearing and makes a decision, the person who requested the hearing has the right to request the Commissioner to review the decision. The procedure set by the Division governs the review by the Commissioner of a decision made by a person designated by the Commissioner.

(f) Decision. – Upon the Commissioner's review of a decision made after a hearing on the imposition of a monetary penalty against a motorist for an emissions violation or on a Type I, II, or III violation by a license holder, the Commissioner must uphold any monetary penalty, license suspension, license revocation, or warning required by G.S. 20-183.7A, G.S. 20-183.8A or G.S. 20-183.8B, respectively, if the decision is based on evidence presented at the hearing

that supports the hearing officer's determination that the motorist or license holder committed the act for which the monetary penalty, license suspension, license revocation, or warning was imposed. Pursuant to the authority under G.S. 20-183.7A(c) and G.S. 20-183.8B(c), the Commissioner may order a suspension for a first occurrence Type I violation of a station to be stayed upon reasonable compliance terms to be determined by the Commissioner. Pursuant to the authority under G.S. 20-183.7A(d1) and G.S. 183.8B(c2), the Commissioner may order the suspensions against a license holder to run consecutively or concurrently. The Commissioner may uphold, dismiss, or modify a decision made after a hearing on any other action.

(g) Judicial Review. – Article 4 of Chapter 150B of the General Statutes governs judicial review of an administrative decision made under this section. (1993 (Reg. Sess., 1994), c. 754, s. 1; 1997-29, s. 10; 1999-328, s. 3.14; 1999-456, s. 69; 2009-550, s. 3.1; 2011-145, s. 28.23B(b); 2013-302, s. 6; 2014-58, s. 1.)