

§ 113A-122. Procedures for hearings on permit decisions.

(a) Repealed by Session Laws 1987, c. 827, s. 140.
(b) The following provisions shall be applicable in connection with hearings pursuant to this section:

- (1), (2) Repealed by Session Laws 1987, c. 827, s. 140.
- (3) A full and complete record of all proceedings at any hearing under this section shall be taken by a reporter appointed by the Commission or by other method approved by the Attorney General. Any party to a proceeding shall be entitled to a copy of such record upon the payment of the reasonable cost thereof as determined by the Commission.
- (4) to (6) Repealed by Session Laws 1987, c. 827, s. 140.
- (7) The burden of proof at any hearing on a decision granting a permit shall be upon the person who requested the hearing.
- (8), (9) Repealed by Session Laws 1987, c. 827, s. 140.
- (10) The Commission shall grant or deny the permit in accordance with the provisions of G.S. 113A-120. All such orders and decisions of the Commission shall set forth separately the Commission's findings of fact and conclusions of law and shall, wherever necessary, cite the appropriate provision of law or other source of authority on which any action or decision of the Commission is based.
- (11) The Commission shall have the authority to adopt a seal which shall be the seal of said Commission and which shall be judicially noticed by the courts of the State. Any document, proceeding, order, decree, special order, rule, rule of procedure or any other official act or records of the Commission or its minutes may be certified by the Executive Director under his hand and the seal of the Commission and when so certified shall be received in evidence in all actions or proceedings in the courts of the State without further proof of the identity of the same if such records are competent, relevant and material in any such action to proceedings. The Commission shall have the right to take official notice of all studies, reports, statistical data or any other official reports or records of the federal government or of any sister state and all such records, reports and data may be placed in evidence by the Commission or by any other person or interested party where material, relevant and competent.

(c) Failure of the Commission to approve or deny an application for a permit pursuant to this section within 75 days from receipt of application shall be treated as approval of the application, except the Commission may extend the deadline by not more than an additional 75 days in exceptional cases.

Failure of the Commission to dispose of an appeal pursuant to this section within 90 days from notice of appeal shall be treated as approval of the action appealed from, except that the Commission may extend the deadline by not more than an additional 90 days if necessary to properly consider the appeal.

(d) All notices which are required to be given by the Secretary or Commission or by any party to a proceeding under this section shall be given by registered or certified mail to all persons entitled thereto. The date of receipt or refusal for such registered or certified mail shall be the date when such notice is deemed to have been given. Notice by the Commission may be given to any person upon whom a summons may be served in accordance with the provisions of law covering civil actions in the superior courts of this State. The Commission may prescribe

the form and content of any particular notice. (1973, c. 1284, s. 1; 1979, c. 253, s. 6; 1981, c. 913, ss. 4-6; 1983, c. 172, s. 2; 1987, c. 827, s. 140.)