§ 131E-185. Review process.

(a) Repealed by Session Laws 1987, c. 511, s. 1.

(a1) Except as provided in subsection (c) of this section, there shall be a time limit of 90 days for review of the applications, beginning on the day established by rule as the day on which applications for the particular service in the service area shall begin review.

(1) Any person may file written comments and exhibits concerning a proposal under review with the Department, not later than 30 days after the date on which the application begins review. These written comments may include:
   a. Facts relating to the service area proposed in the application;
   b. Facts relating to the representations made by the applicant in its application, and its ability to perform or fulfill the representations made;
   c. Discussion and argument regarding whether, in light of the material contained in the application and other relevant factual material, the application complies with relevant review criteria, plans, and standards.

(2) No more than 20 days from the conclusion of the written comment period, the Department shall ensure that a public hearing is conducted at a place within the appropriate service area if one or more of the following circumstances apply; the review to be conducted is competitive; the proponent proposes to spend five million dollars ($5,000,000) or more; a written request for a public hearing is received before the end of the written comment period from an affected party as defined in G.S. 131E-188(c); or the agency determines that a hearing is in the public interest. At such public hearing oral arguments may be made regarding the application or applications under review; and this public hearing shall include the following:
   a. An opportunity for the proponent of each application under review to respond to the written comments submitted to the Department about its application;
   b. An opportunity for any person, except one of the proponents, to comment on the applications under review;
   c. An opportunity for a representative of the Department, or such other person or persons who are designated by the Department to conduct the hearing, to question each proponent of applications under review with regard to the contents of the application;

   The Department shall maintain a recording of any required public hearing on an application until such time as the Department's final decision is issued, or until a final agency decision is issued pursuant to a contested case hearing, whichever is later; and any person may submit a written synopsis or verbatim statement that contains the oral presentation made at the hearing.

(3) The Department may contract or make arrangements with a person or persons located within each service area for the conduct of such public hearings as may be necessary. The Department shall publish, in each service area, notice of the contracts that it executes for the conduct of those hearings.

(4) Within 15 days from the beginning of the review of an application or applications proposing the same service within the same service area, the

Department shall publish notice of the deadline for receipt of written comments, of the time and place scheduled for the public hearing regarding the application or applications under review, and of the name and address of the person or agency that will preside.

(5) The Department shall maintain all written comments submitted to it during the written comment stage and any written submissions received at the public hearing as part of the Department's file respecting each application or group of applications under review by it. The application, written comments, and public hearing comments, together with all documents that the Department used in arriving at its decision, from whatever source, and any documents that reflect or set out the Department's final analysis of the application or applications under review, shall constitute the Department's record for the application or applications under review.

(a2) When an expedited review has been approved by the Department, no public hearing shall be held. The Department may contact the applicant and request additional or clarifying information, amendments to, or substitutions for portions of the application. The Department may negotiate conditions to be imposed on the certificate of need with the applicant.

(b) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 900, s. 137(a).

(c) The Department may extend the review period for a period not to exceed 60 days and provide notice of such extension to all applicants. For expedited reviews, the Department may extend the review period only if it has requested additional substantive information from the applicant. (1977, 2nd Sess., c. 1182, s. 2; 1981, c. 651, ss. 9, 10; 1983, c. 775, s. 1; 1987, c. 511, s. 1; 1991, c. 692, s. 7; 1991 (Reg. Sess., 1992), c. 900, s. 137(a), (b); 1993, c. 7, s. 8; 2005-325, s. 4.)