

15A NCAC 05H .0807 COMMISSION'S DECISION

(a) The Commission shall determine whether or to what extent to preempt the ordinance to allow for the construction or operation of oil or gas exploration, development, or production activities in accordance with G.S. 113-415.1. In the event the Commission makes all four findings required by G.S. 113-415.1(d) and determines that the provisions of the ordinance are severable, the Commission may determine that a specific provision, rather than the entire ordinance, is preempted.

(b) A decision shall be based on:

- (1) admissible evidence and arguments presented during the hearing and made part of the official record;
- (2) stipulations of fact;
- (3) matters officially noticed; and
- (4) other items in the official record.

(c) A decision shall dispose of all issues required to resolve the case and shall contain:

- (1) a caption;
- (2) the appearance of the parties;
- (3) a statement of the issues;
- (4) references to the specific provisions of the ordinance at issue;
- (5) findings of fact, with specific reasons given for findings on disputed facts;
- (6) conclusions of law based on the findings of fact and applicable constitutional principles, statutes, rules, or regulations;
- (7) a final determination that the challenged ordinance, or specific parts thereof, is or is not preempted with respect to the proposed activity; and
- (8) a statement that each party has the right to appeal the final decision.

*History Note: Authority G.S. 113-415.1; 150B, Article 3;
Eff. March 17, 2015.*