

SECTION .0300 - VARIANCES

15A NCAC 05H .0301 VARIANCE PROCEDURES

(a) The Commission may grant a variance, grant a variance with conditions, or deny a variance in writing to any Commission rule for which a variance is requested pursuant to this Subchapter. In order for the Commission to grant a variance or grant a variance with conditions, the Commission shall find:

- (1) the applicant or permittee has made a good faith effort to comply, or is unable to comply, with the specific requirements contained in the rule or rules from which it seeks a variance;
- (2) the variance, if granted provides equal or greater protection of public health, safety, and the environment; and
- (3) the requested variance does not violate the basic intent of the Oil and Gas Conservation Act in G.S. 113, Article 27.

(b) The applicant or permittee shall request the variance by submitting a written request to the Commission, as set forth in Rule .0703 of this Subchapter. A request for a variance shall include the following information:

- (1) the name and address of the requesting party;
- (2) the rule authorizing the request for a variance;
- (3) all information required by the statute or rule authorizing the request for a variance;
- (4) a statement of whether an oral argument before the Commission is desired, and if so, the reason(s) for requesting such an oral argument;
- (5) a concise statement of the matter to be presented, including the nature and duration of the variance requested;
- (6) arguments or data that support the requesting party's position;
- (7) documents or data that illustrate alternative, mitigating technologies, techniques, or procedures that afford the same or greater protection to public health, safety, and the environment;
- (8) a statement of the consequences of failure to grant relief in favor of the requesting party; and
- (9) any other information believed by the applicant or permittee to be pertinent to the request.

(c) The variance request may be submitted with the Form 2 – Oil or Gas Well Permit Application, which is governed by Rule .1304 of this Subchapter. If the variance request is submitted separate from the application, it shall be submitted no less than 30 days before the next regularly scheduled Commission meeting.

(d) Any hearing on the variance request shall be denied or conducted in accordance with Section .0700 of this Subchapter.

History Note: Authority G.S. 113-391(a);
Eff. March 17, 2015.