

SECTION .0400 – DECLARATORY RULING

15A NCAC 05H .0401 PROCEDURE FOR SUBMISSION OF PETITION

- (a) All requests for declaratory rulings shall be filed in writing and electronically as follows:
- (1) with the Director by filing one paper copy for each Commissioner plus five additional copies to the following address: Oil and Gas Program, Division of Energy, Mineral, and Land Resources, 1612 Mail Service Center, Raleigh, NC 27699-1612; and
 - (2) the electronic submission shall be in .pdf format and sent to the Division at Oil&Gas@ncdenr.gov.
- (b) All requests for declaratory rulings shall include the following:
- (1) the name and address of petitioner(s);
 - (2) the statute, rule, or order upon which a ruling is desired;
 - (3) a concise statement as to whether the request is for a ruling on the validity of a rule or on the applicability of a statute, rule, or order to a given factual situation;
 - (4) arguments or data demonstrating that the petitioner is aggrieved by the statute, rule, or order, or by its potential application to the petitioner;
 - (5) a statement of the consequences of failure to issue a declaratory ruling in favor of the petitioner;
 - (6) a statement of the desired outcome; and
 - (7) a statement of whether an oral argument is desired, and if so, the reason(s) for requesting such an oral argument.
- (c) A petitioner may request a declaratory ruling on the applicability of a statute, rule, or order to the petitioner, or on the validity of a Commission rule. The petitioner may request both types of declaratory ruling in a single request. A request on the applicability of a statute, rule, or order shall include a detailed statement of the facts and documentation supporting such facts, in addition to the requirements of Paragraph (b) of this Rule. A request to determine the validity of a Commission rule shall state the petitioner's reason(s) for the request and a written argument, in addition to the requirements of Paragraph (b) of this Rule.
- (d) Any other person may petition to become a party by filing a motion to intervene in the manner provided in G.S. 1A-1, Rule 24. The Chair of the Commission shall determine whether to grant the motion to intervene in accordance with Rule 24 of the North Carolina Rules of Civil Procedure.

History Note: Authority G.S. 113-391(a)(14); 150B-4;
Eff. March 17, 2015.