

15A NCAC 05H .0707 FORM AND CONTENTS OF REQUEST TO MAINTAIN CONFIDENTIAL INFORMATION

(a) Any person wishing to protect information submitted to the Commission or the Department as confidential information shall make a showing to the Commission in accordance with the requirements of G.S. 113-391.1 and Rules .0707 through .0709 of this Section.

(b) The requesting party shall submit one paper copy for each Commissioner plus five additional copies to the following address: Oil & Gas Program, Division of Energy, Mineral, and Land Resources, 1612 Mail Service Center, Raleigh, NC 27699-1612 and a copy in .pdf form submitted to Oil&Gas@ncdenr.gov.

(c) Requests shall be submitted no fewer than 30 calendar days prior to the next regularly scheduled Commission meeting.

(d) The request shall be made on a Form 20 – Confidential Information Claim which shall contain the following information:

- (1) the name and address of the requesting party;
- (2) a description of the information to be afforded confidential treatment;
- (3) a statement of whether an oral presentation is desired, and, if so, the reason(s) for requesting such an oral presentation;
- (4) an affidavit with each of the following elements:
 - (A) a statement of whether the confidential information is in the public domain and information illustrating the extent to which the confidential information is known outside the business;
 - (B) evidence that the information has been treated in the same manner as other confidential information in the company, the manner being detailed in the affidavit;
 - (C) an agreement to notify the Commission if the information loses confidential status;
 - (D) if applicable to the category of information, certification that the chemical for which confidential protection is sought is not regulated under the Federal Safe Drinking Water Act's National Primary Drinking Water Standards or National Secondary Drinking Water Standards found in 40 CFR 141 and 143, which are incorporated by reference, including subsequent amendments and can be accessed for no charge at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr141_main_02.tpl and http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr143_main_02.tpl, or if regulated, is not present in concentrations greater than the EPA-listed maximum contaminant level for that chemical in any fluid inserted into the oil or gas well;
 - (E) if applicable to the category of information, certification and evidence that the chemical for which trade secret protection is sought meets the definition of a trade secret under the N.C. Trade Secrets Protection Act in G.S. 66-152(3), including that the chemical is not "generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use;"
 - (F) if applicable which states have issued confidential information status to this specific information;
 - (G) if applicable which states have refused to issue confidential information status to this specific information and why was confidential information status denied;
 - (H) if applicable to the category of information, a list of all chemicals for which the affiant is seeking confidential protection and whether any such chemicals are prohibited in North Carolina; and
 - (I) if applicable to the category of information, certification that the information is protected by Federal statute, including statutory authority.
- (5) if required by G.S. 113-391.1, a statement that the State Geologist has reviewed the confidential information and transmitted the certification to the requestor; and
- (6) the business contact information, including the company name, name of authorized representative, mailing address, and phone number for the business organization claiming entitlement to trade secret protection on Form 20 – Confidential Information Claim.

History Note: Authority G.S. 113-391(a)(5)h; 113-391.1(b); 150B, Article 3; Eff. March 17, 2015.