

15A NCAC 02I .0602 PROCEDURE FOR SUBMISSION OF PETITION

(a) All requests for a declaratory ruling shall be filed with the Director of the appropriate Division and a copy in electronic form shall also be sent to the Recording Clerk of the Commission:

Director
Division of Air Quality
1641 Mail Service Center
Raleigh, NC 27699-1641

Director
Division of Energy, Mineral, and Land Resources
1612 Mail Service Center
Raleigh, North Carolina 27699-1612

Director
Division of Mitigation Services
1652 Mail Service Center
Raleigh, NC 27699-1652

Director
Division of Waste Management
1646 Mail Service Center
Raleigh, North Carolina 27699-1646

Director
Division of Water Resources
1611 Mail Service Center
Raleigh, NC 27699-1611

Recording Clerk of the Commission
Directors Office
Division of Water Resources
1611 Mail Service Center
Raleigh, NC 27699-1611
EMCclerk@ncdenr.gov

(b) All requests shall include the following:

- (1) name and address of petitioner(s);
- (2) the rule, statute or order upon which a ruling is desired;
- (3) a statement as to whether the request is for a ruling on:
 - (A) the validity of a rule; or
 - (B) the applicability of a rule, order or statute to a given factual situation; or
 - (C) a conflict or inconsistency within the Commission or the Department regarding interpretation of a law or rule adopted by the Commission;
- (4) arguments or data which demonstrate that the petitioner is aggrieved by the rule or statute or its potential application to the petitioner;
- (5) a statement of the consequences of a failure to issue a declaratory ruling in favor of the petitioner;
- (6) a draft of the proposed ruling; 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 request for a ruling on the applicability of a rule, order, or statute shall include a statement of the specific facts to a given factual situation and documentation supporting those facts. A request for a ruling on the validity of a Commission rule shall state the aggrieved person's reason(s) for questioning the validity of the rule and a brief or legal memorandum supporting the aggrieved person's position. A request for a ruling to resolve a conflict or inconsistency within the Commission or the Department regarding interpretation of a law or rule adopted by the

Commission shall include a written description identifying the conflict or inconsistency, the relevant Division(s) and program area(s), the interpretation provided by the agency, and the law or rule in question. A person may ask for multiple types of declaratory rulings in a single request.

(d) In the manner provided in G.S. 150B-23(d), any other person may request to intervene in the request for declaratory ruling. The request to intervene shall be determined by the Chair of the Commission.

*History Note: Authority G.S. 143B-282; 150B-4;
Eff. August 1, 2004;
Readopted Eff. February 1, 2021.*