

04 NCAC 01B .0202 DISPOSITION OF REQUESTS

(a) Whenever the secretary believes for good reason that the issuance of a declaratory ruling is undesirable, he may refuse to do so. When good reason for refusing to issue a declaratory ruling is deemed to exist, the secretary will notify the petitioner of this decision in writing, stating reasons for the denial of a declaratory ruling.

(b) For purposes of Paragraph (a) of this Rule, the secretary will ordinarily refuse to issue a declaratory ruling:

- (1) unless the petitioner shows that the circumstances are so changed since the adoption of the rule that such a ruling would be warranted;
- (2) unless the petitioner shows that the agency did not give a full consideration to the factors specified in the request for a declaratory ruling at the time the rule was issued;
- (3) where there has been a similar controlling factual determination in a contested case, or where the factual context being raised for a declaratory ruling was specifically considered upon the adoption of the rule or directive being questioned, as evidenced by the rule-making record; or
- (4) where the subject matter of the request is involved in pending litigation in any state or federal court in North Carolina.

(c) Where a declaratory ruling is deemed appropriate, the secretary will issue a ruling within 60 days of receipt of the petition.

(d) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedures as may be appropriate in a particular case.

*History Note: Authority G.S. 150B-17;
 Eff. February 1, 1976;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*