

04 NCAC 06B .0402 RESPONSE OF ADMINISTRATOR TO PETITION

(a) A written response to the petition for a declaratory ruling, whether in the form of a declaratory ruling or a refusal to issue a declaratory ruling, shall be issued as set forth in G.S. 150B-4.

(b) The Administrator shall issue a declaratory ruling, except when:

- (1) the request for a declaratory ruling does not meet the requirements set forth in this Subchapter;
- (2) the subject matter is one in which the Administrator has no authority to issue a binding decision;
- (3) the question is presented in such a manner that the Administrator cannot determine what the question is, or that the Administrator cannot respond with a specific ruling;
- (4) the petitioner does not qualify as a person aggrieved, as defined in G.S. 150B-2(6);
- (5) the Administrator has previously issued a declaratory ruling, or issued a final agency decision in a contested case, in which the same facts were considered;
- (6) the facts underlying the request for a declaratory ruling were considered at the time the Rule was adopted; or
- (7) the subject matter of the petition is involved in pending litigation.

(c) When the Administrator refuses to issue a declaratory ruling, the Administrator shall notify the petitioner of its decision in writing, stating reasons for the denial of a declaratory ruling.

*History Note: Authority G.S. 54-109.12; 150B-4;
Eff. June 1, 1990;
Readopted Eff. February 1, 2018.*