

11 NCAC 01 .0303 RESPONSE OF COMMISSIONER TO PETITION

(a) **Written Response.** 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 signed by the commissioner or his designated representative within 60 days following the date on which the petition was received by the department.

(b) **Refusal to Issue Declaratory Ruling.** The commissioner may refuse to issue a declaratory ruling if one of the following circumstances exists:

- (1) The subject matter is one in which the commissioner has no authority to issue a binding decision;
- (2) The situation is one in which the amount of work that would be required by the commissioner and his staff to issue the declaratory ruling would be the same as or greater than the work required to process the request through normal departmental procedures or a contested case proceeding;
- (3) The petition does not state with enough specificity the factual situation involved, or the question is presented in such a manner that the commissioner cannot determine what the question is, or that the commissioner cannot respond with a specific ruling that will be binding on all parties;
- (4) The petitioner does not, in the opinion of the commissioner, possess sufficient interest in the question to be ruled on; or
- (5) For any other reason the commissioner finds the issuance of a declaratory ruling to be undesirable.

*History Note: Authority G.S. 58-2-40(1); 150B-4;
Eff. February 1, 1976;
Readopted Eff. May 12, 1978;
Amended Eff. August 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.*