

14B NCAC 01B .0403 DISPOSITION OF REQUESTS

(a) When the Secretary of the Department of Crime Control and Public Safety deems it appropriate to issue a declaratory ruling, he shall issue such declaratory ruling within sixty days of receipt of the petition.

(b) A declaratory ruling proceeding may consist of written submissions, an oral hearing, or other procedure as may be appropriate in the circumstances of the particular request as determined by the secretary.

(c) Whenever the secretary believes "for good cause" that the issuance of a declaratory ruling is undesirable, he may refuse to issue such ruling. When good cause is deemed to exist, he will notify the petitioner of his decision in writing, stating the reasons for the denial of the declaratory ruling.

(d) For purposes of Subpart (c) of this Rule, the Secretary of the Department of Crime Control and Public Safety 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 to the factors specified in the request for a declaratory ruling a full consideration 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 rulemaking record;
- (4) where the subject matter of the request is involved in pending litigation in any state or federal court in North Carolina.

*History Note: Authority G.S. 150B-17;
Eff. February 1, 1976;
Amended Eff. December 1, 1979;
Transferred from 14A NCAC 01B .0403 Eff. June 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.*