

07 NCAC 01B .0110 DECLARATORY RULINGS

(a) Requests for declaratory rulings must be made in writing to the Office of the Secretary, Department of Cultural Resources, Raleigh, North Carolina 27611. Such requests must include:

- (1) the name and address of the petitioner;
- (2) a citation to the rule or statute in question;
- (3) arguments or data which demonstrate that the petitioner is aggrieved by the rule or statute or its potential application to him; and
- (4) consequences of a failure to issue a declaratory ruling in favor of the petitioner;
- (5) a statement of whether an oral hearing is desired, and, if so, the reasons for requesting such an oral hearing.

(b) The Department may refuse to issue a declaratory ruling if:

- (1) Similar factual circumstances were specifically considered in the rulemaking proceedings;
- (2) There has been a similar determination in a previous contested case or declaratory ruling; or
- (3) There exists other good cause to refuse to issue a ruling.

(c) Before deciding the merits of the request, the Department may:

- (1) request written submissions from any person;
- (2) consult with members of the Department staff or any other person; or
- (3) hold an informal oral hearing.

(d) Requests for declaratory rulings will be decided by the Secretary, by any employee designated by the Secretary, or by the appropriate agency of the Department.

(e) Within 60 days of receipt of the petitioner's request, the petitioner will be sent either:

- (1) written notification that the request for a declaratory ruling is denied, including reasons for the denial; or
- (2) written notification that the request is approved and a copy of the ruling.

(f) A record of the declaratory ruling proceeding will be maintained for public inspection at the Office of the Secretary of the Department of Cultural Resources, Raleigh, North Carolina 27611. The record will contain all submissions of the petitioner, other information considered, a transcript or summary of any hearing, and either a statement of the reasons denying the petition or the ruling.

*History Note: Authority G.S. 143B-14; 150B-17;
Eff. February 1, 1976;
Readopted Eff. December 1, 1977;
Amended Eff. June 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.*