191—4.16(17A) Refusal to issue order.

4.16(1) The division shall not issue a declaratory order where prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for any of the following reasons:

a. The petition does not substantially comply with the required form.

b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by failure of the division to issue an order.

c. The division does not have jurisdiction over the questions presented in the petition.

d. The questions presented by the petition are also presented in a current rulemaking, contested case, or other agency or judicial proceeding that may definitively resolve them.

e. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.

f. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.

g. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.

h. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a division decision already made.

i. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner.

j. The petition requests the division to determine whether a statute is unconstitutional on its face.

4.16(2) A refusal by the division to issue a declaratory order must indicate the specific grounds for refusal and constitutes final agency action on the petition.

4.16(3) Refusal to issue a declaratory order pursuant to this rule does not preclude a petitioner from filing a new petition that seeks to eliminate the grounds for refusal to issue a ruling.

[**ARC 7732C**, IAB 3/20/24, effective 4/24/24]