265—16.9(17A) Refusal to issue order.

16.9(1) The authority shall not issue a declaratory order if prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

a. The petition does not substantially comply with the form indicated in rule 265—16.1(17A).

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

c. The authority 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 authority 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 to establish the effect of that conduct or to challenge a decision the authority has 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 petitioner.

j. The petitioner requests the authority to determine whether a statute is unconstitutional on its face.

16.9(2) If the authority refuses to issue a declaratory order, the authority must indicate the specific grounds for the refusal. Refusal to issue a declaratory order constitutes final agency action on the petition.

16.9(3) The authority's refusal to issue a declaratory order pursuant to this provision does not preclude a petitioner from filing a new petition that seeks to eliminate the grounds for the authority's refusal to issue an order.

[**ARC 9153C**, IAB 4/30/25, effective 6/4/25]