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TRANSMITTAL SHEET FOR NOTICE  
OF INTENDED ACTION

Control: 410

Department or Agency: State Health Planning and Development Agency

Rule No.: 410-1-7-.02

Rule Title: Reviewability Determination Request

Intended Action Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

.....

Does the proposed rule have an economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Toni Ferguson  
Toni Ferguson

Date

Wednesday, August 20, 2025

REC'D & FILED

AUG 20, 2025

LEGISLATIVE SVC AGENCY

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

NOTICE OF INTENDED ACTION

AGENCY NAME: State Health Planning and Development Agency

RULE NO. & TITLE: 410-1-7-.02 Reviewability Determination Request

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

This amendment increases the filing fee of all Reviewability Determination Requests filed with the State Health Planning and Development Agency.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

On October 15, 2025, at 10:00 a.m., the Certificate of Need Review Board (CONRB) will conduct a public hearing at which time it shall consider the proposed amendment along with all written and oral submissions in respect to the proposal. Only those interested persons who have made timely written requests will be afforded to opportunity to speak. The location of the meeting will be posted to the Agency's website, [www.shpda.alabama.gov](http://www.shpda.alabama.gov).

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Friday, October 3, 2025

CONTACT PERSON AT AGENCY:

Ms. Emily T. Marsal, Executive  
Director  
State Health Planning and  
Development Agency  
100 North Union Street, Suite 870  
Montgomery, AL 36104  
(334) 242-4103

*Toni Ferguson*

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Toni Ferguson

(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)

Reviewability Determination Request.

(1) Any person may request for informational purposes only a determination as to the current reviewability of an anticipated project or determination of exemption for replacement equipment. Such request shall be submitted pursuant to Rule 410-1-3-.09 disclosing full factual information as may be more specifically identified on the SHPDA website, supplemented by any additional information or documentation which the Executive Director may deem necessary. Such request shall be attested by an officer, partner or authorized agent of the company having knowledge of the facts contained therein, utilizing the following form:

(a) Affirmation of Requesting Party: The undersigned, being first duly sworn, hereby make oath or affirm that he/she is [include position with entity requesting the determination], has knowledge of the facts in this request, and to the best of his/her/their information, knowledge and belief, such facts are true and correct.

Affiant \_\_\_\_\_ (SEAL)  
SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:

(2) Upon a request being deemed complete, the Executive Director shall publish notice thereof on the Agency's web site and provide written notice to the general distribution list maintained by the Agency and, for informational purposes, to the CON Board as part of its monthly Board agenda.

(3) Within thirty (30) business days of publication of the request pursuant to (2) above, any affected person may file comments with the Agency pursuant to Rule 410-1-3-.09 regarding the issuance of the requested letter of non-reviewability. In addition, any affected person opposing such a determination of non-reviewability may seek a declaratory ruling by filing a petition with the CON Board, which request shall be governed by the provisions of Rule 410-1-9-.01. A copy of any such filings shall be served on the person requesting the reviewability determination.

(4) At any time following the thirty (30) day period, the Executive Director, giving due consideration to any comments received, shall respond to the request. Such response shall be rendered within forty-five (45) days of the request, unless the

Executive Director finds that additional time is needed to obtain additional information or to evaluate comments filed in opposition of the request. A copy of the Agency's determination shall be included in the SHPDA Review and, for informational purposes, to the CON Board, as part of the monthly Board agenda.

(5) The party seeking the reviewability determination or other affected person may challenge the Agency's reviewability determination by seeking a declaratory ruling from the CON Board, which shall be governed by Rule 410-1-9-.01.

(6) Should the law or regulations change and the anticipated project become subject to review, any determination furnished under this section shall become null and void.

(7) Except as provided below, all reviewability request shall be accompanied by a fee of \$1,200.00. A request submitted under this rule addressing solely the exemption for the purchase of equipment shall be accompanied by a fee as specified in Code of Ala. 1975, §22-21-265(b)(4). Reviewability determinations associated with a change of ownership shall be governed by Rule 410-1-7-.04. Rural hospitals shall be exempt from the payment of fees under this chapter to the extent provided in Code of Ala. 1975, §22-21-265 (1975 as amended).

(8) All required filing fees must be submitted to the State of Agency via overnight mail and marked in such a way as to clearly identify the fee with the electronic submission; or the fee may be submitted electronically via the payment portal available through the State Agency's website.

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**Author:** Emily T. Marsal

**Statutory Authority:** Code of Ala. 1975, §§22-21-263, 265, 275.

**History: Amended:** Filed June 12, 1997; effective July 17, 1997.

**Amended:** Filed October 30, 2007; effective December 4, 2007.

**Amended:** Filed March 26, 2012; effective April 30, 2012.

**Amended:** Filed August 23, 2016; effective October 7, 2016.

**Amended:** Published ; effective .

**ECONOMIC IMPACT STATEMENT  
FOR APA RULE  
(Section 41-22-23(f))**

Control No: 410

Department or Agency: State Health Planning and Development Agency

Rule No: 410-1-7-.02

Rule Title: Reviewability Determination Request

Intended Action: Amend

           This rule has no economic impact.

Yes This rule has an economic impact, as explained below:

**1. NEED/EXPECTED BENEFIT OF RULE:**

This amendment provides for the increase of the required filing fee utilized to fund the State Health Planning and Development Agency's operations. The fee is authorized by Act 2012-294.

**2. COSTS/BENEFITS OF RULE AND WHY RULES IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:**

None.

**3. EFFECT OF THIS RULE ON COMPETITION:**

None.

**4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:**

None.

**5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:**

None.

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**6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:**

None.

**7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON EFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:**

None.

**8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:**

None.

**9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:**

None.

**10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:**

None.

Signature of certifying officer

*Toni Ferguson*

Toni Ferguson

Date

Wednesday, August 20, 2025