

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE REFERENCE SERVICE
JERRY L. BASSET, DIRECTOR**

(Pursuant to Code of Alabama 1975, § 41-22-6, as amended).

I certify that the attached is/are a correct copy/copies of rule/s as promulgated and adopted on the 21st day of March, 2012, and filed with the agency secretary on the 26th day of March, 2012.

AGENCY NAME: State Health Planning and Development Agency
(Certificate of Need Review Board)

X Amendment; _____ New; _____ Repeal; (Mark appropriate space)

Rule No. 410-1-7-.02(1) and (7)

(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

Rule Title: Reviewability Determination Request

ACTION TAKEN: State whether the rule was adopted without changes from the proposal due to written or oral comments;

No public comments were received; the rule was adopted without changes and as published for comment in the Alabama Administrative Monthly.

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XXX

ISSUE NO. 4, DATED January 31, 2012.

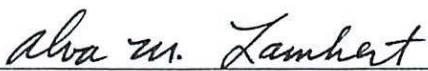
Statutory Rulemaking Authority: Code of Alabama, 1975 §§ 22-21-263 and -275.

(Date Filed)
(For LRS Use Only)

REC'D & FILED

MAR 26 2012

LEGISLATIVEREFSSERVICE


Alva M. Lambert, Executive Director
State Health Planning and Development Agency
(Certifying Officer or his or her Deputy)

(NOTE: In accordance with § 41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.)

410-1-7-.02 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 in writing disclosing full factual information, supplemented by any additional information or documentation which the Executive Director may deem necessary
- (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 with the Agency written comments 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.
- (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 written 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 requests shall be accompanied by a fee of \$1,000. A request submitted under this rule addressing solely the exemption for the purchase of equipment shall be accompanied by a fee as specified in ALA. CODE § 22-21-265 (b)(4). Reviewability determinations associated with a change of ownership shall be governed by 410-1-7-.04. Rural hospitals shall be exempt from the payment of fees under this chapter to the extent provided in ALA. CODE § 22-21-265 (1975 as amended).

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

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