

**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 17th day of August, 2016, and filed with the agency secretary on the 23rd day of August, 2016.

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), (3), (4), (7), and (8)

(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 XXXIV

ISSUE NO. 9, DATED JUNE 30, 2016.

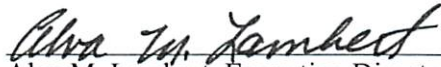
Statutory Rulemaking Authority: Code of Alabama, 1975 §§ 22-21-271, -274 and -275.

(Date Filed)
(For LRS Use Only)

REC'D & FILED

AUG 23 2016

LEGISLATIVE REF SERVICE


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 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:

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 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 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 ownerships 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 ALA. CODE § 22-21-265 (1975 as amended).
- (8) All required filing fees must be submitted to the State 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.

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