

APA-1
4/18

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 420 Alabama Department of Public Health

Rule Number 420-1-2-.07

Rule Title Administrative Procedures for Rule-Making

 New XXXX Amend Repeal Adopt by Reference

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 and, if so, to what degree? No

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

Are all facts of the rulemaking 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? No

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 §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 F. Ryan Hale Date 12/01/19

REC'D & FILED

DEC 11 2019

FORM APA2
10/17

STATE BOARD OF HEALTH
NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Public Health

RULE NUMBER AND TITLE: 420-1-2-.07, Administrative Procedures for Rule-Making

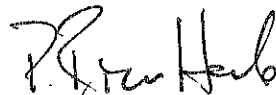
INTENDED ACTION: To amend the current rules.

SUBSTANCE OF PROPOSED ACTION: This amendment will remove the requirement for the Department to conduct a public hearing before taking action on a proposed rule, unless one is requested. The amendment will also make an additional edit concerning rules becoming effective 45 days after notice that the rule has been certified is published in the Alabama Administrative Monthly.

TIME, PLACE, AND MANNER OF PRESENTING VIEWS: A public hearing will be held on January 16, 2019, at 9:00 a.m., at the RSA Tower, Suite 1586, 201 Monroe Street, Montgomery, AL 36104.

FINAL DATE FOR COMMENTS AND COMPLETION OF NOTICE: Written or oral comments will be received until the close of the record at 5:00 p.m. on February 4, 2020. All comments and requests for copies of the proposed amendments should be addressed to the contact person listed below.

CONTACT PERSON AT AGENCY: Brian Hale, Office of General Counsel, Department of Public Health, P.O. Box 303017, Montgomery, Alabama 36130-3017, Telephone number: (334) 206-5209.



P. Brian Hale, Agency Secretary

Administrative Procedures For Rule-Making.

(a) Except for the promulgation of an emergency rule, the State Health Officer, through the Agency Secretary, shall ~~issue~~ provide public notices of proposed rule-making by publication in the **Alabama Administrative Monthly**, by posting text of proposed rules on the agency's website, and by electronically notifying persons who have registered with the agency to receive notifications regarding proposed rule-making.

(b) Public Hearing.

(1) Prior to the taking of any action on a proposed rule, the Board shall allow all interested persons a reasonable opportunity to submit data, views, or comments, either orally or in writing. A public hearing shall be scheduled when requested. Notice of ~~such~~ the opportunity to request a hearing, and how to do so, shall be published in the **Alabama Administrative Monthly**. The location, date, and time of a hearing shall be communicated to the requestor, posted to the agency's website, and shared by electronic notification to persons who have registered to receive such notifications. If necessary, the expiration of the time to provide comment as stated in the initial notice published in the **Alabama Administrative Monthly** may be extended to allow a hearing to be conducted. Actual notice to interested groups, agencies, or persons may be made at the direction of the State Health Officer.

(2) The State Health Officer shall appoint a hearing officer who shall be given full control over the proceeding of the hearing. He shall direct the hearing so as to eliminate repetition and keep order, and shall require statements to be as factual as possible.

(3) All oral comments at the hearing shall be directed to the hearing officer. The hearing officer and members of the staff may question speakers if they so desire. Speakers will not be subject to questions from the audience.

(4) A stenographic reporting or electronic recording of the proceedings shall be made. A verbatim transcript may be prepared if needed. When so prepared, it shall become a part of the hearing record.

(5) Unless otherwise specified, all hearings shall be held in Montgomery, Alabama.

(c) Contents of Written Comments. All written comments shall be stated plainly and concisely. Unless otherwise specified in a notice requesting comments, comments may not exceed 15 pages in length, but necessary attachments may be appended to the submission without regard to the 15-page limit.

(d) Petition for Extension of Time to Comment. A petition for extension of time to submit comments must be received not later than 10 days before the expiration of the time stated in the notice. Petitions must be submitted to the State Health Officer, 201 Monroe Street, Suite 1552, Montgomery, Alabama 36104. The filing of the petition does not automatically extend the time for the petitioner's comments. Such a petition is granted only if the petitioner shows good cause for the extension and if the extension is consistent with the public interest. Under provisions of the Administrative Procedure Act, the agency has 90 days from the closing of the hearing record to adopt the final rule.

(e) Emergency Rules. If the State Health Officer finds that there is an immediate danger to the public health, safety, or welfare which requires the adoption of a rule with less than 35 days' notice or that the action is required by or to comply with a federal statute or regulation which requires adoption of a rule upon fewer than 35 days' notice and so states in writing his reasons for that finding, the State Health Officer may proceed without prior notice or hearing, or any abbreviated notice and hearing that he finds practical, and adopt an emergency rule.

(1) Emergency rules become effective immediately upon filing a copy of such with the Legislative Reference Service.

(2) Emergency rules are not valid for longer than 120 days, and shall not be renewable.

(3) The Board shall not adopt the same or a substantially similar emergency rule within ~~one~~ 1 year unless it establishes that it could not have reasonably been foreseen during the initial 120 days that such emergency would continue or would likely occur within the next ~~nine~~ 9 months.

(4) A rule adopted under the emergency proceedings may be made a permanent rule by the Board by complying with all the provisions of the Alabama Administrative Procedure Act and these rules.

(5) Emergency rules promulgated by the State Health Officer shall have the same force and effect as those adopted by the Board.

(6) This rule applies only to emergency rules and not to emergency orders issued by the agency.

(f) Publication and Effective Date of Rules. The Agency Secretary shall file each rule upon adoption by the Board. Such rule shall be effective ~~35~~ 45 days after ~~the filing~~ publication in the Alabama Administrative Monthly unless the Board specifies a longer time.

Author: John R. Wible, P. Brian Hale

Statutory Authority: Code of Ala. 1975, §§22-2-2(6), ~~41-22-8~~ 41-22-1, et seq.

History: Filed July 20, 1990. **Amended:** Filed June 19, 1991. **Repealed and New Rule:** Filed February 21, 2007; effective March 28, 2007. **Amended:** Filed: XX-XX-XXXX; effective XX-XX-XXXX.