

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 410 Department or Agency: State Health Planning and Development Agency  
(Certificate of Need Review Board)

Rule No.: 410-1-11-.04

Rule Title: Failure to Commence Construction

\_\_\_\_\_ New  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 facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

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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 Section 41-22-23, Code of Alabama 1975.

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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 Reference Service.

Signature of certifying officer Alva M. Lambert

Date 6-16-16

DATE FILED  
(STAMP)



## STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

100 NORTH UNION STREET, SUITE 870  
MONTGOMERY, ALABAMA 36104

### NOTICE OF INTENDED ACTION

AGENCY NAME: STATE HEALTH PLANNING AND DEVELOPMENT AGENCY  
(Certificate of Need Review Board)

RULE NO. & TITLE: 410-1-11-.04 Failure to Commence Construction

INTENDED ACTION:

The State Health Planning and Development Agency and the Certificate of Need Review Board propose to amend the above-styled section of the *Alabama Certificate of Need Program Rules and Regulations*.

SUBSTANCE OF PROPOSED ACTION:

This amendment clarifies that all written requests filed pursuant to this rule must be submitted electronically in accordance with Rule 410-1-3-.09 and corrects scrivener's errors.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

In response to this Proposed Rule, all interested persons are invited to submit data, views, comments and/or arguments, orally or in writing. Any and all such data, comments, arguments and/or requests to orally address the Certificate of Need Review Board shall be made in writing on or before August 4, 2016, and shall be made to:

Nicole Horn, Executive Secretary  
State Health Planning and Development Agency  
P. O. Box 303025  
Montgomery, Alabama 36130-3025

On August 17, 2016, at 10:00 a.m., the Certificate of Need Review Board shall conduct a public hearing in the State Capitol, Capitol Auditorium, 600 Dexter Avenue, Montgomery, Alabama, at which time it shall consider the Proposed Amendment, along with all written and oral submissions respecting the Proposed Amendment. Only those interested persons who have made timely written requests will be afforded the opportunity to speak.

Copies of the proposed changes are available for review at 100 North Union Street, RSA Union Building, Suite 870, Montgomery, Alabama. Phone (334) 242-4103 or visit the office Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding State holidays.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

August 4, 2016

CONTACT PERSON AT AGENCY:

Nicole Horn  
100 North Union Street  
RSA Union, STE 870  
Montgomery, AL 36104  
(334) 242-4103

  
Alva M. Lambert, Executive Director

**410-1-11.-04 Failure to Commence Construction**

(1) \_\_\_ If the holder of the Certificate of Need fails to commence the construction project within the time period stated in the construction contract or to complete the construction project within the time period stated in the construction contract, then the Certificate of Need shall be terminated and shall be null and void, unless tolled or extended pursuant to statute or SHPDA rule or regulation. The completion date of the construction project specified in the construction contract may be extended by mutual agreement of the parties to the contract, without SHPDA approval. Provided SHPDA, or an Administrative Law Judge appointed by the Governor on appeal for a fair hearing, may for causes beyond the control of the holder of the Certificate of Need, upon written-request, by the holder of the Certificate of Need detailing the reasons therefore, continue the Certificate of Need in force if the commencement of the construction project is delayed for a period not to exceed sixty (60) days or if during the specified construction period, the construction work should cease for not more than six (6) months, or in the event of default in the construction contract by the contractor, or if, for any cause, the construction work has not ceased or otherwise been stopped for a period exceeding sixty (60) consecutive days. Further, the Executive Director of SHPDA may, upon written-request by the holder of the Certificate of Need detailing the reasons therefore, continue the Certificate of Need.

(2) \_\_\_ All written requests filed pursuant to this rule must be filed in accordance with the provisions of Rule 410-1-3-.09.

Author: Alva M. Lambert

Statutory Authority: § 22-21-270, Code of Alabama, 1975, as amended by Act 98-341.

History: March 21, 1985. Amended: Filed February 1, 2000; effective March 7, 2000.

Amended: Filed: \_\_\_\_\_; effective: \_\_\_\_\_.