

APA-1  
07/04

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No. \_\_\_\_\_ Department or Agency The Alabama Department of Transportation

Rule No. 450-1-2

Rule Title: Administrative Procedures

\_\_\_\_\_ 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

\*\*\*\*\*

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.

\*\*\*\*\*

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 Jim R. Spalitta Jr.  
Date 3/18/13

(DATE FILED)  
(STAMP)

APA-2  
07/04

## ALABAMA DEPARTMENT OF TRANSPORTATION

### NOTICE OF INTENDED ACTION

AGENCY NAME:

The Alabama Department of Transportation

RULE NO. & TITLE:

450-1-2, Administrative Procedures

INTENDED ACTION:

The Alabama Department of Transportation proposes to amend and repeal sections of Chapter 450-1-2 to update its administrative procedures.

SUBSTANCE OF PROPOSED ACTION:

ALDOT proposes to update its administrative procedures with current titles, names, contacts, etc. The proposed amendment further updates the process of accessing public rules, policies, and records. The Department also proposes to repeal Section 450-1-2-.06 because it is governed by the Alabama Open Records Act Ala. Code § 36-12-40 (1975) and Rule 450-1-1.09. The Department proposes to repeal Section 450-1-2-.09 because Ala. Code § 41-50-7 (1975) addresses the subject.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

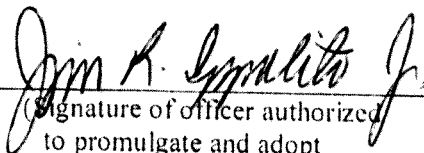
Public Hearing at 9:00 a.m. - 11:00 a.m. on May 3, 2013, at the Alabama Department of Transportation, Central Office, Conference Room 5, 1409 Coliseum Blvd., Montgomery, Alabama 36110, and an opportunity to present comments in writing to Jim Ippolito, Legal Bureau, 1409 Coliseum Blvd., Montgomery, Alabama 36110 by 11:00 a.m., May 3, 2013.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

May 3, 2013, 11:00 a.m.

CONTACT PERSON AT AGENCY:

Jim R. Ippolito, Jr., Chief Counsel, ALDOT Legal Bureau, 1409 Coliseum Boulevard, Montgomery, AL 36110



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

ALABAMA DEPARTMENT OF TRANSPORTATION

ADMINISTRATIVE CODE

EXECUTIVE DIVISION

CHAPTER 450-1-2  
ADMINISTRATIVE PROCEDURES

TABLE OF CONTENTS

450-1-2-.01 Petition For Adoption, Amendment Or Repealer of Rules  
450-1-2-.02 Petition For Declaratory Ruling  
450-1-2-.03 Methods Of Obtaining Information Or Making Submissions Or Requests  
450-1-2-.04 Public Access to Rules, Orders, Etc.  
450-1-2-.05 Advance Notice Of Rule Making Procedures  
450-1-2-.06 Copies of Records  
450-1-2-.07 Notification Of Persons Who May Be Affected By the Adoption Of An Emergency Rule  
450-1-2-.08 Subscription To Alabama Highway Department of Transportation Administrative Code  
450-1-2-.09 Rules Omitted From the Alabama Highway Department of Transportation Administrative Code

450-1-2-.01. Petition For Adoption, Amendment Or Repealer Of Rules.

(1) Any interested person may petition the Alabama Highway Department of Transportation requesting the adoption, amendment or repeal of a rule.

(2) A petition shall adhere to the form described below. Petitions not in substantial compliance with the prescribed form shall be returned to the petitioner for correction.

(a) The 60-day time limit described in Code of Ala. 1975, § 41-22-8, shall start with the receipt of the petition, in proper form, by the Department.

(b) The petition shall be on white paper, 8 ½ " x 11" in size, with no reverse side entries. The original and three legible copies shall be filed with the Department.

(c) The petition shall be delivered by personal service or First Class Mail to:

Alabama Highway Department of Transportation  
ATTN: Administrative Procedure Secretary  
Legal Division  
Room H-101147  
1409 Coliseum Boulevard  
Montgomery, AL 361310

(d) The petition shall be set out in numbered paragraphs as follows:

1. Petitioner's name:
2. The full address of the petitioner:
3. The petitioner's telephone number:
4. Action requested (adoption of the proposed rule, amendment of a rule or repeal of a rule):
5. (In the case of a petition for adoption) A concise statement of the proposed rule in rule form:
6. A statement of the reasons for the above action:

(3) A general statement concerning rules must not be accepted as a petition for adoption, amendment or repeal of a rule.

(4) More than one petition may be submitted at any given time, but each must conform to the above requirements. No more than one request for either the adoption, amendment or repeal of a single rule shall be contained in each petition.

(5) The Department, upon receipt of a petition, shall take the following action:

1. Receipt of petition shall be recorded;
2. Petitions not in reasonable compliance with this rule shall be promptly returned to the petitioner with modifications or additional information required to make the petition comply with this rule indicated;
3. Receipt of petition shall be acknowledged to the petitioner; and
4. The disposition of petitions for rule making shall be determined by the Department.

(6) The Department, in determining the disposition of the petition, may request written memoranda from personnel within the Department, input from interested persons outside the Department, or an oral presentation by the petitioner elaborating upon the reasons for the requested rule activity. The Department may conduct a hearing in order to receive oral presentations and evidence.

(7) Within 60 days after submission of a petition, the Department either shall deny the petition in writing on the merits, stating the reasons for the denial, or initiate rule making proceedings in accordance with Code of Ala. 1975, § 41-22-5.

Author: Jim R. Ippolito, Jr., Chief Counsel  
Statutory authority: Code of Ala. 1975 §§ 23-1-59.  
History: Filed September 30, 1982, Amended: Filed \_\_\_\_\_ 2012.

450-1-2-.02. Petition For Declaratory Ruling.

(1) A declaratory ruling is a formal written ruling issued to members of the

public by the director with respect to the validity of a rule or with respect to the applicability to any person, property or state of facts of any rule or statute enforceable by it or with respect to the meaning and scope of any order of the Department.

(a) A declaratory ruling is binding on the Department, and the person requesting it unless it is altered or set aside by a court in a proper proceeding.

(b) Such rulings are subject to review in the circuit court of Montgomery County, unless otherwise specifically provided by statute, in the manner provided in Code of Ala. 1975, § 41-22-12, for the review of decisions in contested cases.

(c) Nothing herein shall prevent any individual from seeking informal advice on any pertinent subject from the Department.

(2) A petition for a declaratory ruling may be filed by any person substantially affected.

(3) A petition for a declaratory ruling shall adhere to the form described below. Petitions not in substantial compliance with the prescribed form shall be returned to the petitioner for correction.

(a) The 45-day time limit described in Code of Ala. 1975, § 41-22-11(b), shall start with the receipt of the petition, in proper form, by the Department.

(b) Petition shall be on white paper, 8 ½ " x 11" in size, with no reverse side entries. The original and three legible copies shall be filed with the Department.

(c) The petition shall be delivered by personal service or First Class Mail to the:

Alabama ~~Highway~~ Department of Transportation  
ATTN: Administrative Procedure Secretary  
Legal Division  
Room ~~H-101~~ 147,  
1409 Coliseum Boulevard  
Montgomery, AL 361310

---

ALABAMA HIGHWAY DEPARTMENT OF TRANSPORTATION  
Legal Division  
Room ~~H-101~~147  
1409 Coliseum Boulevard  
Montgomery, Alabama 361310

IN RE:

THE PETITION OF \_\_\_\_\_ Docket No. \_\_\_\_\_

THE PETITION OF (state petitioners name) \_\_\_\_\_

THE PETITION OF (state petitioners name) (filled in by dept.)

FOR A DECLARATORY RULING ON \_\_\_\_\_

(state rule number, statute for which interpretation sought, etc.)

PETITION FOR A  
DECLARATORY RULING

(d) The body petition shall be set out in numbered paragraphs as follows:

1. Petitioner's name:
2. Petitioner's full address:
3. All rules or statutes that may be involved in the petition, if known:
4. Clear and concise statement of the precise factual situation involved:
5. The exact question to which an answer is desired:
6. The reasons for submitting the petition:
7. Full disclosure of the petitioner's interest:
8. Statement as to whether the petitioner's case is presently under consideration by the Department or in any pending proceeding:
9. Subscription and verification by the petitioner before a notary public:

(4) Upon receipt of a petition for a declaratory ruling, the Department shall enter the date of receipt of the petition and the docket number and notify the petitioner of receipt of petition, the date and the docket number.

(a) The Department may then:

1. Notify the petitioner that no declaratory ruling will be issued;
2. Immediately issue a declaratory ruling;
3. Forward the petition to the proper office for investigation to determine if a ruling should be issued and, if so, receive the recommended contents of such a ruling;
4. If either the director or the applicable office deems it necessary, a hearing officer shall be requested to schedule a hearing as promptly as possible for the submission of testimony by the petitioner and reasonable notification given to all interested persons of the time and place for such a hearing; or
5. If either the director or the applicable office deems it necessary, the petitioner may be requested to submit a written brief concerning the petition.

(b) If a hearing is conducted, a transcript shall be given to the applicable office, which will then forward its recommendations or a recommended ruling to the director. The director shall, upon due consideration of the evidence and recommendations, and within 45 days of the request for such ruling:

1. Issue a binding declaratory ruling; or

2. Notify the petitioner that no declaratory ruling will be issued and the reasons therefor.

(c) If no hearing is conducted, the director, shall, after receiving the recommendation of the applicable office, and within 45 days from the receipt of the petition:

1. Issue a binding declaratory ruling; or
2. Notify the petitioner that no ruling will be issued.

(5) All declaratory rulings shall be issued by the director. A declaratory ruling shall have the same status as an order rendered in a contested case, and shall be final for purposes of appeal and judicial review. Failure to issue a declaratory ruling within 45 days of the request of such ruling shall constitute a denial of the request, and shall be subject to judicial review.

Author: Jim R. Ippolito, Jr., Chief Counsel  
Statutory authority: Code of Ala. 1975 §§ 23-1-59.  
History: Filed September 30, 1982, Amended: Filed \_\_\_\_\_ 2013.

450-1-2-.03. Methods Of Obtaining Information Or Making Submissions Or Requests. The public may obtain information or make submissions or requests pertaining to any subject not provided for elsewhere by statute or rule by contacting the Alabama Highway Department of Transportation, Attn: Administrative Procedure Secretary, Legal Division Room H-101147, 1409 Coliseum Boulevard, Montgomery, AL 361310.

a) Contact may be made by telephone, ~~in person~~, or by First Class Mail.

~~1. Contact by telephone shall be made between the hours of 8 a.m. and 5 p.m. on scheduled work days.~~

~~2. Contact in person shall be made between the hours of 8 a.m. and 5 p.m. on scheduled work days, by appointment.~~

Author: Jim R. Ippolito, Jr., Chief Counsel  
Statutory authority: Code of Ala. 1975 § 23-1-59.  
History: Filed September 30, 1982, Amended: Filed \_\_\_\_\_ 2013.

450-1-2-.04. Public Access To Rules, Orders, Etc.

(1) The Alabama Highway Department of Transportation Administrative Code, ~~containing all rules adopted by the Department, and all other written statements of policy, final orders, decisions or opinions issued or interpretations formulated, adopted or used by the Department in the discharge of its functions,~~ shall be available for public inspection and copying at cost as provided in Rule 450-1-1-.09.

~~(2) All final orders, decisions and opinions which are issued after October 1, 1982, except those expressly made confidential or privileged by statute or order of court, and an index thereto by name and subject, shall be available for public inspection and copying, at cost.~~

~~(3) The rules, orders, etc. referred to in Sections (1) and (2) of this rule shall be available for inspection and copying between the hours of 8 a.m. and 5 p.m. on scheduled work days, by appointment.~~

~~(a) An appointment may be made at a mutually agreeable time by contacting the Alabama Highway Department of Transportation, Attn: Administrative Procedure Secretary, Room H 101, 1409 Coliseum Boulevard, Montgomery, AL 36130.~~

~~(b) Inspection and copying shall be available at the Alabama Highway Department, Room H 101, 1409 Coliseum Boulevard, Montgomery, AL 36130.~~

~~(4) Copies of rules, orders, etc., may be obtained at the current cost in effect at the time of copying.~~

~~(a) The cost of copying shall be determined on the basis of cost per page.~~

~~(b) The cost per page and the total cost shall be quoted prior to copies being made.~~

~~(c) Full payment shall be tendered before copies are made.~~

~~(d) Payment shall be made by certified check, cashier's check or money order.~~

Author: Jim R. Ippolito, Jr., Chief Counsel

Statutory authority: Code of Ala. 1975 § 23-1-59.

History: Filed September 30, 1982, Amended: Filed \_\_\_\_\_ 2013.

450-1-2-.05. Advance Notice Of Rule Making Procedures.

(1) Notice by First Class Mail shall be given to all persons who pay the cost of such mailing and who have made timely request of the Department for advance notice of its rule making proceedings.

(a) Timely requests shall be those received by the Department prior to the date of publication of the next notice of intent to adopt, amend, or repeal rules in the Alabama Administrative Monthly.

(b) The requests shall be delivered by First Class Mail to the Alabama Highway Department of Transportation, Attn: Administrative Procedure Secretary, Legal Division, Room H-101 147, 1409 Coliseum Boulevard, Montgomery, AL 361310.

(c) The requests shall be in letter form and set out in numbered paragraphs as follows:

1. Subject: Request for advance notice of intent to adopt, amend or repeal rules.



2. Submitted to: Alabama ~~Highway~~ Department of Transportation
3. Date of Request:
4. Requester's name:
5. Requester's business name of affiliation:
6. Complete mailing address to which notice shall be sent:

(2) The cost of advance notice shall be \$12.00 per fiscal year (October 1 through September 30) or, for a partial fiscal year, \$1.00 for each month remaining therein.

(a) Full payment shall accompany the request.

(b) Payment shall be for a full fiscal year or part thereof only.

(c) Payment shall be by certified check, cashier's check or money order.

(3) Notice of expiration and renewal application shall be mailed at the end of each fiscal year.

(4) Requests shall continue in effect, providing that the renewal form and full payment is timely received by the Department.

(5) If timely renewal form and payment is not received, subscription shall be discontinued without further notice, and shall be reinstated only upon the receipt of a new request as provided above.

Author: Jim R. Ippolito, Jr., Chief Counsel

Statutory authority: Code of Ala. 1975 § 23-1-59.

History: Filed September 30, 1982, Repealed \_\_\_\_\_ 2012.

450-1-2-.06. Copies Of Records. Repealed.

(1) Copies of departmental records shall be provided to a party requesting same, at cost, providing that such party has a legal right to the records.

(2) The cost shall include all expenses relating to the providing of such copies, including but not limited to, the cost of records identification and search, copying labor, machine time, expendable supplies and computer time.

(a) An estimated cost shall be quoted prior to any action being taken.

(b) The requesting party shall be required to post a deposit equal to the estimated cost but shall be liable for the full amount. Additional deposit shall be required when actual cost exceeds the amount of deposit.

(c) All deposits and additional payments shall be made by certified check,

cashier's check or money order.

(d) Any refunds due the requesting party shall be by check issued by the Department and mailed to the requesting party in the regular course of business.

(3) It is the intent of this paragraph to assist a requestor in minimizing the cost of obtaining needed records. Costs may be minimized by specifying with maximum particularity the records required.

Author: Jim R. Ippolito, Jr., Chief Counsel

Statutory authority: Code of Ala. 1975 § 23-1-59.

History: Filed September 30, 1982, Repealed \_\_\_\_\_ 2013.

450-1-2-.07. Notification Of Persons Who May Be Affected By The Adoption Of An Emergency Rule. In the event that the Department finds it necessary to adopt an emergency rule under the provisions of Code of Ala. 1975, § 41-22-5(b), the Department shall, prior to indexing and publication, make reasonable efforts to apprise the persons who may be affected by such the emergency rule, as required at by Code of Ala. 1975, § 41-22-6(e)-(2)5b.

(a) "Reasonable efforts," as used above, shall consist of the expeditious mailing of a copy of the emergency rule to those persons who have complied with the provisions of Alabama Department of Transportation Administrative Code Rule 450-1-2-.05.

Author: Jim R. Ippolito, Jr., Chief Counsel

Statutory authority: Code of Ala. 1975 § 23-1-59.

History: Filed September 30, 1982, Amended: Filed \_\_\_\_\_ 2013.

450-1-2-.08. Subscription To Alabama Highway Department of Transportation Administrative Code.

(1) A subscription to the Alabama Highway Department of Transportation Administrative Code shall be made available to those persons making written requests beginning in November of 1982, and each November thereafter. A subscription notification mailing list shall be established for this purpose.

(a) A request to be added to the subscription notification mailing list shall be mailed to the Alabama Highway Department of Transportation, Attn: Administrative Procedure Secretary, Legal Division Room H-101 147, 1409 Coliseum Boulevard, Montgomery, AL 361310.

(b) Requests shall be in letter form and shall be set out in numbered paragraphs, as follows:

1. Subject: Request to be added to the subscription notification mailing list.

2. For: The Alabama Highway Department of Transportation Administrative Code.

3. Date of request:

4. Name of requestor:

5. Business name or affiliation:

6. Complete mailing address to which notice shall be sent:

7. Requester's telephone number:

(2) In November of each year notice shall be sent to those persons appearing on the mailing list of the availability and cost of:

1. A complete copy of the Alabama Highway Department of Transportation Administrative Code as of the end of the previous fiscal year, and

2. Only those supplements to the Alabama Highway Department of Transportation Administrative Code which occurred during the previous fiscal year.

(3) An order blank shall be provided.

(4) Failure to order shall result in removal from the mailing list unless a new request is received.

(5) All costs shall be determined on a cost-per-page basis, to be established prior to the mailing of notices.

(a) Full payment shall accompany the order blank.

(b) Payment shall be by certified check, cashier's check or money order.

(6) Requestors shall be responsible for notifying the Department of any change of name or mailing address.

(a) Notification shall be in letter form and set out in numbered paragraphs as follows:

1. Subject: Change of Name or Address

2. Mailing List: The Alabama Highway Department of Transportation Administrative Code Subscription Notification List.

3. Date of Change:

4. Previous Listing: (name, business name or affiliation, complete mailing address and telephone number):

5. New Listing: (name, business name or affiliation, complete mailing address, and telephone number):

(b) Notification shall be mailed to the address in Section (1)(a), above.

Author: Jim R. Ippolito, Jr., Chief Counsel

Statutory authority: Code of Ala. 1975 § 23-1-59.

History: Filed September 30, 1982, Amended: Filed \_\_\_\_\_ 2013.

450-1-2-.09. Rules Omitted From The Alabama Highway Administrative Code. Repealed.

A compilation of and index to all rules omitted from the Alabama Highway

Department Administrative Code shall be published at least annually in the Alabama Administrative Monthly.

Author: Jim R. Ippolito, Jr., Chief Counsel

Statutory authority: Code of Ala. 1975 § 23-1-59.

History: Filed September 30, 1982, Repealed \_\_\_\_\_ 2013.