

274-1-.03 Request for Initial Administrative Appeal Hearing or Intervention.

(1) Any Applicant for a project, any competing applicant in a joinder review, any competing applicant in the same batching cycle, or any competing health care facility that has timely notified the Department, as required by the applicable certificate of need rules, prior to its decision that such facility is opposed to the application before the Department, or any county or municipal government in whose boundaries the proposed project will be located, who is aggrieved by a decision of the Department shall have the right to an initial administrative appeal hearing before an appeal panel hearing officer or to intervene in such hearing.

(2) Such request for hearing or intervention shall be filed with the Chairperson of the Appeal Panel within thirty (30) days of the date the Department decision is issued, pursuant to O.C.G.A. § 31-6-43, or within thirty (30) days after the date the application is deemed to have been approved, if no decision is issued. Without exception to the status of the party, the request shall state with specificity which Certificate of Need application(s) is being appealed. Unless agreed otherwise by all of the parties or determined otherwise by the hearing officer to whom the case is assigned, an appeal of one application which was joined with one or more other applications by the Department, or an application which was reviewed concurrently in a batching review cycle by the Department, shall serve as an appeal of all of the joined or batched applications.

(3) A request for an initial administrative appeal hearing before a hearing officer or to intervene in such a hearing shall be in writing and must be received by the Appeal Panel at the Office of General Counsel, Department of Community Health, 2 Peachtree Street, N.W., 5th Floor, Atlanta, Georgia 30303-3142, within the applicable thirty (30) day period. If the thirtieth (30th) day falls on a weekend or a federal or state holiday, the time for requesting an appeal or intervention shall be extended to the next business day.

(a) The date of receipt shall be the official postmark date if mailed by registered or certified mail;

(b) The date of receipt shall be the date the Department actually received the request as documented by Department date stamp if mailed by regular first class mail or if hand delivered, except that any such request received after 5:00 p.m. shall be deemed to be received the following business day; and

(c) The only acceptable methods of delivery of any appeal request shall be certified mail, registered mail, regular first class mail, and hand delivery.

Authority O.C.G.A. Secs. 31-5A, 31-6, 31-6-44. **History.** Original Rule entitled "Scope of Appeal Hearing" adopted as ER. 274-1-0.1-.03. F. July 21, 1983; eff. July 20, 1983, the date of adoption.

Amended: Permanent Rule of same title adopted. F. Nov. 8, 1983; eff. Nov. 28, 1983. **Repealed:** New Rule entitled "Request for Initial Administrative Appeal Hearing or Intervention" adopted. F. Dec. 19, 1994; eff. Jan. 8, 1995. **Amended:** F. Aug. 15, 2002; eff. Sept. 4, 2002. **Repealed:** New Rule of same title adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005. **Amended:** F. Sept. 29, 2006; eff. Oct. 19, 2006. **Repealed:** New Rule of same title adopted. F. Sept. 25, 2008; eff. Oct. 15, 2008.