



United States and Alabama Department of Public Health Interim Resolution Agreement

Summary

Overview

In November 2021, the U.S. Department of Justice, Civil Rights Division and the U.S. Department of Health and Human Services, Office for Civil Rights (together, the United States) opened a joint investigation of the Alabama Department of Public Health (ADPH) under Title VI of the Civil Rights Act of 1964 and Section 1557 of the Patient Protection and Affordable Care Act. The investigation looked into whether ADPH carries out its onsite wastewater and infectious diseases and outbreaks programs in a way that causes Black residents of Lowndes County to have less access to adequate wastewater systems and to unlawfully bear the legal consequences and health risks from that lack of access.

On May 3, 2023, the United States and ADPH entered an Interim Resolution Agreement (the “Agreement”). As a result, the United States is pausing the ongoing investigation.

The Agreement requires ADPH to take multiple actions in Lowndes County that fall within three major categories: (1) suspending criminal penalties and liens related to possible violations of sanitation laws; (2) planning equitable onsite wastewater (septic) solutions; and (3) expanding public health awareness.

This document summarizes the Agreement. You may review the entire Agreement at: <https://www.justice.gov/opa/pr/departments-justice-and-health-and-human-services-announce-interim-resolution-agreement>

This summary is intended to increase awareness and understanding of the Interim Resolution Agreement. This summary is designed for those who may not have a legal background.



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Interim Resolution Agreement**

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1. Suspending Criminal Penalties and Liens

ADPH agrees to stop taking actions that could lead to fines, fees, penalties, and liens against Lowndes County residents without the means to install or repair a proper onsite wastewater system.

What is an “onsite wastewater system”? A system that collects, transports, treats, and disperses sewage from a home. A common example is a septic system.

Background

Under Alabama state law, it is a crime to violate certain sanitation-related laws. If a resident has potentially violated one of these laws, ADPH has the power to refer the resident to law enforcement. Making a referral to law enforcement may lead to criminal prosecution, which may then lead to fines, fees, or other penalties against the resident.¹

If a home is located in an unincorporated area of Lowndes County with no ability to connect to a public sewer system (like a sewer system run by a city), ADPH also has the power to force the resident to connect that home to an ADPH-permitted onsite wastewater system. If that happens, the Lowndes County Commission is required to put a lien on the property to pay for the cost of that connection.²

¹ Ala. Code §§ 22-2-14, 22-26-1 et seq.

² Ala. Code § 45-43-171



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Under the Agreement, ADPH will stop taking actions that could result in fines, fees, penalties, or liens. Specifically:

- ADPH agrees it will not refer any Lowndes County resident for criminal prosecution for possible violations of sanitation-related laws if the resident does not have the means to install or repair an ADPH-permitted onsite wastewater system and the resident:
 - (i) Provides information in response to an ADPH survey about how they dispose of their wastewater; and/or
 - (ii) Applies for an onsite wastewater system through an ADPH program and confine any sewage to their own property.
- ADPH agrees it will not take actions which could trigger the lien requirement.
- For any initiatives to expand access to functioning, ADPH-permitted onsite wastewater systems, ADPH will not seek a lien to cover costs related to installation or maintenance of those systems.
- Third parties acting on ADPH's behalf also may not refer residents for criminal prosecution or take actions requiring liens on residents' property.





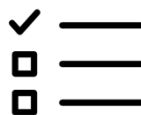
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2. Planning Equitable Onsite Wastewater Solutions

The Agreement requires ADPH to take immediate steps to lay the groundwork for sustainable sanitation solutions.

- ADPH will cooperate with the **Centers for Disease Control and Prevention (CDC)** to measure the level of health risk that different population groups are experiencing from exposure to raw sewage in Lowndes County.
- ADPH will also conduct a **comprehensive assessment** to collect all the information needed before an onsite wastewater system can be installed at a particular home, such as legal barriers (like lack of clear title to property) and the soil type and lot size, which determines what kind of onsite wastewater system will work at each particular location.
- ADPH will contract with an independent third party to conduct the comprehensive assessment and may also partner with or other appropriate government agencies, non-governmental entities, community organizations, and academic institutions.





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ADPH will use this information to develop a **Public Health and Infrastructure Improvement Plan (PHIIP)** that outlines actions ADPH will take to protect public health and improve onsite wastewater infrastructure in Lowndes County.

Actions will be prioritized based on residents' risk of exposure to infectious diseases and public health threats as determined by the collaboration with CDC.

The PHIIP will cover a variety of topics including plans for:

- Installing ADPH-permitted onsite wastewater systems, including a timeline, number and types of systems, and methodology for deciding how to prioritize homes for installation of these systems;
- Immediate temporary solutions for those currently without adequate onsite wastewater solutions;
- Additional initiatives to expand access to functioning, ADPH-permitted onsite wastewater systems;
- Monitoring illnesses from contact with raw sewage;
- Obtaining and using additional funding and resources; and
- Ongoing community engagement.

The PHIIP is subject to the United States' approval. A Draft PHIIP is due in six months (November 3, 2023), and the Final PHIIP is due in one year (May 3, 2024).





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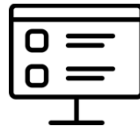
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3. Expanding Public Health Awareness

ADPH will create and widely distribute information to the public on a variety of public health topics including:

- Illnesses that result from contact with raw sewage, as well as how to prevent such illnesses, detect symptoms, contact health care providers, and report issues of raw sewage exposure;
- Safe cleanup of sewage backup inside the home and necessary reporting; and
- Proper septic system use, care, and maintenance.

ADPH will create and provide information to health care providers for Lowndes County to detect health conditions and symptoms that could be caused by exposure to raw sewage.





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4. Timing and Terms

- The Agreement went into effect on May 3, 2023, and will end three years after the United States approves the Final PHIIP.
- ADPH will provide monthly reports to the United States on its progress in complying with the Agreement.
- If ADPH does not comply with the Agreement, the United States will resume this investigation and take appropriate steps to achieve compliance with Title VI and Section 1557.
- ADPH is prohibited from intimidating, threatening, coercing, discriminating, or taking other adverse action against any individual who has made a complaint or otherwise been involved with this investigation.





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5. Involving Community

The Agreement requires transparency and active community engagement and outreach. For example, ADPH is required to:

- Publicize the suspension of criminal penalties and liens;
- Publicize the comprehensive assessment of site conditions and prerequisites to installation of onsite wastewater systems;
- Distribute public health information to the public in a variety of ways such as door-to-door outreach, radio and print ads, and through the mail;
- Solicit and incorporate community input on a quarterly basis as ADPH develops the Draft and Final PHIP;
- Create a plan in the PHIP for continued community engagement; and
- Provide monthly status updates to the United States on compliance with the Agreement.

ADPH is required to submit its outreach plans and materials for the United States' approval.





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6. Contact Information

If you have any questions, concerns, or information that you think may be relevant to this Agreement or to the United States' investigation of ADPH, please contact the **Department of Justice's** dedicated email address or phone line:

AL.Lowndes.EJ@usdoj.gov

1-833-739-2103

You may also contact the **Department of Health and Human Services, Office for Civil Rights** at the following email address or phone line:

OCRMail@hhs.gov

1-800-368-1019, TDD: 1-800-537-7697

You may also submit a complaint to the Department of Justice through the Civil Rights Division Complaint Portal: <https://civilrights.justice.gov>

Or to Department of Health and Human Services, Office for Civil Rights through its online complaint portal: <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>

