

This booklet is divided into two parts. The first part is an Instruction Manual which outlines the technical aspects of filing rules and rule changes with the Legislative Services Agency for inclusion in the Alabama Administrative Code. The Instruction Manual is in the format of rules to serve as a guide for agencies in the submission of rules with Legislative Services Agency.

The second part of this booklet is a Drafting Style Manual which is intended to provide guidance to any persons drafting rules.

If you have any questions or comments concerning this booklet, please contact the Administrative Procedure Division of Legislative Services Agency.

**LEGISLATIVE SERVICES AGENCY
ADMINISTRATIVE PROCEDURE DIVISION**

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PART I.
LEGISLATIVE SERVICES AGENCY
ADMINISTRATIVE PROCEDURE DIVISION

CHAPTER 10-1-1
NOTICE OF INTENT TO ADOPT, AMEND, OR REPEAL RULES

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10-1-1-.01 **Transmittal Sheet.** (See APA-1) A transmittal sheet shall accompany each rule proposal. Not more than one rule and rule title may be listed on a transmittal sheet.

Author:

Statutory Authority: Code of Ala. 1975, §41-11-6.

History: August 31, 1982. **Amended:** January 31, 1990.

10-1-1-.02 **Notice Of Intended Action.** Except for emergency rules, prior to the adoption, amendment, or repeal of any rule, an agency shall give at least 35 days' notice of its intended action. The 35-day period begins on the date of publication of the Administrative Monthly and continues for 35 calendar days before the rule may be adopted. Do not count the day of filing. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, the time when, the place where, and the manner in which interested persons may present their views.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-5.

History: August 31, 1982.

10-1-1-.03 **Format Of Notice Of Intended Action.**
(See Form APA-2).

(1) All notices shall be typewritten on white bond, 8 1/2 x 11 inches, leaving a 1-inch margin at the top, bottom, and right side of the paper, and a 1 1/2-inch margin on the left side. Use only one side of paper. Type in upper and lower case, not in all capital letters. Script typestyle may not be used.

(2) The notice shall include the name of the department or agency; the division if applicable; the title "Notice of Intended Action"; the rule number and rule title; the intended action; the substance of amendment; the time, place, and manner of presenting views; the final date for comment and completion of notice; and the contact person at the agency.

(3) The intended action may begin with a preamble as follows:

(a) "The (agency name) proposes to adopt (new rule no., title of rule)."

(b) "The (agency name) proposes to (amend or repeal) Rule No. (rule no., title of rule)."

(4) You may list more than one rule proposal on the same notice if the requirements set out in Rules 10-1-1-.01 and 10-1-1-.02(1) can be met.

Author:

Statutory Authority: Code of Ala. 1975, §§41-22-5, 41-22-6.

History: August 31, 1982; January 31, 1990.

10-1-1-.04 Format And Text Of Proposed Rules.

(1) Page Format. The original copy of the rule shall be typewritten on white bond, 8 1/2 x 11 inches, leaving a 1-inch margin at the top, bottom, and right side of the paper, and 1 1/2 - inch margin on the left side. Single space all text. Use only one side of paper. Type in upper and lower case, not in all capital letters. Script typestyle may not be used.

(2) Numbering. The proposed rule shall be numbered in accordance with Chapter 10-1-6, Uniform Numbering System.

(3) Information. The text of proposed rules shall contain the following information:

(a) If the proposal is a new chapter: The proposal shall include the heading (name of the agency or department followed by the division name, chapter number, and name), typed

in upper case, the complete table of contents (rule numbers and titles), the full text of each rule, the name or names of author or authors of the rule, the statutory authority (citation of the authority from which the rule was adopted), and a history note line.

(b) If the proposal is a new rule being added to an existing chapter: The proposal shall include the rule number and title, the full text of the new rule, the name or names of the author or authors, the statutory authority, and a history note line.

(c) If the proposal is an amendment to an existing rule: The full text of an amended rule shall be included with language being added indicated by underscoring and language being deleted typed in and lined through. If the proposal adds a new paragraph, the entire rule shall be included with the number of the paragraph and the new language underscored. Include the author or authors of the amendment. Note: The deletion or repeal of a part of a rule is an amendment to the rule and should be treated as an amendment.

(d) If the proposal is to repeal a rule or chapter: The full text of the rule or chapter shall be submitted with the word "repealed" immediately after the title of the rule or chapter. Strike-outs are not necessary. Include the author or authors.

(e) If the proposal is the repeal of an existing rule or chapter which is to be replaced with a new rule or chapter: The full text of the rule or chapter being repealed shall be submitted with the word "repealed" immediately after the title of the rule or chapter along with the full text of the new rule or chapter being adopted in lieu thereof, with the words "New Rule" or "New Chapter" immediately after the title. Strike-outs are not necessary. Include the author or authors, the statutory authority, and the history note line.

Author:

Statutory Authority: Code of Ala. 1975, §§41-22-5, 41-22-6.

History: August 31, 1982; **Amended:** January 31, 1990.

10-1-1-.05 Copies Required.

(1) An original and 25 copies of the following shall be submitted, assembled in the following order:

(a) Transmittal Sheet.

(b) Notice of Intent.

(c) Text of Rule.

(2) One copy shall be stamped with filing date by Legislative Services Agency and returned to agency secretary. If additional stamped copies are required, please bring the extras.

(3) Twenty-two copies shall be forwarded to the Joint Committee on Administrative Regulation Review by the Administrative Procedure Division and three copies shall be retained by Legislative Services Agency.

(4) Legislative Services Agency may request additional copies if needed.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6.

History: August 31, 1982. **Amended:** January 31, 1990.

10-1-1-.06 Page Charge For Publication In Alabama

Administrative Monthly. There is a charge of \$75 per page for publication in the Alabama Administrative Monthly.

Author:

Statutory Authority: Code of Ala 1975, §41-22-7(i).

History: August 31, 1982.

LEGISLATIVE SERVICES AGENCY
ADMINISTRATIVE PROCEDURE DIVISION

CHAPTER 10-1-2
CERTIFICATION OF FINAL ADOPTION OF RULES

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10-1-2-.05	Statement By Agency For Overruling Any Considerations Urged Against Adoption Of A Rule

10-1-2-.01 Certification Of Final Adoption. (See APA-3)

(1) The secretary of each agency shall file in the office of the Legislative Services Agency, no later than 15 days after filing of the final adoption of any rule with the secretary of the agency, and within 90 days after completion of the notice as required by subdivision (1) of subsection (a) of §41-22-5 of the Code of Alabama 1975, three certified copies of the final adopted new rule.

(2) Effective Date of Rules. Subject to review by the Joint Committee on Administrative Regulation Review, each rule is effective 35 days after filing with the Legislative Services Agency, unless a later date is required by statute or specified in the text of the rule in which case the later date is the effective date. Do not count the day of filing. The history line is not a part of the text of a rule and is not to be used to specify a delayed effective date.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6, as amended.

History: August 31, 1982. **Amended:** January 31, 1990.

10-1-2-.02 Certification On Computer Disk. Effective for rules certified after January 1, 1997, all rules in excess of one page certified to Legislative Services Agency shall be submitted both in written form and on computer disk. The computer format shall be a 3.5 diskette in Word Perfect 5.1 or 5.2, MS Word 6.0, or ASCII.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6, as amended.

History: August 31, 1982. **Amended:** January 31, 1990.

10-1-2-.03 **Certification Of Nontextual Material.** Any portion of a rule that is not text shall be submitted in camera-ready copy form.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6, as amended.

History: August 31, 1982. **Amended:** January 31, 1990, November 1, 1996.

10-1-2-.04 **Format Of Final Adopted Rule.**

(1) The text of the final adopted rule shall include the following information:

(a) If the adoption is a new chapter: The chapter heading, the complete table of contents, the text of the rule, the author or authors, the statutory authority, and the history note line.

(b) If the adopted rule is a new rule being added to an existing chapter: The full text of the new rule, the author or authors, the statutory authority, and a history note line.

(c) If the adoption is an amendment to an existing rule:

1. If the adopted rule is not changed from the proposed rule, the agency shall submit the complete text of the rule.

2. If the adopted rule is changed from the proposed rule, the agency shall submit the complete text of the rule with the language being added to the proposed rule indicated by underscoring and the language being deleted from the proposed rule typed in and lined through and shall indicate on the certification form the particular sections that were changed by the amendment.

(d) If the adoption is a repealed rule or chapter: The text of the repeal does not need to be resubmitted, only a certification page is required to be submitted which includes the chapter title and number, rule number and title, a concise

statement of the reason why the rule is being repealed, and the issue number of the Alabama Administrative Monthly in which notice was published. Repealed chapters or rule numbers may be reserved for further use.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6, as amended.

History: August 31, 1982. **Amended:** January 31, 1990.

10-1-2-.05 **Statement By Agency For Overruling Any Considerations Urged Against Adoption Of A Rule.** Pursuant to Code of Alabama 1975, §41-22-5(a)(2), the agency shall consider fully all written and oral submissions respecting the proposed rule, and upon adopting a rule, the agency, if conflicting views are submitted on the proposed rule, shall issue a concise statement of the principal reasons for and against its adoption incorporating therein its reasons for overruling any considerations urged against its adoption.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-5(a)(2).

History: August 31, 1982. **Amended:** January 31, 1990.

LEGISLATIVE SERVICES AGENCY
ADMINISTRATIVE PROCEDURE DIVISION

CHAPTER 10-1-3
EMERGENCY RULES

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10-1-3-.05	Adoption Of The Same Or a Substantially Similar Rule Prohibited

10-1-3-.01 Standards For Adoption Of Emergency Rules. A new rule, the amendment to an existing rule, the repeal of an existing rule, or the adoption by reference of a rule may be promulgated with fewer than 35 days' notice if an agency finds that an immediate danger to the public health, safety, or welfare requires adoption of a rule upon fewer than 35 days' notice or to comply with a federal statute or regulation which requires adoption of a rule upon fewer than 35 days' notice and the department or agency states in writing its reasons for that finding.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-5(b).

History: August 31, 1982.

10-1-3-.02 Certification Of Emergency Adoption. (See APA-4)
The certification of an emergency adoption shall contain all of the following information:

(a) The identification of the emergency rule by rule number and rule title.

(b) A statement whether the agency desires the emergency rule to become effective on the date of filing with Legislative Services Agency or at a later date.

(c) A specification of the length of time the agency desires the emergency rule to remain in effect, but in no case shall an emergency rule remain in effect for a period of longer than 120 days. An emergency rule is not renewable.

(d) A specification of the nature of the emergency and the reasons for the decision that an emergency exists. (See Code of Alabama 1975, §41-22-5(b)).

(e) A specification of the statutory authority for the rule.

(f) A specification whether the agency intends to adopt the subject of the emergency rule as a permanent rule under the normal rulemaking procedures.

(g) A specification of the person to contact for a copy of the emergency rule, including the address and telephone number.

(h) The signature of the authorized agency official or his or her deputy.

(i) An original and three copies of emergency rules shall be filed with the Administrative Procedure Division. One copy will be stamped with the filing date and returned to the agency upon request. Additional copies shall be furnished by the agency if needed.

Author:

Statutory Authority: Code of Ala. 1975, §§41-22-5(b), 41-22-6.

History: August 31, 1982. **Amended:** January 31, 1990.

10-1-3-.03 **Format Of Emergency Rules.** The procedure to follow for formatting of emergency rules shall be the same as set out in Rule 10-1-1-.03.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6.

History: August 31, 1982.

10-1-3-.04 **Numbering Of Emergency Rules.**

(1) Emergency rules shall be numbered in numerical sequence regardless of the division or chapter title where the rule is to be placed. The suffix ER shall be placed at the end of the rule number.

(a) If the emergency rule is a new rule and the agency does not plan to adopt it on a permanent basis under the normal

rulemaking procedure, the rule shall be numbered as follows:
590-4-2-.01ER; (.01 is the first emergency rule number).

(b) If the emergency rule is a new rule and the agency plans to adopt it on a permanent basis under the normal rulemaking procedure, the rule is required to be assigned the next consecutive rule number in the particular division and chapter where the rule is to be placed and the next consecutive emergency rule number should be assigned to the rule, as follows: 590-4-2-.04-.02ER, (.04 is your permanent rule number and .02 is your emergency rule number).

(c) If the emergency rule is an amendment of an existing rule, the rule is required to be numbered as follows:
590-4-2-.05-.03ER.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6.

History: August 31, 1982.

10-1-3-.05 Adoption Of The Same Or A Substantially Similar Emergency Rule Prohibited. An agency may not adopt the same or a substantially similar emergency rule within one calendar year from its first adoption unless the agency clearly establishes it could not reasonably be foreseen during the initial 120-day period that the emergency would continue or would likely reoccur during the next nine months.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-5(b).

History: August 31, 1982.

LEGISLATIVE SERVICES AGENCY
ADMINISTRATIVE PROCEDURE DIVISION

CHAPTER 10-1-4
ADOPTION BY REFERENCE

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10-1-4-.03	Format Of Rule For Adoption By Reference
10-1-4-.04	Submission Procedures

10-1-4-.01 **Adoption By Reference.** An agency may adopt, by reference, in its rules and without publishing the adopted matter in full, all or any part of a code, standard, or regulation which has been adopted by any other agency of this state or of an agency of the United States or by a generally recognized organization or association approved by the Joint Committee on Administrative Regulation Review.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-9.

History: August 31, 1982.

10-1-4-.02 **Procedure For Adopting Material By Reference.** The rule for adopting material by reference is required to be filed, indexed, and published in the same manner as any other agency proposal, putting the public on notice of what the adopted material is and where the public may obtain a copy of the material.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-9.

History: August 31, 1982.

10-1-4-.03 **Format Of Rule For Adoption By Reference.**

(1) The rule shall be numbered in accordance with the Uniform Numbering System and given a rule title. The rule should give a concise description of the document, summarizing its major provisions, and shall fully identify the adopted matter by date and otherwise, and the rule shall state where copies of the

adopted matter may be obtained and any charges for the rule and reference material.

(2) The reference material does not need to comply with the format requirements of other rules.

Author:

Statutory Authority: Code of Ala. 1975, §§41-22-6, 41-22-9.

History: January 31, 1990.

10-1-4-.04 **Submission Procedures.** Submission procedures are the same as those set out in Chapter 10-1-1, for proposals and Chapter 10-1-2, for certification of final adoption.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6.

History: January 31, 1990.

LEGISLATIVE SERVICE AGENCY
ADMINISTRATIVE PROCEDURE DIVISION

CHAPTER 10-1-5
GENERAL INSTRUCTIONS

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10-1-5-.05	Author Of Rule
10-1-5-.06	Statutory Authority
10-1-5-.07	History Notes
10-1-5-.08	Maps, Illustrations, Tables

10-1-5-.01 **Heading.** The heading is composed of the name of the agency or department followed by the division name, chapter number and name, all of which shall be typed in upper case. For example:

LEGISLATIVE SERVICE AGENCY
ADMINISTRATIVE PROCEDURE DIVISION
(one line space)

CHAPTER 10-1-5
GENERAL INSTRUCTIONS
(2 line spaces)

TABLE OF CONTENTS
(2 line spaces)

(a) Letterhead stationary with seals, names of officers, etc., at the top of the page may not be used.

(b) The heading shall be repeated at the beginning of each chapter.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6.

History: August 31, 1982.

10-1-5-.02 Table of Contents.

(1) There shall be a Table of Contents at the beginning of each chapter which precedes the substance of the rules.

(2) The titles under the Table of Contents shall be substantially identical to the titles of the rules.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6.

History: August 31, 1982.

10-1-5-.03 Chapter. A chapter may contain one or more rules relating to the same general subject matter.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6.

History: August 31, 1982.

10-1-5-.04 Rule Title. Each rule shall have a title defining the substance of the rule. The title shall follow the rule number and shall be underlined. The main words of the title shall be capitalized. Minor words shall not be capitalized.

(a) The title of any paragraph or subparagraph under a rule may be underlined.

(b) Any word, group of words, or phrase may be underlined.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6.

History: August 31, 1982.

10-1-5-.05 Author Of Rule.

(1) Each rule promulgated, whether the original or a revision, and all copies thereof, shall have the name or names of the author or authors, respectively, on its face.

(2) The name or names of the author or authors shall be placed on a separate line immediately at the end of each rule.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6.

History: August 31, 1982.

10-1-5-.06 Statutory Authority.

(1) Each rule shall contain a citation of the authority pursuant to which it was adopted and the authority shall be located immediately beneath the line containing the name or names of the author or authors. The authority shall indicate the following types of authorities:

(a) Authority to Promulgate Rules. The specific statute which authorizes the agency to adopt a rule, if it is not contained in the law which the rule is implementing. The authority to promulgate rules is often a section of the enabling law of the agency or the law creating the agency.

(b) Authority being Implemented. The specific state or federal law or rules (or sections thereof) which the rules are implementing, interpreting, or applying. Use the Act number if the law has not been codified in the Code of Alabama 1975.

(2) The citation for applicable authority shall follow in this order: the Alabama Constitution of 1901; the Code of Ala. 1975; the Public Law, (PL); the U.S.C.; the CFR; and the FR.

(3) Authority citations are supplemental references which are intended to be used for the convenience of the reader. They are not rules and do not have the force of law.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6.

History: August 31, 1982. **Amended:** January 31, 1990.

10-1-5-.07 History Notes. History notes indicate action and date of action taken on a rule (original adoption, amendment, repeal); for example:

History: **Original rule filed:** Oct. 1, 1982. **Amended:** Filed December 1, 1982; effective January 5, 1983. **Amended:** Filed March 1, 1983; effective April 5, 1983.

(a) The effective date may be determined by the agency by counting 35 days after the certification date of the rule with Legislative Services Agency. Do not count the day of filing.

(b) Any previous rule number that the rule may have had shall be referenced.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6.

History: August 31, 1982.

10-1-5-.08 **Maps, Illustrations, Tables.** Supplementary materials included in a rule are a part of the rule and should be referred to in the text of the rule. Maps, illustrations, tables, diagrams, and other supplementary material included in a rule may be placed at the end of the chapter and labeled as appendices, exhibits, illustrations, or tables.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6.

History: August 31, 1982.

**LEGISLATIVE SERVICES AGENCY
ADMINISTRATIVE PROCEDURE DIVISION**

**CHAPTER 10-1-6
UNIFORM NUMBERING SYSTEM**

TABLE OF CONTENTS

10-1-6-.01 Uniform Numbering System

10-1-6-.01 Uniform Numbering System.

(1) Each state board, bureau, commission, department, officer, or other administrative office or unit of the state authorized by law expressly to make rules and regulations shall be assigned a control number, such as: 10 Legislative Services Agency.

(2) The agency control number is followed by a dash (-), as follows: 10-. Should a rulemaking agency have in its organization one or more departments, divisions, or primary subject matters, the departments, divisions, or primary subject matters shall be designated by a number following the control number, and this number shall be followed by a dash (-), such as 10-2-, (Legislative Services Agency, Administrative Procedure Division).

(3) Subject matter under departments, divisions, or primary subject matter shall have a subsequent number followed by a dash (-), such as: 10-2-1, ("10" is the control number of the agency; "2" indicates the second division of the agency; "1" indicates the first chapter in Division 2). If the agency does not have divisions, indicate this by placing an "X" following the control number (separated by a dash (-), then the chapter number and followed by the rule number. For example: 10-X-1-.01.

(4) Each rule shall be given a number preceded by a decimal (.) which shall follow chapter number, such as: 10-2-1-.01, 10-2-1-.02, ect.

(5) All rules shall be numbered consecutively.

(6) If a rule has only one paragraph, that paragraph shall be unnumbered and shall follow the rule title, which is followed by a period.

(7) If a rule has more than one main paragraph, each paragraph shall be indented to the fifth space and shall be numbered (1), (2), (3), ect., consecutively.

(8) If a rule has only one main paragraph and one or more subparagraphs, the main paragraph shall be unnumbered and shall follow the rule title, which is followed by a period (.). The first line of all subparagraphs shall be indented to the fifth space and all following lines shall revert to the left margin.

(9) Subparagraphs shall be designated (a), (b), (c), ect., consecutively.

(a) If there is only one subparagraph under a main paragraph, the subparagraph shall be designated (a).

(b) If designated subparagraphs exceed the letters of the alphabet (a through z), then subsequent like subparagraphs shall be designated (aa), (bb), (cc), ect.

(10) If a rule is divided into many separate paragraphs and subparagraphs, the paragraphs and subparagraphs shall be designated as follows:

- | | |
|-----------------|---------------------------------------|
| (1), (2), ect. | (Main paragraphs) |
| (a), (b), ect. | (subparagraphs under main paragraphs) |
| 1., 2., etc. | (subparagraphs under (a), (b), etc.) |
| (i), (ii), etc. | (subparagraphs under 1., 2., etc.) |
| (I), (II), etc. | (subparagraphs under (i), (ii), etc.) |
| I., II., etc. | (subparagraphs under (I), (II), etc.) |
| A., B., etc. | (subparagraphs under I., II., etc.) |
| (A), (B), etc. | (subparagraphs under A., B., etc.) |

(11) All subparagraphs shall use the same indenture and margin as main paragraphs.

(12) The author or authors of rules are strongly urged to use short rules without the need for extensive use of paragraphs and subparagraphs.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-7(e).

History: August 31, 1982.

LEGISLATIVE SERVICES AGENCY
ADMINISTRATIVE PROCEDURE DIVISION

CHAPTER 10-1-7
CERTIFICATION OF PEREMPTORY RULES

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10-1-7-.02 Number Of Copies Required

10-1-7-.01 Agency Certification Of Peremptory Rules. To adopt, amend, or repeal a rule, for which state law does not require compliance with the regular rulemaking procedures, use Form APA-5.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6.

History: January 31, 1990.

10-1-7-.02 Number Of Copies Required. An original and two copies of the certification and rule shall be filed with Legislative Services Agency.

Author:

Statutory Authority: Code of Ala. 1975, §41-22-6.

History: January 31, 1990.

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control _____ Department or Agency _____
Rule No. _____
Rule Title: _____
_____ New _____ Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? _____

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? _____

Is there another, less restrictive method of regulation available that could adequately protect the public? _____

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? _____

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? _____

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? _____

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? _____

Does the proposed rule have an economic impact? _____

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 Services Agency.

Signature of certifying officer _____

Date _____

(DATE FILED)
(STAMP)

APA-2
07/04

(Agency Name)
(Agency Division, if applicable)

NOTICE OF INTENDED ACTION

AGENCY NAME:

RULE NO. & TITLE:

INTENDED ACTION:

SUBSTANCE OF PROPOSED ACTION:

TIME, PLACE, MANNER OF PRESENTING VIEWS:

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

CONTACT PERSON AT AGENCY:

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

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR**

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on the _____ day of _____, 20____, and filed with the agency secretary on the _____ day of _____, 20____.

AGENCY NAME: _____

_____Amendment _____New _____Repeal (Mark appropriate space)

Rule No. _____
(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

Rule Title: _____

ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME _____,
ISSUE NO. _____, AAM, DATED _____, 20____.

Statutory Rulemaking Authority: _____

(Date Filed)
(For LSA Use Only)

Certifying Officer or his or her
Deputy

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.

**CERTIFICATION OF EMERGENCY RULES
FILED WITH LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR**

Pursuant to Code of Alabama 1975, §§41-22-5(b) and 41-22-6(c) (2)a. and b.

I certify that the attached emergency (amendment, new rule, new chapter, repeal or adoption by reference) is a correct copy as promulgated and adopted on the _____ day of _____, 20__.

AGENCY NAME: _____

RULE NO. AND TITLE: _____

EFFECTIVE DATE OF RULE: _____

EXPIRATION DATE (If less than 120 days): _____

NATURE OF EMERGENCY:

STATUTORY AUTHORITY: _____

SUBJECT OF RULE TO BE ADOPTED ON PERMANENT BASIS _____ YES _____ NO

NAME, ADDRESS, AND TELEPHONE NUMBER OF PERSON TO CONTACT FOR COPY OF RULE:

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

FILING DATE
(For APA Use Only)

**CERTIFICATION OF PEREMPTORY RULES
FILED WITH THE
LEGISLATIVE SERVICES AGENCY**

The _____
(Name of Agency, Commission, Board, or Department)

certifies that the attached hereto is a true and correct copy of:

Rule No. and Title: _____

which was duly (adopted, amended, or repealed) by peremptory
rulemaking on the _____ day of _____, 20__.

Statutory Authority: _____

Dated this _____ day of _____, 20__.

Signature of Certifying
Officer

FILING DATE
(For APA Use Only)

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

****Additional pages may be used if needed.**

PART II.

LEGISLATIVE SERVICES AGENCY DRAFTING STYLE MANUAL INTRODUCTION

The most important principle in drafting a rule is that the finished product accurately accomplish the intent of the author. The failure to accomplish the intent of the author is often the result of failing to follow the essentials of good drafting. Those principles are: Accuracy, brevity, clarity, and simplicity. The purpose and effect of a rule should be evident from its language. A rule should not be written in legalese, but should be drafted in terms a person without any special education or qualifications should be able to comprehend. Thus, a drafter should use words that are plain and commonly understood and convey the intended meaning to each reader.

The following drafting rules are intended as a guide to good drafting. Use of these rules will almost always result in a product that: Facilitates the intent of the author, rather than hides it; makes construction easier, rather than more difficult; and, most importantly, makes rules understandable to the persons whose lives are governed by it.

DRAFTING RULES

RULE 1. SENTENCE STRUCTURE

Use short, simple sentences. Avoid excessive use of dependent clauses, parallel clauses, compound sentences, or other complex sentence structures.

Comment

Second only to the principle that a rule should reflect the intent of its author is the principle that a rule should be understandable. Complex sentence structure often makes a rule ambiguous or its meaning obscure. A sentence that expresses a single thought is easier for the reader to understand.

RULE 2. SUBJECT OF SENTENCE

Unless it is clear from the context, use as the subject of each sentence the person or entity to whom a power, right, or privilege is granted or upon whom a duty, obligation, or prohibition is imposed.

RULE 3. TENSE, MOOD, NUMBER, AND VOICE

(a) Use the present tense and the indicative mood. Prefer the singular to the plural. Avoid use of the passive voice.

(b) State a condition precedent in the perfect tense if its happening is required to be completed.

Comment

A rule is regarded as speaking in the present and constantly. The use of "shall" in imposing a duty does not indicate the future tense. Even if an action is required on a specified future date, the form of expression is in the present tense.

In speaking in the present, a circumstance putting a provision of a rule in operation, if continuing to exist, is in the present tense. Example: "The applicant, if married, may bring an action." If the triggering circumstance is completed, it is expressed in the perfect tense, but is never in the future

or future perfect. Example: "If the issue has been litigated, the claimant may not recover."

The singular is simpler and clearer than the plural. For example: "A possibility of reverter is subject to limitations in the document that creates it" is preferable to, "Possibilities of reverter are subject to limitations in the documents that create them." However, the plural may be used to comply with Rule 4 if its use is the least awkward solution.

The passive voice may be used to comply with Rule 4.

Rule 4. Gender

Avoid using gender-based personal pronouns whenever possible.

Comment

Attempt to draft the sentence so as to minimize the need for gender-based pronouns. Repeat the noun, use the plural form, or use the phrase "he [or she]," "his [or her]," or "himself [or herself]," selecting the least awkward solution. Passive voice may be used if the actor remains clear.

RULE 5. CONSISTENCY

(a) Be consistent in the use of language throughout the rule. Do not use the same word or phrase to convey different meanings. Do not use different language to convey the same meaning.

(b) Be consistent in the arrangement of comparable provisions. Arrange sections containing similar material in the same way.

Comment

Consistency helps prevent different interpretations of similar provisions.

RULE 6. BREVITY

(a) Omit needless language.

(b) If a word has the same meaning as a phrase, use the word.

(c) Use the shortest sentence that conveys the intended meaning.

Comment

In construing legislative acts, courts consider each word and endeavor to give it meaning. Unnecessary language is more likely to mislead than to help.

RULE 7. CHOICE OF WORDS AND PHRASES

(a) Select short familiar words and phrases that best express the intended meaning according to common and approved usage. Avoid "legalese." Examples: Use "after" instead of "subsequent to"; use "before" instead of "prior to."

(b) Do not use both a word and its synonym.

(c) Use a pronoun only if its antecedent is unmistakable and its use is gender neutral. Repeat the noun rather than use a pronoun unless the antecedent is a series of nouns. If the sentence structure is so complex that a possessive pronoun seems necessary, consider redrafting the sentence rather than using a possessive pronoun.

(d) Make free but careful use of possessive nouns.

(e) Do not use "said," "aforesaid," "hereinabove," "beforementioned," "whatsoever," or similar words of reference or emphasis.

(f) Do not use "any," "each," "every," "all," or "some" if "a," "an," or "the" can be used with the same result.

(g) Do not use "and/or."

(h) Do not use "deem" for "consider." Use "deem" only to state that something is to be treated as true even if contrary to fact.

Comment

For list of examples, see Appendix A.

RULE 8. USE OF "SHALL," "MAY," AND "MUST"

(a) A duty, obligation, requirement, or condition precedent is best expressed by "shall" rather than "must." In no event should "shall" and "must" be used interchangeably in the same rule.

(b) Use "may" to confer a power, privilege, or right. Examples: "The applicant 'may demand' (power) an extension of time." "The applicant 'may renew' (privilege) the application." "The applicant 'may appeal' (right) the decision." Do not use substitute phrases for "may" such as "is authorized and empowered to."

(c) Use "may not" to express a prohibition.

(d) Avoid using qualifiers, such as "would," "should," and "ought" in the text of a rule.

RULE 9. USE OF "WHICH" AND "THAT"

(a) Use "which" to introduce a nonrestrictive clause. Example: "The application, 'which' need not be verified, shall be signed by the applicant."

(b) Use "that" to introduce a restrictive clause modifying the nearest antecedent. Example: "An application to renew a license 'that' has been revoked. . ."

(c) Use "which" to modify a remote antecedent in a restrictive clause. Example: "An 'application' to renew a license 'which' has been rejected. . ." Consider rewording the sentence to avoid the use of "which" to modify a remote antecedent in a restrictive clause if the reference is not clear. Example: "If an application to renew a license has been rejected, the application. . ."

RULE 10. USE OF "SUCH"

Do not use "such" as a substitute for "the," "that," "it," "those," "them," or other similar words. Example: "The (not 'such') application shall be in the form the court prescribes." Use "such" to express "for example" or "of that kind."

RULE 11. PUNCTUATION

(a) Punctuate carefully. Consider recasting a sentence if a change in punctuation might change its meaning.

(b) Use a comma before "and" to separate the last of a conjunctive series of three or more words, phrases, or clauses in a sentence. Example: "men, women, and children"; not "men, women and children."

(c) Use a comma before "or" to separate the last of a disjunctive series of three or more words, phrases, or clauses in a sentence.

(d) Use a colon to introduce a list of items. See Rule 15.

(e) Do not use brackets or parentheses as punctuation.

RULE 12. DEFINITIONS

(a) Use a definition only in one or more of the following circumstances:

(1) If a word has several different common usages.

(2) If a word is used in a sense broader or narrower than its common usage.

(3) To avoid repetition of a phrase.

(b) Use "means" to express a comprehensive meaning of a word. Use "includes, but is not limited to," to express a meaning in addition to common usage.

(c) Avoid using the defined word in its definition.

(d) Do not write substantive provisions or artificial concepts into definitions. For example, do not impose the substantive requirement that an agreement be "in writing" by defining "agreement" to mean "a written agreement."

(e) Place general definitions at the beginning of the rule. Arrange them in alphabetical order.

(f) Use the defined word, not the definition.

(g) If a defined term is used only in a single section, chapter, or part, locate the definition at the beginning of that section, chapter, or part.

Comment

Definitions that are carefully written and properly located help to avoid unnecessary repetition and improve the clarity of a rule.

RULE 13. CAPITALIZATION

All proper names are capitalized.

The first word of an indented paragraph is capitalized.

The first word following a colon is capitalized.

In title, chapter, article, and other headings, capitalize the initial word, the word immediately following a colon (if any), and all other words except articles, conjunctions, and prepositions of four or fewer letters.

Capitalize nouns referring to people or groups only when they identify specific persons, officials, groups, government offices, or government bodies. Examples:

The "Social Security Administrator," but not "the administrator". The "NLRB", but not "the board". The "FDA," but not "the agency". The "Secretary of State, " but not "the secretary". The "Congress" and the "President," when referring to the Congress of the United States and the President of the United States, are always capitalized.

RULE 14. LIMITATIONS, EXCEPTIONS, AND CONDITIONS

(a) Limitations or exceptions to the coverage of the rule or conditions placed on its application should be described in the first part of the rule. If they are numerous, notice of their existence should be given in the first part of the rule and they should be stated separately later in the rule.

(b) If a provision is limited in its application or is subject to an exception or condition, it generally promotes clarity to begin the provision with a statement of the limitation, exception, or condition or with a notice of its existence. For example: "(a) Except as provided in subsection (b). . ." Avoid using "notwithstanding" to express a limitation of a general provision of the same act. For example: "(b) Notwithstanding subsection (a). . ."

(c) If the application of a provision of the rule is limited by the occurrence of a condition that may never occur, use "if" to introduce the condition, not "when" or "where." Use "when" to indicate a particular time. Use "where" to indicate a particular place or set of circumstances.

(d) Do not use "provided that" or "provided however that," or similar proviso language.

Comment

Limitations or exceptions to a rule should be placed where they are noticed. Consistent placement in the first part of a rule or provision serves to avoid surprises.

RULE 15. LISTS AND TABULATIONS

(a) Break a sentence into its parts and present them in tabular form only if this makes the meaning substantially clearer.

(b) It is the preferred style to use "any of the following," "one or more of the following," or "all of the following" in the introductory clause followed by separately stated complete sentences rather than set the series off by semicolons and an "or" or "and" after the next to last item in the series. For example:

"No person may be licensed as an attorney under this chapter unless the person meets all of the following requirements:

(1) The person is a resident of the state.

(2) The person has not been convicted of a crime involving moral turpitude.

(3) The person is a graduate of a law school accredited by the American Association of Law Schools.

(4) The person passes a proficiency examination administered by the State Bar Association."

(c) Do not include in the last item of a tabulation language that qualifies all of the items.

(d) Do not place a sentence or paragraph after a tabulation. If the sentence or paragraph is not a part of the

tabulated series, draft it as a separate subsection, subdivision, or paragraph.

Comment

Use tabulation especially if the subject matter makes the use of short sentences impossible. Consider using tabular form where a number of rights, powers, privileges, duties, or liabilities are granted to or imposed upon a person and in other situations if the use of tabular form makes the provision substantially easier to understand. See Rule 16 concerning manner of designating items in a tabulation.

RULE 16. RULE STYLE

(a) Use short rules. Use a separate rule for each separate topic.

(b) Divide a rule that covers a number of contingencies, alternatives, requirements, or conditions into sections, subdivisions, and paragraphs, as necessary. A paragraph may be divided into subparagraphs, but avoid their use. Divide a rule into several rules as an alternative to subparagraphs.

Comment

Portions of a rule that are not identified by a letter or number often cause confusion.

RULE 17. REFERENCES TO OTHER PROVISIONS OF RULE

Use an initial capital letter in referring to a specific article, chapter, part, or rule number; use lower case in referring to a specific section, subdivision, paragraph, or subparagraph. Examples: "The application required by Rule XXX-XX-XX. . ."; "Except as provided in section (b), . . ."

Comment

Where reference to only one or a few rules is intended, a specific reference is useful because it avoids the need to search all the rules to determine the provisions to which reference is intended. Overuse of specific references to other provisions of a rule can make the rule difficult to read and understand. Moreover, rule numbers and sections are sometimes changed without

changing references to them. Computer technology has reduced the difficulty of finding these references.

RULE 18. PROCEDURAL PROVISIONS

Do not include procedural provisions as to administrative procedure or review, court procedure, or appellate procedure in a substantive rule unless essential to change those procedures in order to effectuate its purposes.

RULE 19. CREATION OF AGENCY OR OFFICE

Use simple language in the present tense to create or establish a division or office of an agency or department. Example: "The Office of _____ is [created] [established] in the Department of. . ."

RULE 20. ORDER OF ARRANGEMENT OF PROVISIONS IN RULE

Organize rules in the most useful and logical format for the reader. Avoid an organization that requires an understanding of a later rule in order to understand an earlier rule. Group all rules dealing with a common subject.

RULE 21. REVISION

If time is available, after the draft of a rule has been completed, revise it carefully and critically. Lay the revision aside for a time. Then revise the revision. Review each use of a defined term to make sure it is used consistently in its defined sense.

Comment

There is no substitute for time and thoroughness.

APPENDIX A

AVOID THE USE OF THE FOLLOWING REDUNDANT COUPLETS

alter and change	made and entered into
any and all	means and includes
authorize and direct	necessary or desirable
authorize and empower	null and void
by and with	order and direct
desire and require	over and above
each and all	power and authority
each and every	shall have and exercise
final and conclusive	sole and exclusive
from and after	type and kind
full and complete	unless and until
full force and effect	

AVOID THE FOLLOWING INDEFINITE WORDS

aforementioned	said (as a substitute for
aforesaid	"it," "he," "she," etc.)
and/or (say "A" or "B,"	same (as a substitute for
or both)	"it," "he," "she," etc.)
before (as an adjective)	thereof
before-mentioned	thereto
hereafter	therewith
hereby	to wit
herein	whatsoever
hereinabove	whensoever
hereinafter	wheresoever
heretofore	whosoever
herewith	

USE SIMPLE LANGUAGE

<u>Do not say</u>	<u>Say</u>
absolutely null and void and of no effect	void
accorded	given
adequate number of	enough
adjudged, ordered, and decreed	adjudged
admit of	allow
afforded	given
among and between	among (if more than two things or persons are involved); between (if two or more things are involved but are treated individually)
approximately	about
at the place	where
at the same time	when
at the time	when
attempt (as a verb)	try
calculate	compute
category	kind, class, group
cause it to be done	have it done
cease	stop
commence, institute	start, begin
complete (as a verb)	finish
conceal	hide

consequence	result
constitute and appoint	appoint
contiguous to	next to
corporation organized and existing under the laws of New Jersey	a New Jersey corporation
do and perform	do
does not operate to	does not
donate	give
during such time as	while
during the course of	during
endeavor (as a verb)	try
enter into as contract with	to contract with
evidence, documentary and otherwise	evidence
evidence	show
except that	but
excessive number of	too many
expiration	end
fail, refuse, and neglect	fail
feasible	possible
for the duration of	during or while
for the purpose of holding (or other gerund)	to hold (or comparable infinitive)
for the reason that	because
forthwith	immediately
frequently	often

from July 1, 1971	after June 30, 1971
full and adequate or full and complete	full
hereafter	after this...takes effect...
heretofore	before this...takes effect...
however or provided the	if, unless, (or state condition)
in a case in which	when, where
in case	if
indicate (in the sense of show)	show
inquire	ask
institute	begin, start
interrogate	question
in the case of	whenever (only when emphasizing the exhausting or recurring applicability to the proposition)
in the event that	if
in the interest of	for
is able to	can
is applicable (shall be)	applies
is authorized and directed	shall
is authorized to	may
is binding up	binds
is directed	shall

is entitled (in the sense of has the name)	is called
is unable to	cannot
it is the duty	shall
it shall be lawful to	may
law passed	law enacted
manner	way
maximum	most, largest, greatest
minimum	least, smallest
modify	change
negotiate (in the sense of enter into a contract)	make
no later than June 30, 1971	before July 1, 1971
nor	or (do not misuse "nor," "for," "or," after a negative expression)
obtain	get
occasion (as a verb)	cause
of a technical nature	technical
on and after July 1, 1971	after June 30, 1971
on his or her own application	at his or her own request
on or before June 30, 1971	before July 1, 1971
on the part of	by
or, in the alternative	or
party of the first part	(the party's name)
per annum	per year
per centum	percent

period of time	period, time
portion	part
possessed	have or had
preserve	keep
prior or prior to	earlier or before
proceed	go, go ahead
procure	obtain, get
prosecute its business	carry on its business
provide that	if, unless, or but
provision of law	law
purchase (as a verb)	buy
remainder	rest
render (in the sense of give)	give
render (in the sense of cause to be)	make
require (in the sense of need)	need
retain	keep
specified (in the sense of expressly mentioned or listed)	named
State of Kansas	Kansas
subsequent	later
subsequent to	after
successfully completes or passes	completes or passes
suffer (in the sense of permit)	permit
sufficient number of	enough
summon	send for, call

the Congress	Congress
the manner in which	how
to the effect that	that
under the provisions	under
until such time as	until
utilize, employ (in the sense of use)	use
when	if
where	in which
within or without the Unites States	inside or outside the United States
with reference to	for
with the object of changing (or other gerund)	to change (or comparative infinitive)