

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 80 Department of Agriculture and Industries

Chapter No.: 80-8-7

Chapter Title: Cotton Promotional Referendum

X New;      Amend;   x   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? N/A

Is there another less restrictive method of regulation available that could adequately protect the public? N/A

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? N/A

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 any 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 

Date: 12-12-2017

(DATE FILED)  
(STAMP)

APA-2

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES

NOTICE OF INTENDED ACTION

Agency Name: Alabama Department of Agriculture and Industries

Chapter NO. & Title: 80-8-7 Cotton Promotional Referendum

Intended Action: To Repeal and Replace with New Chapter

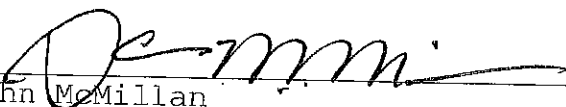
Substance of Proposed Action: To provide uniformity with check-off commodities so that the rules governing the referendum are clear and unchanging between commodities and conform entirely to the Code of Alabama.

Time, Place, Manner of Presenting Views: Views may be presented in writing to the contact person below or in person on Tuesday, February 13, 2018, at 10:00 a.m., in the Auditorium of the Richard Beard Building, 1445 Federal Drive, Montgomery, Alabama, 36117.

Final Date for Comment and Completion of Notice: February 13, 2018.

Contact Person at Agency: N. Gunter Guy Jr., Legal Counsel, Department of Agriculture and Industries, 1445 Federal Drive, Montgomery, Alabama 36107-1123, Telephone No. (334) 240-7117.

12-12-2017  
Date

  
John McMillan  
Commissioner of Agriculture  
and Industries

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES  
MARKETING  
ADMINISTRATIVE CODE

CHAPTER 80-8-7  
COTTON PROMOTIONAL REFERENDUM "Repealed"

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80-8-7-.06	Persons Entitled To Vote
80-8-7-.07	Bond Required For Certified Commission

80-8-7-.01 Purpose. The purpose of this Chapter is to set up procedures and rules governing referendums conducted under the provisions of Code of Ala. 1975, §§2-8-190 through 2-8-211, for cotton promotional programs. **Author:** Charles H. Barnes  
**Statutory Authority:** Code of Ala. 1975, §2-8-208.  
**History:** Filed May 19, 1992.

80-8-7-.02 Referendum To Be Held. A referendum shall be held by the Commission, certified by the Board of Agriculture and Industries, on a statewide basis at which time Alabama cotton producers may vote upon the question of whether they favor a ten-year assessment in an amount not to exceed \$1.00 per bale, the amount to be determined and published annually by the Commission.

**Authors:** Charles H. Barnes, Reginald L. Sorrells  
**Statutory Authority:** Code of Ala. 1975, §2-8-208.  
**History:** Filed May 19, 1992. **Amended:** Filed May 15, 2002; effective June 19, 2002.

80-8-7-.03      Notice To Be Given. Notice of said referendum and assessment amount established annually by the Commission by publication or otherwise shall be given by the certified Commission as provided under Code of Ala. 1975, §2-8-196.  
**Authors:** Charles H. Barnes, Reginald L. Sorrells  
**Statutory Authority:** Code of Ala. 1975, §2-8-208.  
**History:** Filed May 19, 1992. **Amended:** Filed May 15, 2002; effective June 19, 2002.

80-8-7-.04      Polling Places And Time Of Operation.

(1)      The referendum shall be held by providing voting facilities in all counties producing cotton in the year prior to the year the referendum is held. In those counties where there is a large number of cotton producers then additional voting facilities may be provided in such counties at convenient locations such as city hall, community centers, local offices of the county farmers federation, or other locations to be selected by the county referendum committee. The exact location of the voting places in each county shall be given publicity in order that all cotton producers will have an opportunity to vote. The certified Commission shall furnish all necessary ballots and county election supplies and bear all expenses necessary and incidental to holding the referendum.

(2)      The polls shall be open for voting from 8:00 a.m. to 4:00 p.m. on the date of the referendum.  
**Authors:** Charles H. Barnes, Reginald L. Sorrells  
**Statutory Authority:** Code of Ala. 1975, §2-8-208.  
**History:** Filed May 19, 1992. **Amended:** Filed May 15, 2002; effective June 19, 2002. **Amended:** Filed February 16, 2012; effective March 22, 2012.

80-8-7-.05      Procedure For Polling And Handling Results Of The Poll.

(1)      Each polling place shall have not less than two individuals who shall serve as poll holders to be in charge of and supervise the voting. Such polling places shall have a voters' register, and those who are eligible to vote shall sign

his or her name upon such register and enter thereon his or her address together with the number of acres of cotton harvested in 2011 or planted in 2012.

(2) Cotton producers shall be furnished with a printed ballot for voting by secret ballot and after the vote is cast, such ballot shall be folded, deposited and kept in a ballot box or other similar container suitable to serve as a ballot box.

(3) As soon as the last voter has voted and the polls close, the poll holders shall immediately open the ballot boxes, count and tabulate the results of the voting, and certify the results thereof to the chairman of the county committee. Any interested individual who cares to be present when the ballots are counted or tabulated may be present and observe such vote counting and tabulation of results.

(4) Upon the conclusion of paragraph (3) above, a poll holder shall deliver the ballots in a sealed container to the chairman of the referendum committee with the certification of the results. The county chairman and at least two other members of the county referendum committee shall then tabulate and certify the results received from each polling place in the county to the state referendum committee of the certified Commission. The county chairman will also deliver or forward all county ballots in the sealed containers, after tabulation of voting results, to the director of the certified Commission. The state certified Commission shall upon receipt of certified results from each county, tabulate, publicly declare and announce the results of the statewide referendum within a period of ten (10) days following receipt of the results from each county in Alabama.

(5) A certified copy of the results of the statewide referendum shall be forwarded to the Commissioner of Agriculture and Industries.

**Authors:** Charles H. Barnes, Reginald L. Sorrells

**Statutory Authority:** Code of Ala. 1975, §2-8-208.

**History:** Filed May 19, 1992. **Amended:** Filed May 15, 2002; effective June 19, 2002. **Amended:** Filed February 16, 2012; effective March 22, 2012

80-8-7-.06

Persons Entitled To Vote.

(1) All persons subject to the assessment are entitled to vote in the referendum upon the question of whether they favor an assessment of an amount not to exceed \$1.00 per bale, the amount to be determined and published annually by the Commission and to be deducted by the ginner at the time their cotton is ginned each year for a period of ten years.

(2) Each cotton producer shall have one vote where the production operation is conducted by an individual, partnership, corporation, estate or other legal entity. If the cotton production operation is conducted by a partnership, corporation, estate or other legal entity, then one individual shall be designated to vote for such production operation. Where cotton is produced on lands of another on a share crop or share tenant basis and such sharecropper receives cotton which he sells, then such sharecropper is entitled to vote in the referendum.

(3) Each eligible voter shall vote in person only once at an established polling place. Proxy voting or voting by mail shall not be permitted.

**Authors:** Charles H. Barnes, Reginald L. Sorrells

**Statutory Authority:** Code of Ala. 1975, §2-8-208.

**History:** Filed May 19, 1992. **Amended:** Filed May 15, 2002; effective June 19, 2002.

80-8-7-.07

Bond Required For Certified Commission.

The treasurer of the certified Commission shall be bonded in an amount of not less than one hundred thousand dollars (\$100,000). At the end of a complete year of assessment collections, the above bond amount requirement will be adjusted to adequately reflect as required under the law, the amount of assessment forwarded to the certified Commission.

**Authors:** Charles H. Barnes, Reginald L. Sorrells

**Statutory Authority:** Code of Ala. 1975, §2-8-208.

**History:** Filed May 19, 1992. **Amended:** Filed May 15, 2002; effective June 19, 2002.

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES  
ADMINISTRATIVE CODE

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CHAPTER 80-8-7  
COTTON PROMOTIONAL REFERENDUM "New Chapter"

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<u>80-8-7-.04</u>	<u>Notice requirements</u>
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<u>80-8-7-.06</u>	<u>Persons Eligible to Vote; Voting Requirements</u>
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80-8-7-.01 Purpose

The purpose of this Chapter is to establish the rules and procedures to govern the conduct of a referendum under the terms of Code of Alabama. This referendum will allow cotton producers to vote an assessment against themselves which will be used for promotion of the cotton industry in Alabama.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §2-8-208

History: Filed;

80-8-7-.02 Referendum to be Held

Pursuant to Code of Ala. 1975, § 2-8-195, the Association certified by the State Board of Agriculture and Industries shall hold a statewide referendum amongst producers of cotton. At that time Alabama cotton producers will vote and determine if they favor paying for a period of 10 years from the date of the referendum, an assessment in an amount not to exceed the limit set forth in the Code of Ala. 1975, §2-8-199.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §§2-8-198, 2-8-208

History: Filed;

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 80 Department of Agriculture and Industries

Chapter No.: 80-8-7

Chapter Title: Cotton Promotional Referendum

X New;        Amend;   x   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? N/A

Is there another less restrictive method of regulation available that could adequately protect the public? N/A

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

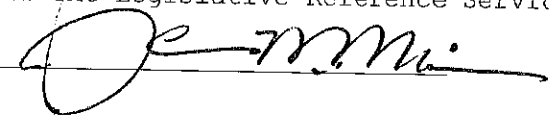
Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

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 any 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 

Date: 12-12-2017

(DATE FILED)  
(STAMP)



APA-2

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES

NOTICE OF INTENDED ACTION

Agency Name: Alabama Department of Agriculture and Industries

Chapter NO. & Title: 80-8-7 Cotton Promotional Referendum

Intended Action: To Repeal and Replace with New Chapter

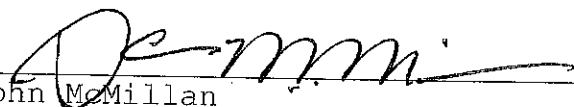
Substance of Proposed Action: To provide uniformity with check-off commodities so that the rules governing the referendum are clear and unchanging between commodities and conform entirely to the Code of Alabama.

Time, Place, Manner of Presenting Views: Views may be presented in writing to the contact person below or in person on Tuesday, February 13, 2018, at 10:00 a.m., in the Auditorium of the Richard Beard Building, 1445 Federal Drive, Montgomery, Alabama, 36117.

Final Date for Comment and Completion of Notice: February 13, 2018.

Contact Person at Agency: N. Gunter Guy Jr., Legal Counsel, Department of Agriculture and Industries, 1445 Federal Drive, Montgomery, Alabama 36107-1123, Telephone No. (334) 240-7117.

12-12-2017  
Date

  
John McMillan  
Commissioner of Agriculture  
and Industries

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES  
MARKETING  
ADMINISTRATIVE CODE

CHAPTER 80-8-7  
COTTON PROMOTIONAL REFERENDUM "Repealed"

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80-8-7-.05	Procedure For Polling And Handling Results Of The Poll
80-8-7-.06	Persons Entitled To Vote
80-8-7-.07	Bond Required For Certified Commission

80-8-7-.01     Purpose. The purpose of this Chapter is to set up procedures and rules governing referendums conducted under the provisions of Code of Ala. 1975, §§2-8-190 through 2-8-211, for cotton promotional programs. **Author:** Charles H. Barnes  
**Statutory Authority:** Code of Ala. 1975, §2-8-208.  
**History:** Filed May 19, 1992.

80-8-7-.02     Referendum To Be Held. A referendum shall be held by the Commission, certified by the Board of Agriculture and Industries, on a statewide basis at which time Alabama cotton producers may vote upon the question of whether they favor a ten-year assessment in an amount not to exceed \$1.00 per bale, the amount to be determined and published annually by the Commission.

**Authors:** Charles H. Barnes, Reginald L. Sorrells  
**Statutory Authority:** Code of Ala. 1975, §2-8-208.  
**History:** Filed May 19, 1992. **Amended:** Filed May 15, 2002; effective June 19, 2002.

80-8-7-.03      Notice To Be Given. Notice of said referendum and assessment amount established annually by the Commission by publication or otherwise shall be given by the certified Commission as provided under Code of Ala. 1975, §2-8-196.

**Authors:** Charles H. Barnes, Reginald L. Sorrells

**Statutory Authority:** Code of Ala. 1975, §2-8-208.

**History:** Filed May 19, 1992. **Amended:** Filed May 15, 2002; effective June 19, 2002.

80-8-7-.04      Polling Places And Time Of Operation.

(1) The referendum shall be held by providing voting facilities in all counties producing cotton in the year prior to the year the referendum is held. In those counties where there is a large number of cotton producers then additional voting facilities may be provided in such counties at convenient locations such as city hall, community centers, local offices of the county farmers federation, or other locations to be selected by the county referendum committee. The exact location of the voting places in each county shall be given publicity in order that all cotton producers will have an opportunity to vote. The certified Commission shall furnish all necessary ballots and county election supplies and bear all expenses necessary and incidental to holding the referendum.

(2) The polls shall be open for voting from 8:00 a.m. to 4:00 p.m. on the date of the referendum.

**Authors:** Charles H. Barnes, Reginald L. Sorrells

**Statutory Authority:** Code of Ala. 1975, §2-8-208.

**History:** Filed May 19, 1992. **Amended:** Filed May 15, 2002; effective June 19, 2002. **Amended:** Filed February 16, 2012; effective March 22, 2012.

80-8-7-.05      Procedure For Polling And Handling Results Of The Poll.

(1) Each polling place shall have not less than two individuals who shall serve as poll holders to be in charge of and supervise the voting. Such polling places shall have a voters' register, and those who are eligible to vote shall sign

his or her name upon such register and enter thereon his or her address together with the number of acres of cotton harvested in 2011 or planted in 2012.

(2) Cotton producers shall be furnished with a printed ballot for voting by secret ballot and after the vote is cast, such ballot shall be folded, deposited and kept in a ballot box or other similar container suitable to serve as a ballot box.

(3) As soon as the last voter has voted and the polls close, the poll holders shall immediately open the ballot boxes, count and tabulate the results of the voting, and certify the results thereof to the chairman of the county committee. Any interested individual who cares to be present when the ballots are counted or tabulated may be present and observe such vote counting and tabulation of results.

(4) Upon the conclusion of paragraph (3) above, a poll holder shall deliver the ballots in a sealed container to the chairman of the referendum committee with the certification of the results. The county chairman and at least two other members of the county referendum committee shall then tabulate and certify the results received from each polling place in the county to the state referendum committee of the certified Commission. The county chairman will also deliver or forward all county ballots in the sealed containers, after tabulation of voting results, to the director of the certified Commission. The state certified Commission shall upon receipt of certified results from each county, tabulate, publicly declare and announce the results of the statewide referendum within a period of ten (10) days following receipt of the results from each county in Alabama.

(5) A certified copy of the results of the statewide referendum shall be forwarded to the Commissioner of Agriculture and Industries.

**Authors:** Charles H. Barnes, Reginald L. Sorrells  
**Statutory Authority:** Code of Ala. 1975, §2-8-208.  
**History:** Filed May 19, 1992. **Amended:** Filed May 15, 2002; effective June 19, 2002. **Amended:** Filed February 16, 2012; effective March 22, 2012

80-8-7-.06

Persons Entitled To Vote.

(1) All persons subject to the assessment are entitled to vote in the referendum upon the question of whether they favor an assessment of an amount not to exceed \$1.00 per bale, the amount to be determined and published annually by the Commission and to be deducted by the ginner at the time their cotton is ginned each year for a period of ten years.

(2) Each cotton producer shall have one vote where the production operation is conducted by an individual, partnership, corporation, estate or other legal entity. If the cotton production operation is conducted by a partnership, corporation, estate or other legal entity, then one individual shall be designated to vote for such production operation. Where cotton is produced on lands of another on a share crop or share tenant basis and such sharecropper receives cotton which he sells, then such sharecropper is entitled to vote in the referendum.

(3) Each eligible voter shall vote in person only once at an established polling place. Proxy voting or voting by mail shall not be permitted.

**Authors:** Charles H. Barnes, Reginald L. Sorrells

**Statutory Authority:** Code of Ala. 1975, §2-8-208.

**History:** Filed May 19, 1992. **Amended:** Filed May 15, 2002; effective June 19, 2002.

80-8-7-.07

Bond Required For Certified Commission.

The treasurer of the certified Commission shall be bonded in an amount of not less than one hundred thousand dollars (\$100,000). At the end of a complete year of assessment collections, the above bond amount requirement will be adjusted to adequately reflect as required under the law, the amount of assessment forwarded to the certified Commission.

**Authors:** Charles H. Barnes, Reginald L. Sorrells

**Statutory Authority:** Code of Ala. 1975, §2-8-208.

**History:** Filed May 19, 1992. **Amended:** Filed May 15, 2002; effective June 19, 2002.

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES  
ADMINISTRATIVE CODE

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CHAPTER 80-8-7  
COTTON PROMOTIONAL REFERENDUM "New Chapter"

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<u>80-8-7-.05</u>	<u>Polling Places and Time of Operation</u>
<u>80-8-7-.06</u>	<u>Persons Eligible to Vote; Voting Requirements</u>
<u>80-8-7-.07</u>	<u>Polling Procedures; Certifying of Results</u>

80-8-7-.01 Purpose

The purpose of this Chapter is to establish the rules and procedures to govern the conduct of a referendum under the terms of Code of Alabama. This referendum will allow cotton producers to vote an assessment against themselves which will be used for promotion of the cotton industry in Alabama.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §2-8-208

History: Filed:

80-8-7-.02 Referendum to be Held

Pursuant to Code of Ala.1975, § 2-8-195, the Association certified by the State Board of Agriculture and Industries shall hold a statewide referendum amongst producers of cotton. At that time Alabama cotton producers will vote and determine if they favor paying for a period of 10 years from the date of the referendum, an assessment in an amount not to exceed the limit set forth in the Code of Ala.1975, §2-8-199.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §§2-8-198, 2-8-208

History: Filed:

**80-8-7-.03 Conduct of Referendum; Payment of Expenses**

- (1) The Association certified by the State Board of Agriculture and Industries shall have the responsibility to arrange, manage and conduct any referendums.
- (2) All expenses and costs necessary to conduct any referendums shall be borne by the Association certified by the State Board of Agriculture and Industries.

**Author:** N. Gunter Guy, Jr.

**Statutory Authority:** Code of Ala. 1975, §2-8-197

**History:** Filed:

**80-8-7-.04 Notice Requirements**

Not less than 30 days before any referendum is held, the Association certified by the State Board of Agriculture and Industries shall give notice of such referendum by publishing same in an established farm publication and by mailing a written notice to each county extension coordinator in the area covered by the referendum. The notice shall include, at minimum, the date of the referendum, the hours that the polls will be open, the addresses of polling places, the rules for voting in the referendum, the amount and basis of the assessment proposed to be collected, and the means by which such assessment shall be collected and the general purposes for which the assessment is collected.

**Author:** N. Gunter Guy, Jr.

**Statutory Authority:** Code of Ala. 1975, §2-8-196

**History:** Filed:

**80-8-7-.05 Polling Places and Time of Operation**

- (1) Voting facilities shall be provided in counties in which cotton is produced. Additional facilities may be provided should the Association certified by the State Board of Agriculture and Industries find same advisable.
- (2) Polls shall be open from 8:00 a.m. to 4:00 p.m. on the date of the referendum.

**Author:** N. Gunter Guy, Jr.

**Statutory Authority:** Code of Ala. 1975, §2-8-208

**History:** Filed:

**80-8-7-.06 Persons Eligible to Vote**

- (1) Each producer of cotton who shall be subject to an assessment and who in the past crop year preceding this referendum produced cotton shall be eligible to cast a vote

in the referendum. If there is any question of eligibility, the Association certified by the State Board of Agriculture and Industries is authorized to request any additional information permitted by law.

- (2) Each producer shall have one vote.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §2-8-198

History: Filed:

### 80-8-7-.07 Polling Procedures; Certifying of Results

- (1) There shall be two persons at each polling place who shall serve as poll holders. Such poll holders shall be in charge of and supervise the voting.
- (2) Each polling place shall have a voting register in the form of an affidavit. Prior to casting his or her vote, each person who is entitled to vote in the referendum shall sign his or her name to the register. Also, each voter shall write in the register his or her address and the total number of acres they had in production of cotton in the last year.
- (3) Each producer will be provided a ballot. The producer will mark whether he approves or disapproves the promotional program.
- (4) Votes shall be cast by secret ballot. Each marked ballot shall be deposited in a ballot box or other designated container where it will be kept until such time as it is counted.
- (5) As soon as the polls close and the last vote is cast, the poll holders shall open the ballot boxes or other containers, count each ballot and tabulate the results of the count. They will then immediately report the results to the Association certified by the State Board of Agriculture and Industries. Following the referendum and within 10 days thereafter, the Association certified by the State Board of Agriculture and Industries shall publicly declare and announce the results.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §§2-8-198, 2-8-208

History: Filed: