

Revised 10/01/2019

This Instruction Manual 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.

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; **Amended:** 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 six 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) A copy shall be forwarded to the Joint Committee on Administrative Rule Review by the Administrative Procedure Division via email and paper copies may be provided upon request of the Joint Committee.

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

Author:

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

History: August 31, 1982. **Amended:** January 31, 1990. **Amended:** October 1, 2019

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

Administrative Monthly. There is a charge of \$100 per page for each Notice of Intended Action (APA-2) published in the Alabama Administrative Monthly.

Author:

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

History: August 31, 1982. **Amended:** October 1, 2019

LEGISLATIVE SERVICES AGENCY
ADMINISTRATIVE PROCEDURE DIVISION

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

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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, five certified copies of the final adopted new rule.

(2) Effective Date of Rules. Subject to review by the Joint Committee on Administrative Rule Review, each rule is effective 45 days after notice that the rule has been certified is published in the Alabama Administrative Monthly, 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 publication. 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. **Amended:** October 1, 2019

10-1-2-.02 Certification On Computer Disk. All rules in excess of one page certified to Legislative Services Agency shall be submitted both in written form and in electronic format. The electronic format shall be in MS Word or another compatible

format approved by the Administrative Procedure Division and shall be provided on a computer disk, jump drive, or by email at the time the rule is certified.

Author:

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

History: August 31, 1982. **Amended:** January 31, 1990. **Amended:** October 1, 2019

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
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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 Rule 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 SERVICES AGENCY
ADMINISTRATIVE PROCEDURE DIVISION

CHAPTER 10-1-5
GENERAL INSTRUCTIONS

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10-1-5-.03	Chapter
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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 SERVICES 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 45 days after notice that the rule has been certified is published in the Alabama Administrative Monthly. Do not count the day of publication.

(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. **Amended:** October 1, 2019.

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, etc.

(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), etc., 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), etc., 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), etc.

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

(1), (2), etc.	(Main paragraphs)
(a), (b), etc.	(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-.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 four 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.