

Rulemaking Process

Each agency subject to the Alabama Administrative Procedure Act (APA) must file a notice of all rule changes with the Legislative Services Agency (LSA) for publication in the Alabama Administrative Monthly (AAM). The LSA publishes the AAM on the legislative website on the last business day of each month. The AAM contains a listing of notices of all rules submitted during the month that are proposed to be added, amended, or repealed. Each notice describes the substance of the proposed rule change, specifies a comment period, and provides the manner in which a member of the public may submit comments to the agency regarding the proposal. The AAM also contains a listing of all final adopted rules certified by the agency during the preceding month and a list of final adopted rules certified to LSA during the preceding month. Final certifications are those rules entering the final phase of the rulemaking process. An agency may adopt a final rule and certify it to LSA only after completion of the comment period specified in its notice. A final certification becomes effective 45 days after publication of the certification in the AAM unless the Joint Committee disapproves it within the 45-day waiting period.

The formal rulemaking process begins with a proposal. LSA requires the agency initiating the proposal to submit a transmittal sheet, notice, and a copy of the text of the proposal with the language proposed to be added or deleted highlighted.

If the agency determines that the rule will have an economic impact, the agency must also attach an economic impact statement.

As part of the required documentation, the agency proposing the new rule or amending or repealing an existing rule must specify a notice and comment period of 35 to 90 days following publication of the proposal in the AAM. The purpose of the notice is to give parties affected by the rule and other interested members of the public an opportunity to comment; therefore, the notice should provide a clear and reasonable method by which the agency will accept comments. Before adopting the final rule, the agency must "consider fully all written and oral submissions respecting a proposed rule."

Emergency Rulemaking

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 that action is required by or to comply with a federal statute or regulation which requires adoption of a rule upon fewer than 35 days' notice and states in writing its reasons for that finding to the committee, it may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency rule.

The rule shall become effective immediately, unless otherwise stated therein, upon the filing of the rule and a copy of the written statement of the reasons therefore with the Legislative Reference Service and the secretary of the agency. The rule may be effective for a period of not longer than 120 days and shall not be renewable. Prior to indexing and publication, the agency shall make reasonable efforts to apprise the persons who may be affected by its rules of the adoption of the emergency rule. An emergency rule shall be strictly construed and shall not be valid except to the extent necessary to prevent, mitigate, or resolve immediate danger to the public health, safety, or welfare.

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