ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
ENVIRONMENTAL MANAGEMENT COMMISSION
ADMINISTRATIVE CODE

CHAPTER 335-2-2
PETITIONS FOR RULEMAKING

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335-2-2-.01 Applicability.

This Chapter prescribes the procedures for the submission, consideration and disposition of petitions for rulemaking.
Author: David A. Ludder
Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 41-22-8.
History: Effective March 6, 1987. **Amended:**

335-2-2-.02 Definitions.

For purposes of this Chapter, the following words and phrases, unless a different meaning is plainly required by the context, shall have the following meanings:

(a) "Commission" means the Environmental Management Commission of the Alabama Department of Environmental Management.

(b) "Department" means the Alabama Department of Environmental Management, established by the Alabama Environmental Management Act, Code of Ala. 1975, §22-22A-1 to 22-22A-15.

(c) "person" means any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, or other legal entity or other business organization or any governmental entity, and any successor, representative, agent, or agency of the foregoing.

Author: David A. Ludder

Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 41-22-8.
History: Effective March 6, 1987. **Amended:**

335-2-2-.03 Right To Petition.

Any person may petition the Commission to adopt, amend or repeal a rule by making and filing a written petition in accordance with Rule 335-2-2-.04.
Author: David A. Ludder
Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 41-22-8.
History: Effective March 6, 1987. **Amended:**

335-2-2-.04 Petition Content And Submission.

(1) A petition to adopt, amend or repeal a rule shall contain the following information:

(a) the name, address and telephone number of the person making the petition;

(b) a statement of the interest of the person making the petition;

(c) the specific language of the rule proposed to be adopted, the proposed amendment, or the rule proposed to be repealed;

(d) all evidence, data and information on which the petitioner relies in support of the petition; and

(e) a statement of the petitioner's position on the considerations described in subparagraphs (b) through (g) of Rule 335-2-2-.05.

(2) A petition for rulemaking shall be filed with the Commission by delivering the same, either personally or by United States Mail as certified mail, return receipt requested with instructions to the delivering postal employee to show to whom delivered, date of delivery, and address where delivered, to:

Chairman (or his designee)

Environmental Management Commission

c/o Alabama Department of Environmental Management

1400 Coliseum Boulevard

Montgomery, Alabama 36110
Author: David A. Ludder
Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 41-22-8.
History: Effective March 6, 1987. **Amended:** Filed June 20, 2003; effective July 25, 2003.

335-2-2-.05 Consideration Of Petition.

The Commission shall give fair consideration to any petition for rulemaking made and filed in accordance with Rule 335-2-2-.04. The Commission may consider:

(a) the views of the Director of the Department;

(b) whether the proposed rule adoption, amendment, or repeal is constitutional and within the statutory authority of the Department to adopt;

(c) whether the proposed rule adoption, amendment, or repeal would promote the legislative intent and purposes of the statutes which the Department administers;

(d) whether the petition is supported by such substantive, credible and relevant evidence, data and information as would reasonably support the proposed rule adoption, amendment, or repeal in the absence of contradictory evidence, data or information or other relevant factors, evidence, data or information which the Commission might legitimately consider;

(e) whether the petitioner has had a prior opportunity to present relevant evidence, data and information on the subject matter of the petition and the petitioner unjustifiably failed to present such evidence, data or information;

(f) whether alternative means of obtaining the same or similar relief are presently available to the petitioner or have in the recent past been made available to the petitioner;

(g) the manner in which the proposed rule adoption, amendment, or repeal would impact the overall regulatory scheme of the Department and whether the proposed rule adoption, amendment, or repeal would promote the basic underlying public policies of the statutes and rules which the Department administers; and

(h) the relevance and relation of the proposed rule to the most recent Unified Strategic Plan adopted pursuant to rule 335-1-1-.03; and

(i) any other relevant factors, evidence, data or information.

Author: David A. Ludder, John P. Hagood
Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 41-22-8.
History: Effective March 6, 1987. **Amended:** Filed April 21, 2009; effective May 26, 2009.

335-2-2-.06 Disposition Of Petition.

Within sixty days after a petition is filed with the commission in accordance with Rule 335-2-2-.04, the Commission shall do one of the following, provided however, that upon written notice to the petitioner, such sixty day period may be extended for not more than thirty days if the Commission's next regularly scheduled meeting is not within said sixty day period:

(a) initiate rulemaking proceedings in accordance with Code of Ala. 1975, §§22-22A-8 and 41-22-5, as amended; or

(b) deny the petition in writing on the merits stating the reasons therefor.

Author: David A. Ludder
Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 41-22-8.
History: Effective March 6, 1987. **Amended:**