ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT ADMINISTRATIVE CODE

CHAPTER 335-2-3 RULES OF PROCEDURE FOR MEETINGS OF THE ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

RULES 335-2-3-.07 AND 335-2-3-.08 WERE REPEALED AND REMOVED FROM THE CHAPTER AS PER CERTIFICATION FILED FEBRUARY 28, 2006; EFFECTIVE APRIL 4, 2006.

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335-2-3-.01 Applicability.

This Chapter prescribes the procedures for meetings of the Environmental Management Commission.
Author: Olivia H. Jenkins
Statutory Authority: Code of Ala. 1975, §22-22A-3.
History: New Rule: Filed April 17, 1998; effective May 22, 1998.

335-2-3-.02 Definitions.

For purposes of this Chapter, the following words shall have the following meanings:

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

(2) "Department" means the Alabama Department of Environmental Management.

(3) "Member" means a member of the Alabama Environmental Management Commission.

Author: Olivia H. Jenkins
Statutory Authority: Code of Ala. 1975, §22-22A-3.

History: New Rule: Filed April 17, 1998; effective May 22, 1998.

335-2-3-.03 **Officers.**

(1) The Commission shall select a Chair and a Vice-Chair who will serve an one-year term. An officer's term shall not exceed his or her regular term as a member of the Commission. In the event of permanent vacancies in the office of Chair or Vice-Chair, the Commission may select a member to preside at Commission meetings until an election is held.

(2) Elections may be held at any regularly-scheduled meeting when there exists a permanent vacancy in the office of Chair or Vice-Chair due to resignation or other reason. An officer shall hold office until such time as new elections are held and he or she is replaced.

(3) The duties of the Chair are:

(a) To call the meeting of the Commission to order.

(b) To preside at all meetings of the Commission.

(c) To announce business before the Commission in proper order.

(d) To state and put to a vote all questions that are properly brought before the Commission.

(e) To preserve order and decorum at meetings of the Commission.

(f) To decide all questions of Order at meetings of the Commission.

(4) The Chair may vote on all matters which come before the Commission.

(5) The duty of the Vice-Chair is to serve as the Chair in all meetings at which the Chair is absent or in which the Chair recuses himself or herself from voting on an issue. In the absence of the Chair, the Vice-Chair shall have all the power and authority of the Chair as set forth in paragraph (3) above. When presiding over the Commission, the Vice-Chair may vote on all matters which come before the Commission. In the absence of both the Chair and Vice-Chair at a Commission meeting, the Commission will select a member to preside at that meeting.

(6) Members who are holding the office of Chair and Vice-Chair on the effective date of these rules shall continue to hold said offices until the expiration of the regularly scheduled term.

Author: Olivia H Jenkins; Alabama Environmental Management Commission
Statutory Authority: Code of Ala. 1975, §22-22A-6.
History: New Rule: Filed April 17, 1998; effective May 22, 1998.
Amended: Filed September 13, 2005; effective October 18, 2005.

335-2-3-.04 Meetings.

(1) Meetings of the Environmental Management Commission shall be scheduled at least once every two months. The date and time of the next regularly scheduled meeting shall be decided upon by the Commission at the end of each Commission meeting. Unless otherwise specified, meetings shall take place at the Department's Montgomery offices. Meetings may be held at other locations by a vote of a majority of the Commission.

(2) Special meetings may be called at the discretion of the Chair of the Commission or shall be called by the Chair of the Commission on written request of any four members of the Commission.

(3) Notice of the date and time of Commission meetings shall be mailed by the Commission's Executive Assistant at least two weeks in advance of said meetings to all persons who have requested to be so notified.

(4) In the case of an emergency meeting of the Commission, such notice as is reasonable under the circumstances shall be given to the public.

(5) Notice of the date and time of any regular or special meetings shall be provided to Commission members in writing or by telegram to each member's last known address as provided to the Department or by telephone or facsimile.

(6) Proceedings of the Commission, and any Committees of the Commission, shall be governed by Robert’s Rules of Order, latest revised edition, except where otherwise provided in these rules or under state law.
Author: Olivia H. Jenkins, Alabama Environmental Management Commission
Statutory Authority: Code of Ala. 1975, §22-22A-6.
History: New Rule: Filed April 17, 1998; effective May 22, 1998.
Amended: Filed February 28, 2006; effective April 4, 2006.

335-2-3-.05 Agenda And Public Participation.

(1) For any regularly scheduled meeting, the Chair of the Commission shall cause to be published a draft agenda on the

Department website and forward it to the other Commission members at least 30 (thirty) days prior to the Commission meeting. Included in the agenda shall be the consideration of the previous meeting's minutes, a report from the Director, committee reports, any pending recommendation from a hearing officer and other matters within the jurisdiction of the Commission.

(2) In order for the Commission to be better prepared on the subjects to be discussed, members of the public wishing to make presentations at regularly scheduled Commission meetings must first submit to the Commission Office a written request along with a description of their presentation. Written requests must include the name, address, telephone number and, if applicable, the email address of any and all persons who wish to deliver presentations before the Commission as well as a description of the matter to be presented. Written requests from members of the public wishing to make presentations before the Commission must be received by the Commission Office not later than 14 (fourteen) days prior to the next regularly scheduled meeting of the Commission. Such submissions shall be in writing and delivered by hand, U.S. Mail, facsimile, email or private express delivery service. The Commission may, at its discretion, approve, deny, and/or table presentation requests. The Chair of the Commission shall have the final agenda published along with the list of persons requesting to make presentations and the subjects to be addressed on the Department website and at the Commission office at least 7 (seven) days before the Commission meeting. The Commission shall set reasonable time limitations on public appearances before the Commission.

(3) After consideration of agenda items the commission may consider comments from the members of the public. While the Commission encourages public participation at its meetings, for reasons of fairness and due process to the parties in administrative and legal proceedings involving the Commission, it specifically discourages the members of the Commission from engaging in the non-deliberative discussion of any case or legal proceeding pending before the Commission, or of any decision by the Commission or matter involving the Commission or Department that is the subject of any ongoing case or legal proceeding. Parties to such proceedings and members of the general public shall not be permitted to use the public participation opportunities herein provided by the Commission to circumvent administrative or judicial procedures which specify the time and manner of presenting testimony, evidence, or comment to the Commission in a formal manner designed to provide due process to all parties.

(4) Members of the public wishing to appear before the Commission are encouraged to carefully observe the Commission's "Guidelines for Public Comment" applicable to this Rule. This is in order to facilitate the exchange of information between the Commission and the public in a manner that will enable the Commission to better

serve the people of this state and their environment. The "Guidelines for Public Comment" shall be available on the Department's website and at the Commission Office.

(5) With the exception of a request for a stay of administrative action pending hearing, no item shall be added to the agenda that has not been submitted to the Commission's Executive Assistant at least 7 (seven) days prior to the Commission meeting.
Author: Olivia H. Jenkins, Rulemaking Petition Subcommittee, Alabama Environmental Management Commission
Statutory Authority: Code of Ala. 1975, §22-22A-6.
History: New Rule: Filed April 17, 1998; effective May 22, 1998. **Repealed and New Rule:** Filed June 20, 2003; effective July 25, 2003. **Amended:** Filed December 24, 2003; effective January 28, 2004. **Amended:** Filed February 28, 2006; effective April 4, 2006. **Amended:** Filed August 23, 2016; effective October 7, 2016.

335-2-3-.06 Minutes.

(1) A transcript of each Commission meeting shall be prepared under the direction of the Commission's Executive Assistant and shall be circulated by the Commission's Executive Assistant to the Commission members at least two weeks prior to the next regularly scheduled Commission meeting. The transcript shall serve as the minutes of the Commission meeting.

(2) The Commission may dispense with the reading of the transcript of the minutes of the previous meeting and shall vote to accept the minutes. If the minutes require correction, a motion to correct the minutes shall be made, seconded, and voted upon.
Author: Olivia H. Jenkins
Statutory Authority: Code of Ala. 1975, §22-22A-6.
History: New Rule: Filed April 17, 1998; effective May 22, 1998.

335-2-3-.07 Committees.

(1) The Commission may establish committees to which certain questions may be referred for evaluation and recommendation to the Commission.

(a) Special committees may be established at any time to evaluate a particular question. A special committee will cease to exist once it has made its recommendation to the Commission.

(b) Standing committees may be established at any time for the purposes of considering all questions of a like nature which shall be defined in the motion seeking to establish the

standing committee. Members of the standing committee shall serve until the expiration of the Chair's term.

(2) The procedure for establishing a committee is as follows:

(a) A motion which proposes a committee for a specific purpose and identifies the type of committee proposed is made, seconded, and carried.

(b) A motion which establishes the number of members of the committee is made, seconded, and carried.

(c) Nominations for Chair of the Committee are made and voted upon.

(d) Nominations for membership on the committee are made and voted upon.

(3) A committee may consist of no more than three members of the Commission.

(4) Standing committees and their members which are standing as of the effective date of these rules shall remain in effect as provided for by subparagraph (1)(b) above.

(5) Special committees and their members which are standing as of the effective date of these rules shall remain in effect as provided by subparagraph (1)(a) above.
Author: Olivia H. Jenkins
Statutory Authority: Code of Ala. 1975, §22-22A-6.
History: New Rule: Filed April 17, 1998; effective May 22, 1998.
Amended (Rule Number Only): Filed February 28, 2006; effective April 4, 2006.

Ed. Note: Rule was previously 335-2-3-.09 and renumber to 335-2-3-.07 as per certification filed February 28, 2006; effective April 4, 2006.

335-2-3-.07 (Repealed) Motions (Repealed).

(Repealed)
Author: Olivia H. Jenkins
Statutory Authority: Code of Ala. 1975, §22-22A-6.
History: New Rule: Filed April 17, 1998; effective May 22, 1998.
Repealed: Filed February 28, 2006; effective April 4, 2006.

335-2-3-.08 Voting (Repealed).

(Repealed)

Author: Olivia H. Jenkins
Statutory Authority: Code of Ala. 1975, §22-22A-6.
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