

**Summary of Reasons**  
**Supporting Proposed Modification of ADEM Administrative Code**  
**Division 335-2 Environmental Management Commission**

The Department proposes to add ADEM Admin. Code R. 335-2-2-.05(h), Consideration of Petition, to add consideration of the relevance and relation of a proposed rule to the most recent Unified Strategic Plan as another item that the Commission may take into account when it considers petitions for rulemaking according to R. 335-2-2-.05. The current paragraph (h) in R. 335-2-2-.05 will be changed to paragraph (i).

**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
- ~~(h)~~ (i) any other relevant factors, evidence, data or information.

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**Statutory Authority:** Code of Alabama 1975, §§ 22-22A-5, 22-22A-6, 22-22A-8, 41-22-8.

**History:** March 6, 1997, XXXXX, 2009.