

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control _____ Department or Agency Athlete Agents Regulatory Commission
Rule No. _____ Chapter 142-1-2
Rule Title: Rules of Practice
_____ New X Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? _____ NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? _____ NO

Is there another, less restrictive method of regulation available that could adequately protect the public? _____ NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? _____ NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? _____ NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? _____ YES

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? _____ NO

Does the proposed rule have an economic impact? _____ NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer J. H. Merrill
Date 4/14/2021

April 14, 2021
REC'D & FILED (STAMP)
APR 14 2021
LEGISLATIVE SVC AGENCY

**Alabama Secretary of State
Elections Division**

NOTICE OF INTENDED ACTION

AGENCY NAME:

Athlete Agents Regulatory Commission

RULE NO. & TITLE:

Chapter 142-1-2 Rules of Practice

INTENDED ACTION:

Amend the chapter

SUBSTANCE OF PROPOSED ACTION:

This chapter is amended to reflect current address information and correct a few grammatical errors. This chapter is also amended to reflect updated procedures of the Commission.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Views may be presented orally or in writing and should be addressed to Hugh Evans, Office of the Secretary of State, P.O. Box 5616, Montgomery, Al 36130; (334) 353-7857.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

JUNE 4, 2021

CONTACT PERSON AT AGENCY:

Hugh Evans, Office of the secretary of State, State Capitol Suite E-201, 600 Dexter Avenue, Montgomery, AL 36130; (334) 353-7857.



(Secretary of State)

**ALABAMA ATHLETE AGENTS REGULATORY COMMISSION
ADMINISTRATIVE CODE**

**CHAPTER 142-1-2
RULES OF PRACTICE**

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142-1-2-.01 **Scope And Citation.** These rules shall govern all hearing proceedings before the Alabama Athlete Agents Regulatory Commission, except hearings pertaining to rulemaking proceedings. In proceedings before the Alabama Athlete Agents Regulatory Commission, these rules may be cited as "Rule__of the Rules of Practice" in lieu of the formal designation imposed herein. For example, this rule may be cited as Rule I of the Rules of Practice in lieu of Rule 142-1-2-.01.

Author: Charles E. Grainger, Jr.; Hugh Evans, Taylor Freeman; Shemekwa Farrow
Statutory Authority: Code of Ala. 1975, §§41-22-4, 8-26A-30 8-26B-3

History: New Rule: Filed December 5, 2001; effective January 9, 2002. **Amended: April 14, 2021**

142-1-2-.02 **Definitions.** Unless the context otherwise requires, in these rules:

The term "person" or "party" includes an individual, firm, partnership, association, corporation, receiver, trustee, or group, and includes the plural as well as the singular.

The term "Commission" means the Alabama Athlete Agents ~~Regulatory~~ Commission.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, ~~8-26A-30-8-26B-3.~~

History: New Rule: Filed December 5, 2001; effective January 9, 2002. **Amended: April 14, 2021**

142-1-2-.03 **Filing And Service.**

(1) **Filing.**

Filing is accomplished by delivery of a document to the Commission, or an employee of the Office of the Secretary of State, in person, or by United States Mail. Postage Prepaid, addressed to the Alabama Athlete Agents ~~Regulatory~~ Commission, c/o the Secretary of State, at P.O. Box 5616, Montgomery, Alabama, 36103-5616, or by courier to Room S-105, 600 Dexter Avenue, Montgomery, Alabama, ~~36104~~ 36130, except that the Commission or the administrative law judge may permit a document to be filed with them during a hearing and may issue an order directing filings to be made to a different location. Filing is effective only upon receipt by the Commission. Filing with the Secretary of State constitutes filing with the Commission unless otherwise provided for by order of the Commission or the administrative law judge.

Unless directed otherwise in these rules, an original and nineteen (19) copies of all filings, including petitions, applications, prepared testimony and exhibits by anyone in any proceeding, shall be filed in the Secretary of State's Office as stated in Rule 142-1-2-.04(a)(1), supra, and

show service thereof upon each party, by name and address, to the proceeding.

Where the circumstances so dictate, a tentative schedule for all parties will be set for the pre-filing of testimony and exhibits. Such schedules will, however, be subject to change by the Commission or administrative law judge.

- (2) **Service: When required.** Every order of the Commission, every report and recommended order of an administrative law judge and every pleading, application, petition, complaint, or other initial filing shall be served by the Commission upon each of the parties with, where applicable, notice of the time and place for hearing the same.
- (3) **Service: How made.** Service upon a party represented by an attorney shall be made upon the attorney and such service will be deemed service upon a party. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address.
- (4) **Subsequent Filings.** Answers, petitions for hearing, motions, notices and all other documents filed subsequent to the original complaint, application or petition in proceedings pending before the Commission upon its formal docket must, when filed or tendered for filing with the Commission, show service thereof upon each party, by name and address, to the proceeding.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, 8-26A-30 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. Amended: April 14, 2021

142-1-2-.04 Representation.

Any person or party may appear before the Commission on his, her, or its own behalf in any matter pending before the Commission. Any member of a partnership which is party to any proceeding may appear for the partnership and any bona fide officer or full-time employee of a corporation, association, or of an individual may appear for such corporation, association or individual.

Any person or party not represented as set out in section (a) immediately above must be represented in matters

pending before the Commission by an attorney or counselor at law who is a licensed member in good standing of the Alabama State Bar. A person or party may be represented before the Commission pro hac vice by an attorney or counselor at law who is not a licensed member in good standing of the Alabama State Bar (hereinafter called a foreign attorney) provided said foreign attorney is: currently a member in good standing of the bar of another state, the District of Columbia, or other United States jurisdictions; is familiar with the ethics, principles, practices, customs and usages of the legal profession in Alabama; and otherwise complies with all requirements of Rule VII of the Rules Governing Admission to the Alabama State Bar including, but not limited to, the association of local counsel and the submission of a verified application in the form prescribed. The Commission or the administrative law judge shall enter an order granting or denying all such pro hac vice applications submitted by foreign attorneys.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, ~~8-26A-30~~ 8-26B-3.

History: **New Rule:** Filed December 5, 2001; effective January 9, 2002. **Amended: April 14, 2021**

142-1-2-.05 **Form Of Filings.** Every application, complaint, answer, pleading, or petition must be in writing and conform with the provisions of Title 41, Chapter 22, Code of Ala. 1975.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, ~~8-26A-30~~ 8-26B-3.

History: **New Rule:** Filed December 5, 2001; effective January 9, 2002. **Amended: April 14, 2021**

142-1-2-.06 **Sessions.**

The office of the Secretary of State, Room S-105, 600 Dexter Avenue, Montgomery, Alabama, ~~36104~~ 36130, will be open for the transaction of business each weekday, except holidays and Saturdays and Sundays: from 8 a.m. to 5 p.m.

Hearings before the Commission or administrative law judge will be held in a location identified by the Commission or administrative law judge in the notice setting any matter for hearing.

Special hearings of the Commission will be held at other places and times at the discretion of the Commission. Hearings before an administrative law judge will be held as the Commission may direct.

The Commission or administrative law judge shall, in writing, set a time certain for all hearings, giving proper notice thereof to all known parties.

All hearings before the Commission or administrative law judge shall be open to the public.

Contemptuous conduct by any person appearing at a hearing is ground for his exclusion from the hearing by the Commission or administrative law judge.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, 8-26A-30 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. Amended: April 14, 2021

142-1-2-.07 Parties.

(1) The parties to proceedings before the Commission or administrative law judge will be known as complainants, defendants, intervenors, protestants, respondents, applicants, and petitioners according to the nature of the proceeding and the relationship thereto. Any individual may appear for himself and any member of a partnership which is a party to any proceeding may appear for the partnership. A bona fide officer or a full-time employee of a corporation, association, or an individual may appear for such corporation, association, or individual. A party can be heard in person or by its attorney of record. Representatives of the Commission, the Secretary of State's staff or persons appearing at the request of the Commission are entitled to appear in any proceeding before the Commission or administrative law judge without having been designated as one of the above-mentioned parties.

(2)(a) In complaint cases, the party who complains to the Commission of anything done or omitted to be done in violation of law, orders, or rules or regulations of the Commission is styled the complainant. The party against whom the complaint is made is styled the defendant. Two or more complainants may join in one complaint if the respective causes of action are against the same defendant or defendants and

involve substantially the same alleged violation and a like state of facts.

In investigation proceedings instituted by the Commission upon its own motion, the parties designated therein are styled respondents; and those on whose behalf the investigation proceedings are instituted are styled protestants.

In applications for relief from any provisions of law, orders, rules or regulations of the Commission, parties on whose behalf the application is made are styled applicants.

Others seeking relief from a decision of the Secretary of State or the exercise of the Commission's authority are styled petitioners.

(3) Petitioners permitted to intervene, as hereinafter provided, are styled intervenors. Anyone entitled under the law to complain to the Commission may petition for leave to intervene in any pending proceeding prior to or at the time it is called for hearing, but not after, except for good cause shown. Petitions shall set forth the grounds of their proposed intervention; the position and interest of the petitioner in the proceeding; and if affirmative relief is sought, should conform to requirements for a formal complaint. Leave will not be granted except on allegations reasonably pertinent to the issues already present and which do not unduly broaden them. If leave is granted, the petitioner thereby becomes an intervenor and a party to the proceeding. Sufficient copies of the petition must be furnished for service on all parties to this proceeding and to allow nineteen (19) copies retained by the Alabama Athlete Agents Regulatory Commission and its staff. If affirmative relief is sought, petitions for intervention should be filed in time to permit lawful service upon the proper parties.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, 8-26A-30 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. Amended: April 14, 2021

142-1-2-.08 **Complaints.**

(1)(a) Complaints may be either informal (see Rule 142-1-2-.09(2) below) or formal. Formal complaints shall be in

writing and contain the names of all parties Complainant and Defendant in full and the address of each.

Formal complaints shall be so drawn so as to fully and completely advise the Defendant or the Defendants and the Commission wherein the provision of the law, rules or regulations have been or will be violated. The complaint shall also state the relief sought.

Each formal complaint and answer thereto, must be accompanied by copies in sufficient numbers to enable the Commission to serve one (1) copy upon each Defendant and retain nineteen (19) copies for use of the Commission.

Informal complaints may be made in any manner which states specifically the cause of complaint. Matters thus presented are, if their nature warrants it, taken up by communication with the parties affected in an endeavor to bring about satisfaction of the complaint without formal hearing. Many complaints are satisfactorily adjusted by this procedure, and it is recommended. When it appears that complaints cannot be adjusted by informal negotiation, Complainants will be notified and the matter closed. Formal complaints may then be filed if Complainants so desire.

All formal complaints must be in writing, signed by the party or his attorney of record.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, ~~8-26A-30~~ 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. Amended: April 14, 2021

142-1-2-.09 **Pleadings And Answers.**

Each person against whom a complaint is directed must plead or answer at least five days prior to the date set for hearing, but no later than 30 days from the filing of the complaint. All answers must admit or deny the truth of all material allegations of the complaint and may set forth any additional facts or matters material to the issue or in bar or abatement of the proceeding. Averments not denied or confessed and avoided shall be taken as admitted. If the person is without knowledge, he shall so state and such statements shall operate as a denial. If the person shall make satisfaction to the complainant before the cause comes on for hearing or before

same is finally disposed of by the Commission, he shall obtain from the complainant a written acknowledgment of such satisfaction setting forth the terms and conditions thereof and file the same with the Commission.

Where more than one person is involved in a complaint, they may make joint answers thereto. If a defendant in a complaint case seeks affirmative relief, a counterclaim may be filed.

If a defendant in a complaint case seeks affirmative relief, a counterclaim may be filed.

The original answer, counterclaim, or other pleading, with nineteen (19) copies, must be filed with the Commission, c/o the Secretary of State, 600 Dexter Avenue, Room S-105, Montgomery, Alabama, 36104, and at the same time, a copy of said answer to pleading, or a counterclaim shall be served by the defendant making such answer, counterclaim, or pleading by

U.S. Mail, Postage Prepaid, upon each complainant or his attorney of record. The defendant or his attorney of record shall certify to the Commission that said service has been made.

All pleadings, answers and counterclaims must be in writing signed by the party or his attorney of record.

The Commission or the presiding administrative law judge shall entertain all motions and pleadings made or filed in any proceeding which are not specifically covered by these rules as may in their or its discretion be deemed proper, except an administrative law judge cannot grant a motion to dismiss any proceeding. All such motions shall be in writing and shall set forth the relief sought and shall be served as any other pleading or answer, except those offered during a hearing.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow
Statutory Authority: Code of Ala. 1975, §§41-22-4, 8-26A-30 8-26B-3.
History: New Rule: Filed December 5, 2001; effective January 9, 2002. Amended: April 14, 2021

142-1-2-.10 Amendments.

Amendments to any complaint, application, petition, pleading or answer will be allowed or refused by the Commission or the presiding administrative law judge at their discretion and upon such terms as they may impose.

All amendments shall be in writing on a separate piece of paper and shall be filed with the Commission.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, ~~8-26A-30~~ 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. **Amended: April 14, 2021**

142-1-2-.11 **Extensions Of Time.** Postponements, continuances and extensions of time may be granted upon application of any party to a proceeding at the discretion of the Commission or presiding administrative law judge. However, upon the third such application by the applicant the proceeding shall be dismissed, except when made under extraordinary circumstances, such circumstances to be determined by the Commission or the administrative law judge.

Any party requesting postponement or dismissal without allowance of sufficient time for notification of the court reporter assigned to the hearing shall be responsible for said reporter's appearance fee.

Applications for extension of time should be made in writing no later than 48 hours before the time set for hearing or the deadline for filing pleadings, exceptions, or replies in order to properly notify all concerned parties. Such applications should specify therein the requested extension date and the extreme circumstances purported to justify the extension.

The failure of an applicant, petitioner or complainant to appear at a hearing will result in dismissal of the complaint, application or petition unless good cause is shown.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, ~~8-26A-30~~ 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. **Amended: April 14, 2021**

142-1-2-.12 **Hearings.**

In any pending matter, the Commission or the presiding administrative law judge may, in their discretion,

conduct a prehearing conference to consider any matters that might aid in the disposition of the proceeding.

At hearings on formal complaints or petitions, the complainant or petitioner, as the case may be, shall open and close. At hearings on applications for any relief under the law, the applicant shall open and close. In hearings of several proceedings upon a consolidated record, the Commission or presiding administrative law judge shall designate who shall open and close. Intervenors shall follow the party or parties in whose behalf the intervention is made, and where the intervention is not in support of either original party, the Commission or presiding administrative law judge shall designate at what stage such intervenors shall be heard.

Witnesses shall be sworn and examined orally before the Commission or presiding administrative law judge.

Depositions may be taken in the manner prescribed by law and made a part of the record.

Applicant, complainant or petitioner must, except as otherwise provided by law, establish the facts alleged by him as the basis for the relief sought, unless the party against which the complaint or petition is directed admits the same.

All facts alleged in answers or other pleadings must be proved by the party making such answers unless admitted by the complainants or petitioners. In case of failure to plead or answer in any proceeding upon complaint or petition, the Commission may take such proof of the facts as may be deemed proper, and make such order thereon as the facts and circumstances of the case require.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, ~~8-26A-30~~ 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. Amended: April 14, 2021

142-1-2-.13 **Discovery.** Requests for discovery shall be sent to the party from whom discovery is requested and, simultaneously, a copy of the same shall be forwarded to the Commission or administrative law judge where appropriate. All requests shall be made within a reasonable period of time from the filing of testimony and a reasonable time before the hearing.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, ~~8-26A-30~~ 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. Amended: April 14, 2021

142-1-2-.14 Evidence.

The Commission will generally follow the established rules of evidence applicable to civil actions at law and will depart therefrom only when it appears that such departure will preserve the substantial rights of the parties.

All testimony except as otherwise directed must be given on oath or affirmation of the witness.

In lieu of oral examination, parties may, at the discretion of the Commission or the presiding administrative law judge, present the direct or redirect examination of a witness through prefiled testimony. Such prefiled testimony shall be in written, question and answer form and shall be filed at least 10 calendar days prior to the hearing unless directed otherwise by the Commission or the presiding administrative law judge. At the hearing, such prefiled testimony may, upon motion, be incorporated into the record as if the questions had been asked of the witness, and the answers had been given by the witness orally, provided such testimony has been properly identified and authenticated under oath by the witness for whom it is presented and further provided that such witness is agreeable to submitting to cross-examination.

Cross-examinations that are purely prejudicial or designed to embarrass a witness shall not be allowed. This type of examination will be interrupted and not permitted. The Commission reserves the right to limit the number of witnesses under testimony which may be merely cumulative.

No person will be permitted to make a statement of fact or present any argument pro or con in a formal hearing before the Commission or administrative law judge, unless the person will submit to an oath or affirmation and unless that person is agreeable to submitting to cross-examination. The foregoing, of course, does not apply to duly authorized attorneys-at-law in presenting arguments to the Commission or administrative law judge.

Except as to reports and records made and preserved in the Alabama Athlete Agents Regulatory Commission in its regular course of business and as to certified copies of official records under pertinent public records laws, the Commission will not ordinarily admit letters or other writings in evidence unless the signers thereof are available at the hearing for cross-examination. There is no way for the Commission to refuse to receive such writings when sent through the mails or otherwise, but they will not be admitted as evidence or in any other manner made a part of a formal record. Likewise, resolutions adopted by the governing bodies of cities, towns, counties or other municipal corporations, chambers of commerce, boards of trade or other civic organizations shall not be admitted in evidence unless the president, secretary or other proper officer who was present at the meeting when the resolution was adopted and heard all discussion leading up to the adoption of same is available at the hearing for cross-examination. Any statements of fact contained in such resolutions shall not be deemed proof of those facts but shall be subject to proof.

Ordinarily in a formal proceeding, the Commission will not permit the incorporation of all or part of a record previously made unless the party offering such previous record produces certified copies thereof for introduction in evidence in sufficient number to supply the record then being made and all interested parties with a copy thereof. The Commission will, when requested to do so, take official notice of its previous decisions based upon prior record referred to, which should suffice in most instances. Likewise, the Commission generally will not permit the introduction of written testimony of any kind unless sufficient copies are available to parties adversely interested.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, 8-26A-30 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. Amended: April 14, 2021

142-1-2-15 Witnesses And Subpoenas.

The Commission or any administrative law judge appointed by the Commission may require the attendance of witnesses or require any person, firm or corporation subject to its jurisdiction to produce at such reasonable time and place to be designated within the State, books, records, documents or

accounts kept by such persons, firms or corporations either within or without the State of Alabama. Subpoenas for the attendance of witnesses or for the production of books, records, documents, or accounts (unless directed to issue by the Commission or the presiding administrative law judge thereof ex mero motu) will only be issued upon application in writing, and when it is sought to compel witnesses, that are not parties to the proceedings, to produce such documentary evidence, the application must be sworn to and must specify as nearly as may be the books, records, documents, or accounts desired, and that the same are in possession of witness or under his control, and that they contain evidence material to the issue, in the belief of the Applicant.

A witness who is summoned and responds thereto is entitled to the same fee, including mileage, on the same basis as witnesses in Civil Suits in Courts of Record of Alabama, such fee to be paid by the party at whose instance the testimony is taken at the time the subpoena is served.

In case of failure to comply with a subpoena or order directing discovery, the Commission may invoke the aid of any appropriate court of this state to require compliance, and the Commission may issue such orders as are just.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, 8-26A-30 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. Amended: April 14, 2021

142-1-2-.16 Briefs And Oral Arguments.

Briefs or memoranda shall be filed at the discretion of the parties or when requested by the Commission or the presiding administrative law judge. Briefs must be printed or typewritten and should include a statement of facts, proposition or points of law together with the authorities relied on, an argument of the proposition or points of law and requests for specific findings of facts.

Exhibits should not be reproduced in a brief, but may, if desired, be reproduced in an appendix to the brief. Notice of intention of filing briefs shall be given before the hearing closes. When the briefs are filed with the Commission they should be accompanied by certificate of service on opposite parties of record.

Oral arguments before the Commission may be granted at the discretion of the Commission, or the presiding administrative law judge upon the request of the parties made before or at the close of the hearing in any proceeding.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, 8-26A-30 8-26B-3.

History: **New Rule:** Filed December 5, 2001; effective January 9, 2002. **Amended: April 14, 2021**

142-1-2-.17 Filing Exceptions To Reports Of The Commission Or The Administrative Law Judge.

When a report and recommended order is served on the parties, the due date for exceptions shall be twenty (20) days from the date of service shown on such report and recommended order. Exceptions shall be in writing and set forth specifically any alleged errors in fact or in law or any erroneous conclusions therefrom. Replies to such exceptions may be filed by any interested party within twenty

(20) days from the filing of the exceptions. The Commission or the presiding administrative law judge, at their discretion, may extend the due date for exceptions and replies to exceptions, provided the request for such an extension is made in accordance with Rule 142-1-2-.14 herein. The original and four (4) copies of all exceptions and replies shall be filed with the Commission.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, 8-26A-30 8-26B-3.

History: **New Rule:** Filed December 5, 2001; effective January 9, 2002. **Amended: April 14, 2021**

142-1-2-.18 Applications For Reconsideration, Rehearing Or Modifications Of Orders.

Applications for rehearing or reconsideration must be made by petition, stating specifically the grounds relied upon, filed with the Commission and served upon all parties or their attorneys of record who appeared at the hearing, or oral argument if had, or on brief. Such petitions must be accompanied by certificates of service, either by United States Mail or in person, on the other parties of record. If any such application is based upon matters of law, the Applicant must state fully the legal propositions involved and cite the authorities therefor. If new evidence is desired to be offered

upon a rehearing. the nature and purpose of the evidence must be briefly stated, and it must not appear to be merely cumulative. If an application seeks the modification of an order of the Commission, it must show in what particulars a modification is desired. The Commission will allow ten (10) days time from the date the application is filed with the Commission to other parties of record in which to file an answer in writing to such application.

After the expiration often (10) days, the Commission will give consideration to such applications and any answers thereto that may be filed, and will make such order or orders as appear to be warranted; but if the Commission finds that a hearing for the introduction of additional testimony is justified, it will set the matter down for such purpose, giving notice thereof to the parties of record. After such hearing the Commission will give consideration to the record in the light of such additional testimony and render his or her decision and order thereon.

All applications for rehearing or reconsideration must be filed with the Commission within thirty (30) days from the date of the final action on the matter for which rehearing or reconsideration is sought, unless an extension is granted by the Commission.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, 8-26A-30 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. Amended: April 14, 2021

142-1-2-.19 Declaratory Rulings. The Commission may, upon petition by any party substantially affected, issue a declaratory ruling or order with respect to the jurisdiction of the Commission, the applicability to any person, property or state of facts of any order or rule of the Commission, or with respect to the meaning and scope of any order or rule of the Commission. Such petitions shall be in writing and shall state facts sufficient to show that petitioner is substantially affected by such order or rule. Petitions shall be filed with the Commission in accordance with Rule 142-1-2-.04, supra. Upon receipt of such a petition, the Commission may set a date and time for the taking of oral argument or written comments.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, 8-26A-30 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. **Amended: April 14, 2021**

142-1-2-.20 **Transcripts Of Testimony.** The Commission does not furnish a copy of the transcript of testimony to any party in any proceeding, but copies may be obtained by any party of record upon application to the official reporters of the Commission, and the payment of the established charge therefor.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §§41-22-4, 8-26A-30 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. **Amended: April 14, 2021**

142-1-2-.21 **Corrections Of Transcripts.**

Any party to any formal proceeding before the Commission who detects a material error in the written transcript of testimony, and desires such error to be corrected, may file with the Commission, in writing, a detailed proposed correction of such error, serving a copy of such writing on all other parties to the proceeding. Such proposed correction must be filed with the Commission before the expiration of the time for certifying the record to the Court or other reviewing body in cases where an appeal is taken of the final action in the proceedings involved, and within sixty (60) days from the date of the final order in the proceeding involved in all other cases, unless otherwise ordered by the Commission.

Upon receipt of any such proposed correction, the Commission will forthwith serve a copy thereof upon the official reporter who prepared such transcript. Within ten (10) days after the filing of such proposed correction, any other interested party may file, in writing, a reply in duplicate giving his reasons why such correction should not be made. If no such reply is made within the time prescribed, then and in that event the proposed correction will be considered proper and the transcript will be considered as having been corrected accordingly. If, on the other hand, within the time prescribed one of the parties does file such a reply, then and in that event the Commission or administrative law judge presiding during the taking of the testimony in the proceeding in question shall decide whether or not such proposed correction will be allowed and shall make his decision known in writing to all the

parties of record in the proceeding in question. Any such ruling made by the presiding administrative law judge or Commission shall be without prejudice to any party taking issue with such ruling in any appeal of the final action in the proceeding involved. This rule and any action taken thereunder shall be without prejudice to corrections in the Appeals Court under such conditions as may be prescribed by the court. This rule shall not be used to change in any respect any testimony offered at the hearing, but is solely for the purpose of correcting material errors where such errors exist.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §54I-22-4, ~~8-26A-30~~ 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. Amended: April 14, 2021

142-1-2-22 **Ex Parte Communications.** Parties or their representatives in a contested issue or proceeding which has been the subject of a formal public and open hearing or in a proceeding which has been set for hearing shall not communicate, directly or indirectly, in connection with any issue of fact or law in that contested case, issue or proceeding with the Commission or administrative law judge assigned to render a proposed order or final decision or to make findings of fact and conclusions of law in that contested case, issue or proceeding except upon notice and opportunity for all parties to participate and the Commission or administrative law judge will not allow ex parte argument to be made concerning such case, issue or proceeding.

Author: Charles E. Grainger, Jr.; Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §54I-22-4, ~~8-26A-30~~ 8-26B-3.

History: New Rule: Filed December 5, 2001; effective January 9, 2002. Amended: April 14, 2021

142-1-2-23 **Reconsideration of Denied Licenses.**

(a) The applicant may request a reconsideration of the decision of the Commission based on good cause shown.

(b) Good cause shown shall include, but not be limited to, additional evidence or information which was not available at the time of the initial hearing which more likely than not would have influenced the Commission's decision.

(c) A request for reconsideration shall be filed with the Commission within 30 days from the date of the initial ruling and shall require the consent of two-thirds of the Commission in order to be granted.

Author: Hugh Evans; Taylor Freeman; Shemekwa Farrow

Statutory Authority: Code of Ala. 1975, §8-26B-3.

History: New Rule: April 14, 2021