11/14/16

DRAFT

Minutes

Environmental Management Commission Meeting

Alabama Department of Environmental Management Building

1400 Coliseum Boulevard

Montgomery, Alabama 36110-2400

October 21, 2016

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October 21, 2016

Convened: 11:00 a.m.

Adjourned: 12:00 p.m.

Part A

Transcript

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Part A

1 * * * * * * * * * *
2
3
4 ALABAMA ENVIRONMENTAL MANAGEMENT
5 COMMISSION MEETING
6
7
8 ALABAMA DEPARTMENT OF ENVIRONMENTAL
9 MANAGEMENT
10 Alabama Room
11 1400 Coliseum Boulevard
12 Montgomery, Alabama 36110-2400
13
14 October 21, 2016
15 11:00 a.m.
16
17
18
19
20
21
22 Taken by: April Sargent,
23 ACCR 579

1 * * * * * * *
2 APPEARANCES
3
4 COMMISSION MEMBERS PRESENT:
5 H. Lanier Brown, II, Esquire, Chair
6 James E. Laier, Ph.D., P.E.
7 Craig Martin, D.V.M.
8 Mary J. Merritt
9 Samuel L. Miller, M.D.
10 Terry D. Richardson, Ph.D.
11
12 COMMISSION MEMBERS NOT PRESENT:
13 W. Scott Phillips, Vice Chair
14
15 ALSO PRESENT:
16 Robert Tambling, EMC Legal Counsel
17 Lance R. LeFleur, ADEM Director
18 Debi Thomas, EMC Executive Assistant
19 SPEAKERS DURING PUBLIC COMMENT PERIOD:
20 Adam Johnston, Black Belt Citizens
21 for Health and Justice
22 Michael William Mullen,
23 Choctawhatchee Riverkeepers

1 ALSO PRESENT (continued):
2 Jimmie Ilachild, Unitarian
3 Universalists of Montgomery
4 Ron Smith, Ashurst Bar/Smith
5 Community
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1 CHAIRMAN BROWN: Good morning.
2 We will call the -- can we get some
3 quiet, please?
4 We will call the
5 October 21, 2016 meeting of the
6 Environment Management Commission
7 to order. The Chair acknowledges
8 that we have a quorum.
9 The first item on the agenda is
10 the consideration of the minutes of
11 the meeting held on
12 August 19, 2016. The minutes have
13 been circulated to the members of
14 the Commission for review prior to
15 the meeting, and Chair will look
16 for a motion.
17 MR. RICHARDSON: Move to adopt
18 the minutes as presented.
19 MR. LAIER: Second.
20 CHAIRMAN BROWN: All in favor?
21 (Unanimous.)
22 CHAIRMAN BROWN: Item passes.
23 Next agenda item is the

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1 elections. Chair will consider
2 the -- the Commission will consider
3 the position of the Chair and Vice
4 Chair and will look for a motion on
5 that.
6 MR. MILLER: Mr. Chairman, I
7 move that we continue with you as
8 the Chairman and Mr. Phillips as
9 the Vice Chairman.
10 MR. MARTIN: Second.
11 CHAIRMAN BROWN: Any
12 discussion?
13 (No response.)
14 CHAIRMAN BROWN: For the
15 question all in favor?
16 (Unanimous.)
17 CHAIRMAN BROWN: Motion
18 carries.
19 Next on the agenda is the
20 report from the Director.
21 Good morning.
22 MR. LEFLEUR: Good morning.
23 Congratulations on your election.

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1 CHAIRMAN BROWN: Thank you, I
2 think.
3 MR. LEFLEUR: And welcome to
4 those others present. This is the
5 first meeting of the Alabama
6 Environmental Management Commission
7 for the fiscal year 2017. Today's
8 report will update you on the
9 Department's funding for this
10 fiscal year; address the high
11 points of the Department's
12 Operating Plans for FY 2016 and
13 FY 2017; report on the Department's
14 performance in the NPDES arena
15 using EPA dashboards; notify you of
16 EPA action on a recently filed
17 petition to withdraw the
18 Department's authority to issue
19 landfill permits; and finally, to
20 recognize several ADEM personnel
21 for professional accomplishments.
22 I'm pleased to report that the
23 special session of the Legislature

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1 completed on September 7 did not
2 result in any adverse impact to the
3 Department's current meager General
4 Fund budget.
5 On October 1, we began our
6 fiscal year 2017. The efficiency
7 and cost-shedding programs reviewed
8 in the last two Commission meetings
9 are now being implemented. We're
10 continuing to work with
11 Concentrated Animal Feeding
12 Operations (CAFOs) and members of
13 the Legislature to address the
14 looming depletion of funds to
15 operate that program. If the
16 Legislature does not act, it's
17 anticipated the collection of
18 previously suspended CAFO fees will
19 begin in the second quarter of
20 calendar year 2017.
21 Later in this meeting you'll be
22 considering a rulemaking petition
23 to facilitate the collection of

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1 only the specific level of fees
2 necessary to operate that program.
3 Final resolution of the CAFO
4 funding issue, along with the
5 efficiency and cost-shedding
6 programs, are expected to provide
7 the funds necessary for the
8 Department to meet all of its
9 operating commitments.
10 Work continues on RESTORE Act
11 funding to replace the two woefully
12 substandard facilities in Mobile
13 housing our field office and
14 coastal programs with a single
15 facility designed to allow the
16 Department to accomplish its
17 mission today and in the future.
18 Despite ongoing and difficult
19 budget challenges, the Department
20 has not only met all federal and
21 state statutory and regulatory
22 obligations, but as the EPA
23 dashboards and other impartial

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1 metrics consistently demonstrate,
2 has performed at a level among the
3 highest in the nation.
4 In 2014, the Department and the
5 Commission updated the joint
6 consolidated strategic plan, as it
7 does every five years. Each fiscal
8 year the Department updates its
9 annual operating plan which
10 addresses the same goals reflected
11 in the strategic plan.
12 The strategic plan and annual
13 operating plan shared goals are:
14 Effective and Responsive
15 Commission, High-Performing Work
16 Environment, Credible Relationships
17 with External Stakeholders, and
18 Efficient and Effective
19 Departmental Operations.
20 With the next several slides,
21 I'll recap some of the FY 2016
22 Departmental Operating Plan
23 objectives that were accomplished

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1 during the past fiscal year and
2 provide a general description of
3 some of the new objectives in the
4 FY 2017 Departmental Operating
5 Plan. Again, the Departmental
6 Operating Plan goals are the same
7 as those in the Commission and
8 Department's consolidated strategic
9 plan.
10 The first goal is to have an
11 Effective and Responsive
12 Commission. To achieve this goal,
13 there must be effective
14 communication between me, as
15 Director, and each of the seven
16 Commissioners. To this end, the
17 Department provides a schedule of
18 all anticipated rulemaking well
19 before proposed rules are formally
20 presented.
21 I regularly brief you, both
22 orally and in writing, on the
23 latest issues confronting the

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1 Department and affecting our
2 environment. Prior to each
3 Commission meeting, it has also
4 been my practice to send you a
5 memorandum titled "ADEM Update,"
6 which highlights significant new
7 activities in each of the
8 Department's five divisions,
9 addresses progress on the
10 objectives set out on the
11 Department's Operating Plan, and
12 shows standard performance metrics.
13 The ongoing rulemaking and ADEM
14 Update are found on the website in
15 eFile under Director's
16 Correspondence, shown circled in
17 red in this website screenshot.
18 Goal 2, High-Performing Work
19 Environment has several subgoals
20 or objectives, which, among other
21 things, focus on the resource
22 management, including both
23 financial and human resources.

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1 On the financial side, in
2 addition to the General Fund, fee,
3 and RESTORE Act funding activities
4 noted just a moment ago, managers
5 at ADEM have been diligent in
6 seeking new funding for their
7 individual programs.
8 During fiscal year 2016, the
9 Department competed for and
10 received more than $1.7 million in
11 federal grants for environmental
12 programs in Alabama.
13 The state Clean Diesel, Clean
14 Vessel, and local Brownfields
15 grants provide added help in
16 reducing pollution in Alabama's
17 air, water, and land respectively.
18 The Exchange Network and
19 Multipurpose grants are dedicated
20 to increasing Departmental
21 efficiency through e-enterprise.
22 The Underground Storage Tank grant
23 supplements the depleted Department

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1 General Fund resources. This grant
2 will allow the Department to meet
3 its current year EPA work plan tank
4 inspection obligations.
5 In the human resource
6 management effort to promote
7 high-performing work environment,
8 one of the objectives is to
9 increase the Department's use of
10 interns and co-op students.
11 In this past year, we were able
12 to attract 15 students from
13 multiple disciplines: engineering,
14 biology, meteorology, and
15 information technology from a
16 diverse group of schools including
17 Tuskegee University, Alabama A&M
18 University, Auburn University, the
19 University of South Alabama, the
20 University of Alabama, and the
21 University of Alabama Huntsville.
22 Our strategy is to introduce
23 the students to real environmental

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1 applications in their chosen
2 disciplines while they are still in
3 school. The objective is for them
4 to be pleased with their experience
5 and return upon graduation and
6 become permanent employees of ADEM.
7 The Department is also focused
8 on recruiting and advancing
9 diversity within the Department at
10 entry-level positions, as well as
11 promotional positions. Our
12 recruitment team continues to visit
13 colleges and universities
14 throughout Alabama each spring and
15 fall in our ongoing effort to
16 attract minority applicants.
17 Here you see Lynn Battle of our
18 External Affairs Branch. She's
19 talking with a prospect. Specific
20 historically black colleges and
21 universities visited on a
22 continuous basis in Alabama include
23 Alabama State University, Miles

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1 College, Oakwood University, and
2 Tuskegee University. Other
3 colleges and universities where we
4 recruit minorities include Auburn
5 University, Auburn University
6 Montgomery, Huntington College,
7 Troy University, the University of
8 Alabama, the University of Alabama
9 Birmingham, and the University of
10 South Alabama.
11 As a direct result of these
12 efforts, 40 new employees from the
13 colleges and universities in
14 Alabama, including nine minorities,
15 were hired during the fiscal year
16 2016 to fill vacancies left by
17 departing employees.
18 Nearly all the objectives in
19 High-Performing Work Environment
20 goal, including providing financial
21 and human resources, using
22 data-driven performance measures,
23 and promoting innovation are

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1 ongoing endeavors that continue to
2 advance but, by their nature, are
3 never fully completed.
4 Objectives for FY 2017 within
5 this broad goal remain the same as
6 they were in FY 2016.
7 The third broad goal, Credible
8 Relationships with External
9 Stakeholders, has received a lot of
10 attention in reports to the
11 Commission this past year. Having
12 credible relationships requires
13 face-to-face time with
14 stakeholders, which is done in
15 numerous group meetings set out in
16 the plan, as well as one-on-one
17 meetings as opportunities arise.
18 In the April Commission
19 meeting, ADEM's Environmental
20 Justice activities were reviewed
21 and a detailed compilation of those
22 activities entitled "Community
23 Engagement" was presented.

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1 For anyone who has not had the
2 opportunities to review the
3 numerous activities documented in
4 the report, it is available on the
5 Department's website.
6 Another recent addition to the
7 website is the eMaps Portal circled
8 in red on this web page screenshot,
9 which is designed to further
10 enhance involvement with external
11 stakeholders.
12 Selecting the eMaps Portal icon
13 displays a page with five major
14 headings that can be used to locate
15 on interactive maps Brownfields
16 sites, impaired water bodies, river
17 basins, determine where total
18 maximum daily loading
19 determinations have been made,
20 where underground storage tanks
21 exist, where UST spills have
22 occurred, and other information.
23 The user can view the entire

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1 state or zoom in all the way down
2 to a specific street address or
3 stream segment. The eMaps Portal
4 is natural complement to the eFile,
5 eComplaint, and "What's Happening
6 in Your County" applications that
7 are available to help citizens
8 access information about their
9 specific geographic areas of
10 interest.
11 Making data readily available
12 to external stakeholders through
13 easily-accessible computer systems
14 promotes transparency and also
15 promotes efficiency of operation.
16 Other outreach initiatives
17 include the energy efficiency
18 efforts highlighted in the August
19 Commission meeting and a planned
20 drinking water quality assurance
21 outreach to all Alabama public
22 schools.
23 The goal of Credible

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1 Relationships with External
2 Stakeholders lends itself to
3 distinct individual outreach
4 events, as confirmed by having 12
5 separate objectives in the FY 2016
6 plan, some of which you have just
7 seen. The FY 2017 Operating Plan
8 adds four new objectives, including
9 new outreach to the U.S. Fish and
10 Wildlife Service.
11 The fourth and final goal,
12 Efficient and Effective
13 Departmental Operations, is
14 critical to the Department's
15 efforts to provide cost-effective
16 services to Alabama citizens.
17 Coordinated effort is necessary
18 to accomplish goals within any
19 organization, and that begins with
20 communication. Objectives
21 addressing both formal and informal
22 means of communication are part of
23 the plan.

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1 A major objective under this
2 goal is to meet or exceed all work
3 plan commitments with EPA. This
4 was accomplished in FY 2016 and is
5 an objective for FY 2017.
6 Another important objective
7 within the broad goal of Efficient
8 and Effective Departmental
9 Operations is to incorporate more
10 e-enterprise and e-business
11 applications. Many in this room
12 are familiar with EPA's eReporting
13 rule and its aggressive deadlines.
14 The eReporting rule, which goes
15 into effect in December of this
16 year, is EPA's recent effort to
17 promote electronic reporting of
18 Discharge Monitoring Reports known
19 as eDMRs. The Department
20 wholeheartedly supports this EPA
21 effort. Fortunately, the
22 Department began its eDMR system
23 and set specific penetration goals

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1 several years ago, which put us far
2 ahead of most other states in
3 complying with the new eReporting
4 rule deadlines.
5 Today ADEM has 93 percent of
6 the covered NPDES water permitted
7 universe on the eDMR system. As
8 shown on this slide, this includes
9 98 percent of the municipal and
10 industrial facilities holding NPDES
11 permits on the eDMR system. Though
12 very few states will be able to
13 meet EPA's eReporting goal of 90
14 percent in 2017, the Department has
15 already surpassed that goal.
16 Another of the electronic
17 application objectives within
18 broader goal of Efficient and
19 Effective Departmental Operations
20 is implementation of the nSPECT
21 system discussed at the last
22 Commission meeting. As of October
23 1, the field tablets allowing

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1 direct entry of inspection data
2 into multiple databases, which
3 improves both productivity and
4 accuracy, are fully operational.
5 Here are a few photos of Sarah
6 Dominguez, one of our Field
7 Operation Division inspectors,
8 using a tablet to record data and
9 document the inspection with
10 photographs.
11 Four additional objectives in
12 the area of electronic applications
13 which have been incorporated in the
14 FY 2017 Operating Plan are also
15 designed to improve efficiency. In
16 addition to the new electronic
17 applications for FY 2017, new
18 objectives in the areas of enhanced
19 procedures for fish kill events and
20 the evaluation of drone technology,
21 as well as cyber security
22 monitoring, have been put in place.
23 Many of these activities help

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1 the Department to operate
2 effectively, given the tight
3 budgets it is constrained to
4 operate within.
5 A more complete rundown on
6 progress in meeting FY 2016
7 objectives is available in the six
8 ADEM Update reports mentioned
9 earlier that were prepared during
10 FY 2016 and which are available on
11 the ADEM website. Copies of the
12 2017 Departmental Operating Plan
13 have been prepared and provided to
14 you, and additional copies are
15 available on the table outside the
16 meeting room for others who may be
17 interested.
18 Switching gears slightly, we
19 will now look at some of the
20 numbers related to the
21 Department's -- Departmental
22 performance. The analysis of
23 Departmental performance is

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1 regularly presented using
2 EPA-generated metrics so ADEM can
3 compare itself against all other
4 states in standardized performance
5 measurements. On a rotating basis,
6 we look at Air, Hazardous Waste,
7 NPDES Water, and recently the
8 Drinking Water program. We are
9 past due in reviewing the
10 performance of the Air program.
11 The reason for the delay is that
12 EPA initiated changes to the
13 reporting regimen for the Air
14 programs which has resulted in the
15 EPA reworking the graphs. It was
16 anticipated the update to the
17 dashboards would be ready by now.
18 However, EPA has run into problems.
19 The last Air update presented
20 you used data in 2014. That
21 continues to be the most current
22 data available. It's not known
23 when more current graphs will be

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1 forthcoming. If the delay period
2 becomes significantly extended, an
3 alternative method of analysis will
4 be developed to review performance
5 of the Department's Air program.
6 Earlier this calendar year, the
7 performance analyses of the
8 Hazardous Waste and Drinking Water
9 programs were presented. Updated
10 dashboards for the NPDES Water
11 program are now available. Because
12 Air program data is not available,
13 the rotation order will be
14 readjusted to present an analysis
15 of performance of the NPDES Water
16 program today.
17 By way of reminder, the
18 Interactive Visual Compliance and
19 Enforcement Metrics, known as
20 dashboards, are developed by EPA
21 using standard data required to be
22 submitted to EPA by all states.
23 The dashboards show how each state

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1 performs, compared to all other
2 states, over a period of five
3 years. Current performance, as
4 well as trends in performance, are
5 displayed. The dashboards are
6 readily available to any interested
7 party on the EPA website.
8 Dashboards are useful management
9 tools because they can highlight
10 the areas where performance can be
11 improved.
12 As has been the case with other
13 media and previous reports on the
14 NPDES Water program, the following
15 slides will focus on the size of
16 the universe of regulated
17 facilities, the inspections
18 performed, the violations found in
19 those inspections, the most serious
20 violations, and the enforcement
21 actions taken as a result of the
22 violations.
23 As we go through these graphs,

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1 I'll highlight where EPA has
2 encountered several glitches in
3 both correctly displaying data and,
4 in at least one case, how it
5 defines one of the variables being
6 displayed.
7 This first slide is one
8 typically presented in updates
9 which shows the size of the
10 universe of NPDES permitted
11 water-discharging facilities. It
12 shows that there are approximately
13 10,400 NPDES permits outstanding in
14 Alabama, with a large majority
15 being general permits shown in red.
16 The graph clearly displays the
17 Department's strategy to
18 increasingly use general permits
19 because they both reduce the
20 workload associated with permit
21 issuance, which increases
22 efficiency, and generally have
23 tighter discharge limits.

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1 There are numerous graphs
2 related specifically to enforcement
3 and compliance. The first of these
4 is the INSPECTIONS group. The
5 graphs in this INSPECTIONS group of
6 dashboards analyze the rate of
7 inspections.
8 This next slide is one
9 typically presented in our regular
10 updates. It shows that the
11 percentage of all major facilities
12 inspected in Alabama, the purple
13 columns, consistently exceeds both
14 the national average shown by the
15 dashed blue line, and the EPA
16 target of 50 percent, shown by the
17 solid black line. Please be aware
18 that the data set for 2016 is not
19 yet complete.
20 In the inspection group of
21 dashboards is also a graph showing
22 the percentage of non-majors that
23 have been inspected. You will note

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1 that EPA has not set a target for
2 the rate of inspections for
3 non-majors as they did for majors.
4 However, ADEM's EPA work plan calls
5 for an inspection rate of 20
6 percent, which, as you can see, has
7 been met or exceeded every year.
8 Once again, please note the data
9 set for 2016 is not yet complete.
10 The next group of graphs is the
11 VIOLATIONS group of dashboards,
12 which analyze permit violations.
13 Once again, this slide is typically
14 included in regular updates. It
15 shows the percentage of majors in
16 non-compliance. As you see, the
17 percentage of majors in Alabama
18 with serious violations (shown in
19 orange) and non-serious violations
20 (shown in blue) is better, often by
21 a wide margin, than the respective
22 national averages shown as the red
23 and blue dashed lines.

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1 The SERIOUS VIOLATIONS
2 dashboard group focuses
3 specifically on serious violations.
4 This slide, showing serious
5 violations, is a subset of the
6 previous slide. As you can see,
7 the national average represented by
8 the dashed red line, has been
9 hovering around 20 percent, while
10 the Department's level of serious
11 violations has been steadily
12 declining and is now less than
13 one-third of the national average.
14 This is the trend we're looking
15 for.
16 In the ENFORCEMENT ACTIONS
17 dashboard group, I typically review
18 with you the graph showing a trend
19 in the rate of formal and informal
20 enforcement actions, since that is
21 reflective of a key strategy to
22 advance our main goal of increasing
23 overall compliance. Due to recent

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1 data capture errors at EPA, that
2 graph is not currently available.
3 However, the next two graphs, the
4 one on the screen now and the next
5 one, from the same endorsement
6 group, illustrate the trend in
7 non-compliance and the timeliness
8 of enforcement actions.
9 In this graph, unlike others,
10 the dashed red line represents the
11 percentage of major facilities in
12 Alabama that are classified as, in
13 significant non-compliance, rather
14 than a national average. The trend
15 is clearly going down, which means
16 compliance is going up. As is
17 often stated, one of our primary
18 objectives is to increase
19 compliance, and this line
20 demonstrates that objective is
21 being met.
22 The blue columns represent the
23 percentage of major facilities that

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1 are in non-compliance and also have
2 a formal enforcement action against
3 them. Since the red line shows
4 fewer facilities in significant
5 non-compliance, there are fewer
6 facilities against which to take
7 enforcement action; and thus the
8 blue columns are getting smaller.
9 The reason why the red line and
10 the blue columns don't overlap,
11 which would mean every instance of
12 significant non-compliance has a
13 formal enforcement action, is that
14 some non-compliance, such as not
15 filing a timely report, requires
16 the next reporting period to occur
17 before the facility can be
18 classified as in-compliance once
19 again and a formal enforcement
20 action is not warranted.
21 The second enforcement graph --
22 this will be our last graph. The
23 second enforcement graph shows the

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1 percentage of facilities in
2 non-compliance that have timely
3 enforcement action, using EPA's
4 definition of timely enforcement.
5 In this graph the dashed red line
6 shows the national average, which
7 is pretty low. The yellow columns
8 show the Department's performance,
9 which although higher than the
10 national average, is still somewhat
11 low and well below EPA's stated
12 goal of 98 percent, shown as the
13 heavy black line at the top of the
14 graph.
15 EPA's definition of timely
16 enforcement action does not
17 properly take into account the type
18 of violation, the type of facility,
19 whether enforcement is warranted,
20 and other relevant factors. For
21 example, as mentioned a moment ago,
22 a failure to file a report is a
23 violation but may be corrected with

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1 no enforcement action being taken.
2 On the other hand, at the other end
3 of the scale, an enforcement action
4 against a sister state agency, such
5 as the Alabama Department of Youth
6 Services, may require a lengthy
7 intra-governmental process. In
8 both instances, the EPA metric
9 would not reflect timely
10 enforcement.
11 Quite simply, sometimes
12 enforcement action is not required
13 and some enforcement actions take
14 more time than others. EPA has
15 recognized the problems with this
16 graph and is in the process of
17 reworking it. Notwithstanding the
18 questionably-defined metric and the
19 resulting unrealistic EPA target,
20 the Department's performance is
21 significantly better than the
22 national average and is improving.
23 The metrics displayed in these

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1 dashboard groups continue to be the
2 only comprehensive, verifiable,
3 objective measures of performance
4 available. As you've seen, every
5 group of measures demonstrates the
6 Department is consistently beating
7 national averages and that
8 performance is trending toward
9 continued improvement.
10 I would now like to notify you
11 of a recent EPA action involving
12 the Department. On August 18,
13 2016, a petition was filed with EPA
14 by the Environmental Defense
15 Alliance, a group made up of three
16 Alabama environmental
17 organizations, to have EPA withdraw
18 its 1994 Determination of Adequacy
19 of Alabama's Municipal Solid Waste
20 Landfill Permit Program. On
21 September 26, 2016, EPA issued a
22 rejection of the petition. In this
23 case EPA acted expeditiously and

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1 decisively.
2 Finally, from time to time,
3 it's my pleasure to report on
4 significant accomplishments of our
5 employees. Today I am pleased to
6 recognize four employees who have
7 completed the work necessary to
8 earn the respected designation of
9 Certified Public Manager I and
10 three employees who have earned the
11 advanced designation of Certified
12 Public Manager II.
13 The CPM program prepares our
14 engineers, scientists, and other
15 employees to assume the managerial
16 duties critical to the success of
17 the Department. The professional
18 development of our employees is an
19 important goal in our strategic and
20 annual operating plans.
21 Please stand and remain
22 standing as I call your name.
23 Earning the designation CPM I are

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1 Mark Davidson in our Air Division.
2 Mark, are you here? I saw you
3 earlier. Ashley Mastin in the Land
4 Division. There's Ashley. Dan
5 Nobles in the Permits and Services
6 Division. I thought Dan was here
7 too. They must be back working.
8 Spring Tate, also in the Permits
9 and Services Division.
10 Evidently I didn't get the word
11 out well.
12 Those earning the CPM 2
13 designation are Don Barron in the
14 Air Division, Susan Dingman -- and
15 I know she's not here -- in our
16 Permits and Services Division.
17 Jerome Hand in the back corner in
18 the Permits and Services Division
19 also.
20 Would you please join me in
21 congratulating them? Good work for
22 all of y'all.
23 That concludes today's report.

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1 I'll be pleased to answer any
2 questions you may have.
3 MR. RICHARDSON: Director, I
4 have a couple of questions about
5 your presentation on the
6 dashboards.
7 I was particularly concerned in
8 the lack of dashboard information
9 presented on the non-majors
10 general, which is over 80 percent
11 of our NPDES program. Is that
12 there and available?
13 MR. LEFLEUR: There is
14 information on the non-majors. The
15 EPA is currently working on getting
16 timely information on that.
17 Information on non-majors, we
18 submit it the same time we submit
19 our data on majors. Other states,
20 however, submit a different report.
21 It's called an ANCR report. And
22 that usually has a -- slightly over
23 a one-year lag so that it will

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1 appear as two years of zero data in
2 the last five-year comparisons.
3 We're working with EPA to get that
4 data to be presented as currently
5 as the majors are. But it is a
6 shortcoming of the EPA dashboard
7 program right now.
8 MR. RICHARDSON: So it's really
9 on their part, not any oversight or
10 omission on our part?
11 MR. LEFLEUR: Correct. We're
12 once again, ahead of the game as
13 far as EPA reporting. They'll be
14 catching up.
15 And, once again, people can go
16 onto the EPA website and get --
17 there are about 150 different
18 graphs of performance and activity.
19 And people can go on and look at
20 those and move around in them.
21 There's a lot of good information
22 in there, even though there are
23 some problems with some of it.

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1 MR. RICHARDSON: Thank you.
2 CHAIRMAN BROWN: Any other
3 questions or comments from the
4 Commission?
5 (No response.)
6 CHAIRMAN BROWN: Thank you.
7 Next on the agenda is the report
8 from the Commission Chair.
9 I would just like to note that
10 this is the first of our new public
11 comment period. We've got some
12 registrants to speak after the
13 Commission concludes its business
14 portion of the meeting.
15 I just want to welcome everyone
16 that signed up to speak. We do
17 appreciate your comments. I do
18 want to emphasize the guidelines
19 that have been published to you.
20 And please refrain from anything
21 that is ongoing that the Commission
22 might have to rule on or litigated
23 issues.

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1 While the Department is not
2 required to speak, if you do want
3 to speak -- and Mr. Director -- in
4 response to any comments, we'll
5 give you that opportunity. And if
6 any of the Commissioners want to
7 ask questions of the speakers, I'll
8 give y'all that opportunity as
9 well.
10 Next on the agenda is, the
11 Chair will call on Personnel
12 Committee Chair Laier for a report
13 and recommendations from the
14 Personnel Committee on the ADEM
15 Director job performance
16 evaluation, including potential
17 salary advances and meeting with
18 the Chair -- excuse me -- with the
19 Director regarding the summary of
20 written comments.
21 MR. LAIER: Ready?
22 CHAIRMAN BROWN: Ready.
23 MR. LAIER: The Personnel

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1 Committee and Chair met this
2 morning at 10 a.m. We had a quorum.
3 Our three committee members were
4 together. The first order of
5 business was to adopt the draft
6 summary of written comments on ADEM
7 Director's job performance
8 evaluation. That was done
9 successfully.
10 We had two other items to
11 discuss. One was a recommendation
12 that the Commission adopt a salary
13 advance to Director LeFleur of two
14 steps to step 17 in pay grade 90 in
15 the amount of $160,440.
16 Recommendation number two was
17 that the Commission authorize the
18 Personnel Committee Chair to meet
19 with Director LeFleur regarding the
20 summary of written comments on the
21 ADEM Director's job performance
22 evaluation and actions taken by the
23 Commission regarding the evaluation

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1 and to execute the Verification of
2 Understanding between the
3 Commission and the Director
4 regarding the evaluation.
5 The Committee -- in conclusion
6 the Committee recommends that the
7 results and the recommendations be
8 submitted to the Commission for
9 adoption. That's the end of my
10 statement.
11 CHAIRMAN BROWN: Does anybody
12 on the Commission have any
13 questions or comments regarding the
14 report?
15 (No response.)
16 CHAIRMAN BROWN: Then we will
17 entertain a motion, if there is
18 one.
19 MR. MILLER: I move we accept
20 the Committee's recommendation.
21 MS. MERRITT: And I second it.
22 CHAIRMAN BROWN: Any discussion
23 regarding the motion?

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1 (No response.)
2 CHAIRMAN BROWN: I have a
3 question. Every year we've been
4 dealing with a budget crunch for
5 the last four or five years. What
6 have we as a Department been able
7 to do, with regard to the salaries
8 of our employees, over that time?
9 MR. LEFLEUR: Mr. Chairman, the
10 State had a freeze on all the merit
11 raises that was lifted
12 approximately two years ago. Since
13 that time, we maintained a head
14 count that is below our authorized
15 head count, and because of that --
16 we do that intentionally. We would
17 prefer to have fewer high
18 performing employees than a large
19 number of lower performing
20 employees. As far as salaries go,
21 every employee that has been
22 eligible for a raise since the
23 salary freeze was lifted has

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1 received a raise, with the notable
2 exception of the Director. Not
3 that I want to remind anybody of
4 that.
5 CHAIRMAN BROWN: All right.
6 Any other questions or -- thank
7 you. Any other questions,
8 comments? Anybody want to discuss
9 this any further?
10 (No response.)
11 CHAIRMAN BROWN: Call for the
12 question. All in favor?
13 (Unanimous.)
14 CHAIRMAN BROWN: Any opposed?
15 (No response.)
16 CHAIRMAN BROWN: It passes.
17 MR. LEFLEUR: Thank you.
18 CHAIRMAN BROWN: Next on the
19 agenda is Consideration of Petition
20 for Rulemaking to Amend ADEM
21 Administrative Code 335-1-6-.04
22 Permit Application Fees to allow
23 the Director to collect part or all

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1 of funding needed to administer
2 the AFO/CAFO program not allocated
3 by the state legislature. The
4 proposed amendment is to add the
5 wording "in whole or in part" to
6 Rule 335-1-6-.04(3) as follows:
7 Fees required by AFO/CAFO
8 registration maybe suspended in
9 part or whole by the Director to
10 reflect budgetary circumstances of
11 the program.
12 A petition was made by Alabama
13 Farmers Federation. We have
14 asked -- or the Commission asked
15 that Director LeFleur assist the
16 Commission by providing the
17 Department's response to the
18 petition and any relevant
19 information. That response was
20 submitted and has been circulated
21 amongst the Commissioners in
22 advance of the meeting.
23 The Chair also requested the

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1 Petitioner and the Department have
2 representatives here today to
3 discuss the matter. So at this
4 time, we will call on the
5 Petitioner, a representative on
6 behalf of the Alabama Farmers
7 Federation -- I don't know who it
8 is -- to speak.
9 So the first thing you need to
10 give us is your name, sir.
11 MR. HALL: Good morning. I am
12 Guy Hall. I am the director of
13 Pork, Poultry, and Dairy for the
14 Alabama Farmers Federation.
15 CHAIRMAN BROWN: Thank you.
16 MR. HALL: You're welcome.
17 We want to thank the ADEM
18 Environmental Management Commission
19 for considering our Petition for
20 Amendment of 335-1-6-.04 Permit
21 Application Fees.
22 With that, we believe that this
23 change in wording will allow the

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1 Director of ADEM to collect part or
2 all of the fees and fundings needed
3 to administer the AFO/CAFO program
4 not allocated by the state
5 legislature.
6 With that, I'll open it up to
7 any questions you may have.
8 CHAIRMAN BROWN: Anybody have
9 any questions, comments?
10 (No response.)
11 CHAIRMAN BROWN: Thank you.
12 MR. HALL: Yes, sir. Thank
13 you.
14 CHAIRMAN BROWN: Director
15 LeFleur, are you or someone else
16 from the Department going to
17 address this?
18 MR. LEFLEUR: We have made
19 available to the Commission the
20 views of the Director regarding
21 this matter.
22 In summary, I would say that in
23 the entire life of the CAFO

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1 program, which began in 1999, the
2 Legislature has provided 100
3 percent of the funding necessary to
4 operate the program. In the recent
5 FY 2016, they did not provide
6 enough to fund the program. And
7 for FY 2017, it does not look like
8 they will be providing enough or
9 potentially could be providing less
10 than the amount necessary to
11 operate the program.
12 The way that the current rule
13 reads, the Director -- and this is
14 related only to the CAFO program.
15 This particular rule is based only
16 for the CAFO program. The rule
17 says that the Director may suspend
18 payment of that fee or collection
19 of that fee. That has been done
20 since 1999. The universe of CAFOs
21 has increased dramatically since
22 1999. And by virtue of that larger
23 number of facilities, the standard

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1 fee structure would result in
2 collecting more than the amount
3 necessary to operate the program.
4 The proposed changes allow the
5 Director to collect a portion of
6 the fees that will supplement what
7 the Legislature might provide,
8 either now or in the future, and
9 collect an amount equal to the cost
10 of the program.
11 Unlike other programs, the CAFO
12 program is not supplemented by
13 federal grants.
14 CHAIRMAN BROWN: So what you're
15 telling me is, we have an interest
16 group that has petitioned for its
17 constituents to pay some money and
18 a government agency that doesn't
19 want to collect all that it could?
20 MR. LEFLEUR: As strange as
21 that sounds.
22 CHAIRMAN BROWN: These are
23 historic times. Does anybody else

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1 have questions or comments?
2 I see you want to say
3 something.
4 MR. LEFLEUR: I would point out
5 that Commissioner Richardson has
6 been very active and very important
7 in trying to convince the
8 Legislature of the need to fund
9 this program from the State's
10 General Fund budget. I have high
11 hopes that his efforts will be met
12 with success.
13 CHAIRMAN BROWN: I think
14 everybody hopes that. If there's
15 no further discussion, I'll
16 entertain a motion.
17 MR. RICHARDSON: So moved.
18 MR. LAIER: Second.
19 CHAIRMAN BROWN: All in favor?
20 (Unanimous.)
21 CHAIRMAN BROWN: Is there any
22 other business any Commissioner
23 wishes to address?

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1 (No response.)
2 CHAIRMAN BROWN: With there
3 being none, I'll note the next
4 Commission meeting of December 16,
5 2016, same time, same place.
6 And we will move to the public
7 comment period. I think I outlined
8 the ground rules, and we've got
9 four people to speak.
10 And we will call first Adam
11 Johnston.
12 MR. MILLER: Excuse me just a
13 minute.
14 (Commissioner Miller left the
15 meeting for a brief period.)
16 CHAIRMAN BROWN: For the
17 record, will you state your name
18 and who you're here speaking on
19 behalf of.
20 MR. JOHNSTON: Thank you,
21 Commissioners. My name is Adam
22 Johnston, A-D-A-M, J-O-H-N-S-T-O-N.
23 I'm here for Black Belt Citizens

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1 Fighting for Health and Justice and
2 also stand in between lunch and a
3 state agency staff, so I'll stay
4 within the three minutes.
5 CHAIRMAN BROWN: Thank you.
6 MR. JOHNSTON: Once again,
7 thank y'all for this opportunity to
8 have public comment. I think it's
9 important that we have this
10 opportunity. I do want to say
11 that -- before we start that we
12 feel like we have pursued all
13 reasonable opportunities made
14 available to the Department and its
15 Director for addressing these
16 concerns. And our concerns today
17 are completely directed to the
18 Director, as the ultimate
19 responsibility of the Agency. And
20 we feel like all the actions
21 therefore underneath the Agency
22 reflect the Director's ability to
23 manage and lead his Agency.

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1 My comments today are
2 particularly about the community
3 engagement document. The comments
4 today have everything to do with
5 the recent job evaluation and
6 statement that was given. It has
7 everything do with some of the
8 ongoing issues around the state,
9 and in particular Uniontown. And
10 I'd be more than happy to provide
11 any type of relevant information
12 and data that y'all have and would
13 like to request and be more than
14 happy to get that to y'all after
15 today. I apologize if I don't have
16 any of it.
17 The comments I'd like to make
18 today, and specifically about the
19 community engagement document, is
20 that members of Uniontown and other
21 members around the state felt like
22 the community engagement document
23 has deceptively used language

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1 improper to the community's
2 concerns. They have improperly put
3 photographs on there without
4 communicating with community
5 members or asked for permission to
6 put their photos on there. We have
7 written specific letters to the
8 state agency, including EPA's
9 Office of Civil Rights and to the
10 Department of Justice asking that
11 this deception of language be
12 addressed.
13 The Director wrote back, and we
14 have copies of this information
15 that we could provide at a
16 different time. The Director wrote
17 back that he felt like the language
18 was sufficient and removed one of
19 the photographs that we asked to be
20 removed. And there are still other
21 photographs in this document, of
22 which citizens do not feel like
23 they have been properly asked for

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1 that permission.
2 We also do not feel that the
3 agency is, quote, unquote, going
4 above and beyond for the community
5 of Uniontown. And we would like to
6 address that through these comments
7 as well.
8 So we're going to continue to
9 ask the ADEM agency to remove any
10 pictures or language that's in the
11 community engagement documents to
12 be reflective of the community's
13 concerns and to actually speak with
14 the community and actually ask them
15 how they feel about the language in
16 that. So we have great concern
17 about the community engagement
18 document, and we feel like it's a
19 deceptive use of taxpayer money.
20 Also with the job evaluation --
21 and we submitted formal comments to
22 the job evaluation back earlier
23 this year. And we feel like the

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1 job evaluation for Director LeFleur
2 paints a pretty good picture of
3 what's going on around the state
4 and that there is incredible
5 disproportionate impact happening
6 as a result of the Director's
7 management of the staff. It has no
8 reflection whatsoever of the state
9 agency staff, other than the
10 leadership of the Director.
11 And we feel that under the
12 leadership of the Director that
13 many past permits have been
14 granted, that have which caused
15 severe, severe, severe
16 disproportionate impact in
17 communities and continued to
18 pollute the environment and impact
19 public health in these communities.
20 And with our comments
21 submitted, we'd be more than happy
22 to give any updates to the ADEM's
23 Director's job evaluation that I

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1 believe ended in July or sometime
2 around that point. We have a lot
3 more information that we'd like to
4 share that we feel like the job
5 evaluation is unsatisfactory to the
6 concerns of the community. And we
7 call for the complete resignation
8 and firing of the Director at this
9 immediate moment, and for many
10 reasons that we will state
11 hereafter.
12 We feel like the Director has
13 been unresponsive to the concerns
14 of the Uniontown citizens, in
15 particular, asking to have proper
16 review of permits, in which these
17 permits have gone forth to continue
18 to produce pollution. We feel that
19 under the leadership of the
20 Director that the permitting of the
21 Arrowhead landfill, the Title VI
22 Civil Rights investigations, that
23 the Director and the Agency, if

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1 they would have never permitted
2 that landfill, we wouldn't be
3 dealing with these Civil Rights
4 investigations.
5 We also feel that the direct
6 permitting of the Stones Throw
7 Landfill in Tallassee has also
8 violated rights of individuals'
9 concerns and that if the Director
10 would've never permitted that
11 entity, then we wouldn't have these
12 civil rights concerns.
13 And so under the leadership of
14 the Director, you've seen continued
15 civil rights violations; you've
16 seen continued also just great,
17 great, great disproportionate
18 impact.
19 And, unfortunately, Director,
20 through your greatest efforts of
21 going above and beyond, you're
22 still failing the communities.
23 So we ask for his complete

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1 firing right now under his job
2 record.
3 Five minutes left?
4 CHAIRMAN BROWN: No. That's
5 five minutes. You only had three.
6 MR. RICHARDSON: What he's
7 saying is, you can have a seat.
8 MR. JOHNSTON: What I'm saying
9 is --
10 MR. RICHARDSON: What he's
11 saying is, you can have a seat.
12 MR. JOHNSTON: What I'm saying
13 is revoke this permit 5303, fill
14 the treatment plant in Uniontown --
15 MR. RICHARDSON:
16 Mr. Chairman --
17 CHAIRMAN BROWN: Wrap it up.
18 MR. JOHNSTON: And those are my
19 final comments. I'll be more than
20 happy to get those -- any type of
21 information that you would like to
22 have requested -- be more than
23 happy to get that to you.

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1 CHAIRMAN BROWN: Thank you.
2 Questions or comments for
3 Mr. Johnston?
4 (No response.)
5 CHAIRMAN BROWN: Mr. Director,
6 any comments? You don't have to.
7 MR. LEFLEUR: Very briefly.
8 I'm sorry.
9 We will remove all photographs
10 that -- people who are in them that
11 they don't want to have in the
12 book. And there was one request
13 that was removed.
14 And the matters regarding Title
15 VI, those are under litigation, so
16 we are not discussing those.
17 CHAIRMAN BROWN: Thank you.
18 Next will be Mr. Michael
19 William Mullen.
20 MR. MULLEN: Based on
21 conversations I've had with the
22 Field Operations Director Chief
23 this morning, I withdraw my

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1 comments because they were about a
2 specific example of failure to meet
3 the things that you all put forward
4 in the 2014 strategic plan about
5 enforcement. I will probably send
6 you something in writing because
7 it's still an issue. But the
8 specific thing I was going to
9 comment on this morning is --
10 hopefully no longer remains, so I
11 appreciate it.
12 CHAIRMAN BROWN: Thank you.
13 I'm going to butcher the
14 pronunciation, I'm sure, but Jim
15 Ilachild.
16 MR. ILACHILD: Good morning.
17 CHAIRMAN BROWN: Good morning
18 and welcome.
19 MR. ILACHILD: My name is Jimmy
20 Ilachild, and I am from the
21 Unitarian Universalist Fellowship
22 of Montgomery, the social action
23 committee of that group.

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1 We are -- well, the social
2 action committee and the fellowship
3 generally has about a dozen
4 concerns of social issues. One
5 of -- strongly so is the impact of
6 racism in our society. Another is
7 the environment. And also as these
8 two issues interact; the issue of
9 environmental racism and the
10 proclivity to locate environmental
11 hazards in areas that are impacted
12 of people of ethnic minorities and
13 people of poverty.
14 We specifically are concerned
15 about the Commission's -- or the
16 Department's consideration of
17 renewing the permit of the
18 Arrowhead Landfill in Uniontown,
19 Perry County, Alabama. The EPA has
20 cited that situation as being in
21 violation of civil rights. It also
22 obviously has many health
23 concerns and environmental concerns

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1 of the water quality. The water
2 obviously doesn't just stay in
3 Uniontown. It goes into creeks and
4 rivers and affects people all over
5 the state of Alabama.
6 We wonder how the Department
7 can even consider renewing the
8 permit of Arrowhead Landfill, which
9 exists basically to dump coal ash
10 into the landfill there and --
11 which is a very toxic and
12 environmentally hazardous and
13 health hazardous situation.
14 Thank you.
15 CHAIRMAN BROWN: Thank you.
16 And thank you for staying within
17 the time limit. Anybody have any
18 questions or comments?
19 Mr. Director?
20 (No response.)
21 CHAIRMAN BROWN: Finally, we
22 have Ron Smith. Welcome.
23 MR. SMITH: Good morning, I

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1 think, Commissioners, to all the
2 petitioners here and Mr. LeFleur.
3 And I didn't read your guidelines.
4 CHAIRMAN BROWN: That's okay.
5 MR. SMITH: But if I get out of
6 line, that's okay. I'm not one to
7 get up and speak, but I'm always
8 asked to get up and speak.
9 My issues are -- I represent
10 the Ashurst Bar/Smith Community --
11 the Tallassee Waste Disposal
12 Center. Mine is real simple. I'm
13 sure you've heard this a dozen
14 times before because we've been
15 here with the same issues probably
16 since the '90s.
17 Our issue is big, and our issue
18 is because the Department of
19 Justice on down to here, it does
20 not seem that Title VI is being
21 enforced. It does not seem that
22 way.
23 I was looking at your brochure.

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1 It says here the mission of ADEM is
2 to ensure that all citizens of the
3 state is in a safe, healthful, and
4 productive environment. And what
5 I'm about to share with you, this
6 is not happening in our community.
7 I walked outside of my house
8 last night and made the mistake of
9 going (indicating,) and my nose
10 started burning. And the reason my
11 nose is burning -- I've been there
12 for a while now. I've been in that
13 house for 16 years. I was raised
14 on that same piece of planet -- is
15 because that landfill there has a
16 mound of trash that is so high that
17 it's over the top of all the
18 vegetation there. And it was bad
19 enough when they were covering it
20 according to the guidelines, you
21 know, compact it down to 2 feet and
22 then put 6 feet of surface soil
23 over the top of it. But then it

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1 was permitted to use a tarp. I
2 have pictures of that tarp being
3 applied where it doesn't cover up
4 half the trash and the buzzards all
5 over the top of it eating through
6 it. That's just one example.
7 We've got school children that
8 cannot safely get on the school
9 bus. We've got a bus driver that
10 can't take a day off because nobody
11 else will give her a day off on
12 that route she drives because of
13 the amount of the traffic that's
14 coming down those same little
15 narrow, winding cow paths that
16 existed on that road.
17 My problem is that we make a
18 decision in bubbles. In siting
19 landfills, first of all, it seems
20 like we're picking out minority
21 communities, based on the data
22 looking around the state. The
23 second thing is here is that when

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1 they're put there, there doesn't
2 seem to be any consideration of
3 punitive impacts on connected
4 activity. We've got semi's
5 crossing bridges that they can't
6 even stay on that side of the road
7 because the bridges are so narrow
8 on Highway 49, a state highway,
9 coming off interstate 85. You wake
10 in the morning, and you hear this
11 flapping of wings because buzzards
12 are sitting all over the top of
13 your house and the trees. You
14 know, the people in the community
15 tell me here that fisheries no
16 longer exist. There are streams
17 that have never been dry before --
18 and even though this is a rough
19 drought -- that are dry.
20 All this going on in our
21 community. And my problem is here,
22 the same thing that Adam said. Had
23 the law been enforced before the

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1 siting was done, we wouldn't have
2 these problems.
3 The Commission meetings are
4 fine. I've had a whole lot of
5 public involvement where I've had
6 to make decisions like you do.
7 When I want public input, I put the
8 meetings at a time when the public
9 can show up. There would be a
10 whole lot more people here if they
11 didn't have to go to work. And
12 remember Title VI is about
13 protecting people who can't defend
14 themselves. What we are seeing is,
15 y'all are taking the path of least
16 resistance. We hadn't paid us no
17 lawyers. We can't take off our
18 jobs and come to these meetings and
19 tell you what's happening with us.
20 The church that we meet in had
21 to tear the floors out of the
22 church and put plastic over the
23 soil because the odor was coming

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1 through the floor and the people
2 couldn't have service. We met
3 there Sunday evening, along with a
4 whole lot of TV cameras. And in
5 that process there, the people in
6 the room started coughing. They've
7 had to buy filtration systems just
8 to hold services in that church.
9 So all this sounds good and
10 looks good on Powerpoint. But if
11 this is the best the nation can do,
12 we're in trouble.
13 Thank you.
14 CHAIRMAN BROWN: Thank you.
15 Any questions or comments?
16 Mr. Director?
17 (No response.)
18 CHAIRMAN BROWN: With that, the
19 Chair will entertain a motion to
20 adjourn.
21 MR. MILLER: So move.
22 MR. LAIER: Second.
23 CHAIRMAN BROWN: We're

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1 adjourned. Well, all in favor?
2 I'm sorry.
3 (Unanimous.)
4 (The proceeding ended at
5 12:00 p.m.)
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1 REPORTER'S CERTIFICATE
2
3 I, April Sargent, Certified Court
4 orter, hereby certify that I reported the
5 ve and foregoing transcript, and that the
6 es herein contain a true and accurate
7 nscription of the proceedings.
8
9 I further certify that I am neither
10 kin nor of counsel to any of the parties
11 said cause, nor in any manner interested
12 the results thereof.
13
14 This 3rd day of October, 2016.
15
16
17 /s/APRIL SARGENT, ACCR-579,
Certified Court Reporter
18 CCR EXPIRATION: 9/30/17
19
20
21
22
23

1 REPORTER'S CERTIFICATE

2

3 I, April Sargent, Certified Court
4 Reporter, hereby certify that I reported the
5 above and foregoing transcript, and that the
6 pages herein contain a true and accurate
7 transcription of the proceedings.

8

9 I further certify that I am neither
10 of kin nor of counsel to any of the parties
11 to said cause, nor in any manner interested
12 in the results thereof.

13

14 This 3rd day of October, 2016.

15

16 April Sargent

17 /s/APRIL SARGENT, ACCR-579,
Certified Court Reporter
18 CCR EXPIRATION: 9/30/17

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12:10
$160,440 (1)
42:15

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Part B

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Attachment 1 Agenda

Attachment 2 Order to adopt motion to accept Lanier Brown as Chair and Scott Phillips as Vice Chair
(Agenda Item 2)

Attachment 3 Director's Slides
(Agenda Item 3)

Attachment 4 Order to adopt recommendations of the Personnel Committee
(Agenda Item 5)

Attachment 5 Order to refer petition to the Department to proceed to rulemaking with the proposed amendment and attached Petition for Amendment of ADEM State Administrative Rule, EMC Rulemaking Petition 17-01
(Agenda Item 6)

Attachment 1

Amended 10/7/16

AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
DATE: October 21, 2016
TIME: 11:00 a.m.
LOCATION: Alabama Department of Environmental Management (ADEM) Building
Alabama Room (Main Conference Room)
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400

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4.	Report from the Commission Chair	2
5.	Report and recommendations from the Personnel Committee on the ADEM Director Job Performance Evaluation for Commission consideration	2
6.	Consideration of Petition for Rulemaking to Amend ADEM Administrative Code Rule 335-1-6-.04 Permit Application Fees EMC Rulemaking Petition 17-01 Petitioner – Alabama Farmers Federation (NPDES-Related Matter)	2
7.	Other business	2
8.	Future business session	2
PUBLIC COMMENT PERIOD		3

* The Agenda for this meeting will be available on the ADEM website, www.adem.alabama.gov, under Environmental Management Commission.

** The Minutes for this meeting will be available on the ADEM website under Environmental Management Commission.

1. CONSIDERATION OF MINUTES OF MEETING HELD ON AUGUST 19, 2016

2. ELECTIONS

The Commission will elect a Commission Chair and Vice Chair.

3. REPORT FROM THE ADEM DIRECTOR

4. REPORT FROM THE COMMISSION CHAIR

5. REPORT AND RECOMMENDATIONS FROM THE PERSONNEL COMMITTEE ON THE ADEM DIRECTOR JOB PERFORMANCE EVALUATION FOR COMMISSION CONSIDERATION

The Personnel Committee will report on the ADEM Director Job Performance Evaluation and present the Committee's recommendations to the Commission for consideration.

6. CONSIDERATION OF PETITION FOR RULEMAKING TO AMEND ADEM ADMINISTRATIVE CODE RULE 335-1-6-.04 PERMIT APPLICATION FEES, EMC RULEMAKING PETITION 17-01, PETITIONER – ALABAMA FARMERS FEDERATION (NPDES-RELATED MATTER)

The Commission will consider the petition for rulemaking to amend ADEM Administrative Code Rule 335-1-6-.04 Permit Application Fees to allow the Director to collect part or all of funding needed to administer the AFO/CAFO program not allocated by the state legislature. The proposed amendment would add the wording "in part or whole" to Rule 335-1-6-.04(3) as follows: Fees required by AFO/CAFO registration may be suspended in part or whole by category by the Director to reflect the budgetary circumstances of the AFO/CAFO program.

7. OTHER BUSINESS

8. FUTURE BUSINESS SESSION

PUBLIC COMMENT PERIOD

BRIEF STATEMENTS BY MEMBERS OF THE PUBLIC REGISTERED TO SPEAK

Members of the public that wish to make a brief statement at a Commission meeting may do so by first signing in on a register maintained by the Commission office prior to each regularly scheduled meeting. The register will close ten minutes prior to convening each meeting of the Commission. Following completion of all agenda items, the Commission Chair will call on members of the public wishing to make a statement in the order their names appear on the register. Speakers are encouraged to limit their statement to matters that directly relate to the Commission's functions. Speakers will be asked to observe a three minute time limit. While an effort will be made to hear all members of the public signed on the register, the Commission may place reasonable limitations on the number of speakers to be heard. (Guideline 11, Guidelines for Public Comment).

The Guidelines for Public Comment are used in the application of ADEM Administrative Code 335-2, Environmental Management Commission Regulations, Rule 335-2-3-.05, Agenda and Public Participation. The Guidelines for Public Comment serve to educate and inform the public as to how the Commission interprets and intends to apply the Rule. The revised Rule 335-2-3-.05 was effective October 7, 2016.

Attachment 2

BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MOTION

Accept Lanier Brown as Chair and

Scott Phillips as Vice Chair

ORDER

This cause having come before the Environmental Management Commission pursuant to the above motion, and having considered the same, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That the above motion is hereby adopted; and

2. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below.

ISSUED this 21st day of October 2016.

APPROVED:

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

DISAPPROVED:

Commissioner

Commissioner

Commissioner

Commissioner

This is to certify that this Order is a true and accurate account of the actions taken by the Environmental Management Commission on this 21st day of October 2016.

H. Lanier Brown, II, Chair
Environmental Management Commission
Certified this 21st day of October 2016

Attachment 3

ADEM

Alabama Department of Environmental Management

Shared AEMC / ADEM Plan Goals

- Effective and Responsive Commission
- High Performing Work Environment
- Credible Relationships with External Stakeholders
- Efficient and Effective Departmental Operations

ADEM Alabama Department of Environmental Management

ADEM Operating Plan Goals

- Effective and Responsive Commission
  - Information on proposed rulemaking
  - Information on current environmental policy issues
  - Regular updates on Operating Plan progress
  - Provide performance metrics

ADEM Alabama Department of Environmental Management

Menu

- Main
- UST Search
- Director's Correspondence
- Complaint
- Disclaimer
- How To Guide

Director's Correspondence

Filter Reset

1 2 3 4 5 6 7 8 9 10 ...

	File Name
Download	2016 08 19 Director's Report to AEMC.pdf
Download	2016 08 12 LeFleur to EMC - ADEM Update.pdf
Download	2016 08 12 LeFleur to EMC - ADEM Ongoing Rulemaking.pdf
Download	2016 08 12 LeFleur to EMC - ADEM Contracts.pdf
Download	2016 06 17 Director's Report to AEMC.pdf
Download	2016 06 10 LeFleur to EMC - ADEM Update.pdf
Download	2016 06 10 LeFleur to EMC - ADEM Ongoing Rulemaking.pdf
Download	2016 06 10 LeFleur to EMC - ADEM Contracts.pdf
Download	2016 04 15 Director's Report to AEMC.pdf
Download	2016 04 08 LeFleur to EMC - ADEM Update.pdf

1 2 3 4 5 6 7 8 9 10 ...

ADEM Alabama Department of Environmental Management

ADEM Operating Plan Goals

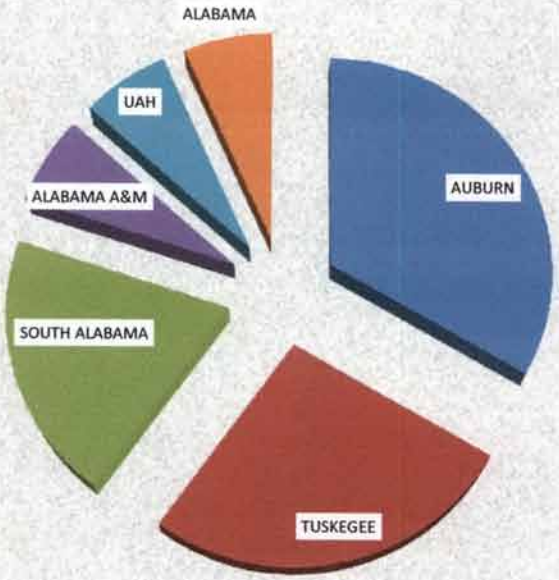
- High Performing Work Environment
  - Financial resources
  - Human resources
  - Data driven performance measurement
  - Promote innovation

Alabama Department of Environmental Management

NEW FUNDING SOURCES	DOLLARS
Clean Diesel	219,000
Clean Vessel	704,000
Brownfield	45,000
Exchange Network	211,000
Multi-purpose	380,000
Underground Storage Tank	200,000
TOTAL	1,760,000

Alabama Department of Environmental Management

UNIVERSITY INTERNS



Alabama Department of Environmental Management

ADEM

Alabama Department of Environmental Management

ADEM Operating Plan Goals

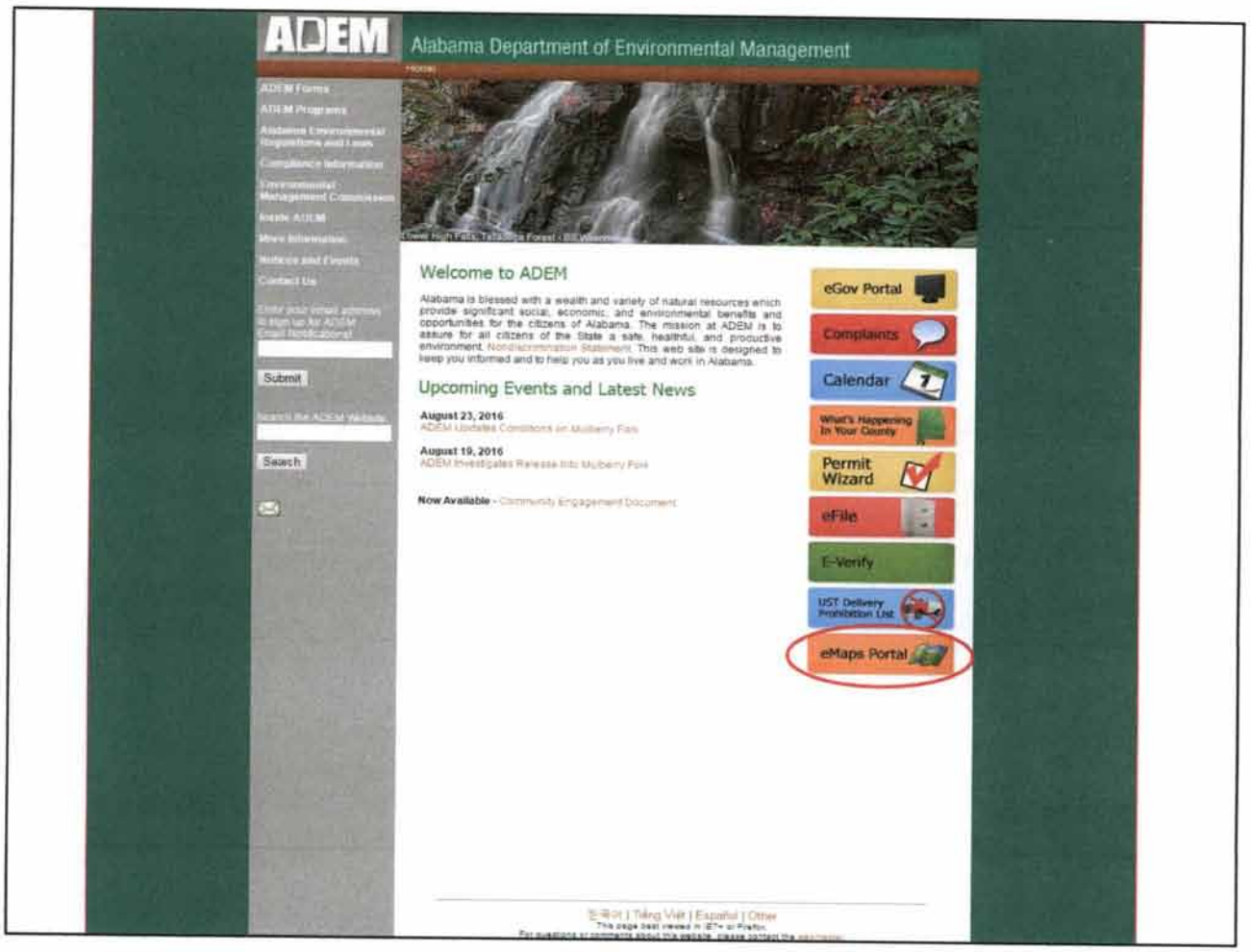
- Credible Relationships with External Stakeholders
  - Meet with private sector, NGOs, Fed & State
  - Community engagement document
  - Website information
  - Energy efficiency and safe water outreach

Alabama Department of Environmental Management

Community Engagement

ADEM is committed to keeping all residents of Alabama informed and involved regarding the environmental activities in their local communities

Updated 2016


ADEM
Alabama Department of Environmental Management
ADEM Forms
ADEM Programs
Compliance Information
Inside ADEM
More Information
Notices and Events
Contact Us
Submit
Search
Welcome to ADEM
Alabama is blessed with a wealth and variety of natural resources which provide significant social, economic, and environmental benefits and opportunities for the citizens of Alabama. The mission at ADEM is to assure for all citizens of the State a safe, healthful, and productive environment. This web site is designed to keep you informed and to help you as you live and work in Alabama.
Upcoming Events and Latest News
August 23, 2016
August 19, 2016
Now Available
eGov Portal
Complaints
Calendar
What's Happening In Your County
Permit Wizard
eFile
E-Verify
UST Delivery Prohibition List
eMaps Portal

ADEM Alabama Department of Environmental Management

ADEM Home

ADEM Programs

Alabama Environmental Regulations and Laws

Compliance Information

Environmental Management Commission

Inside ADEM

More Information

Notices and Events

Contact Us

Enter your email address to sign up for ADEM Email Notications!

Submit

Search the ADEM Website

Search

e-Maps Portal

GIS Inspector for Brownfields

The GIS Inspector allows users to click on the map and see all the Brownfields in the county selected.
Click on a county.
Mouse-over a point on the map or a record in the table to see the corresponding record or point.
Click on the note symbol on the left of the table and see all of the files associated with the site.
Slider in the upper left allows users to switch to Topo map or Aerial. After sliding to right click on USGS Topo in slider control.

Lat Lon Query Tool

The Lat Lon Query tool allows users to enter a lat and lon and return values for County, Hydrologic Unit Code (HUC), FIPS, ECO Region, ECO Region Code, River Basin, Zip, Section, Township, and Range.
Enter in the lat and lon. Click the Locate Using Coordinates button. Slider in the upper left allows users to switch to Topo map.

Water Info Map

The Water Info Map allows users to get information about a variety of state waters. Layers include Assessed Units, Outstanding Alabama Waters, Outstanding National Water Resource, 303d Layers, TMDL Layers, and HUC codes. Base maps include Streets, Aerial, and Topo.
Zoom into users area of interest. Click on a stream or reservoir. The information about the record in the top layer will be displayed. Turn layers off and on as needed.

UST Regulatory Sites

The UST Regulatory Sites map allows users to see active Underground Storage Tank (UST) sites.
Click on the Locate By Clicking Map button in the upper-right.
Click on the map in an area of interest.
The UST Sites will be displayed.
Mouse-over a point on the map or a record in the table to see the corresponding record or point.
Click on the note symbol on the left of the table and see all of the files associated with the site.
Slider in the upper left allows users to switch to Topo map or Aerial. After sliding to right click on USGS Topo in slider control.

UST Incident Sites

The UST Release Incident Sites map allows users to see the UST Release Incidents that have not received a letter of No Further Action.
Click on the Locate By Clicking Map button in the upper-right.
Click on the map in an area of interest.
The UST Release Incident Sites will be displayed.
Mouse-over a point on the map or a record in the table to see the corresponding record or point.
Click on the note symbol on the left of the table and see all of the files associated with the site that have been scanned and placed in eFile.
Only the records associated with the incident will be displayed.
Slider in the upper left allows users to switch to Topo map or Aerial. After sliding to right, click on USGS Topo in slider control.

中文 | Tiếng Việt | Español | Other

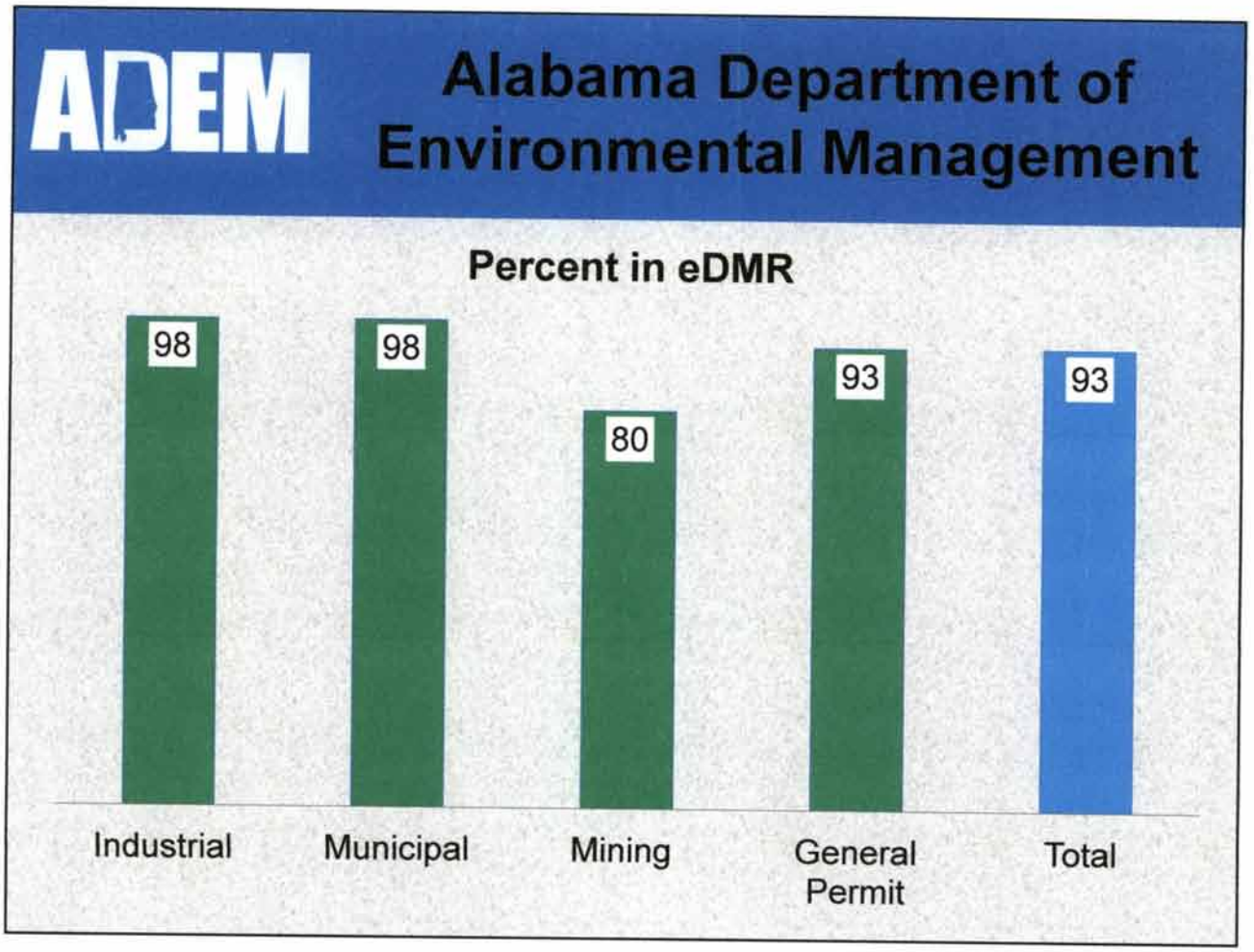
This page best viewed in IE7+ or Firefox.

For questions or comments about this website, please contact the webmaster.

ADEM Alabama Department of Environmental Management

ADEM Operating Plan Goals

- Efficient and Effective Departmental Operations
  - Effective internal communication
  - Meet or exceed EPA work plan
  - Incorporate electronic applications
  - Operate with tight budget


ADEM
Alabama Department of Environmental Management
Percent in eDMR
98
98
80
93
93
Industrial
Municipal
Mining
General Permit
Total

ADEM

Alabama Department of Environmental Management

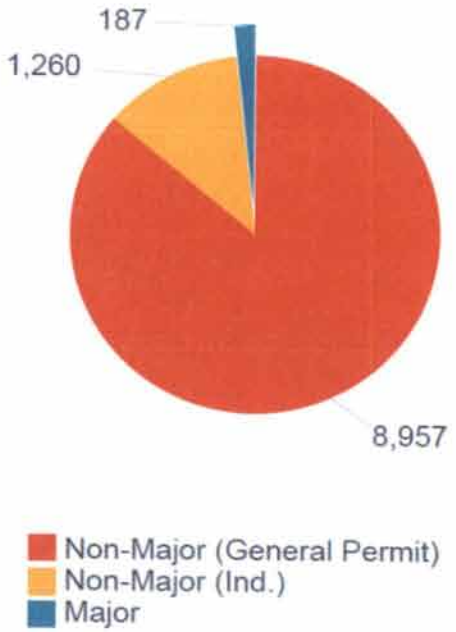
ADEM

Alabama Department of Environmental Management

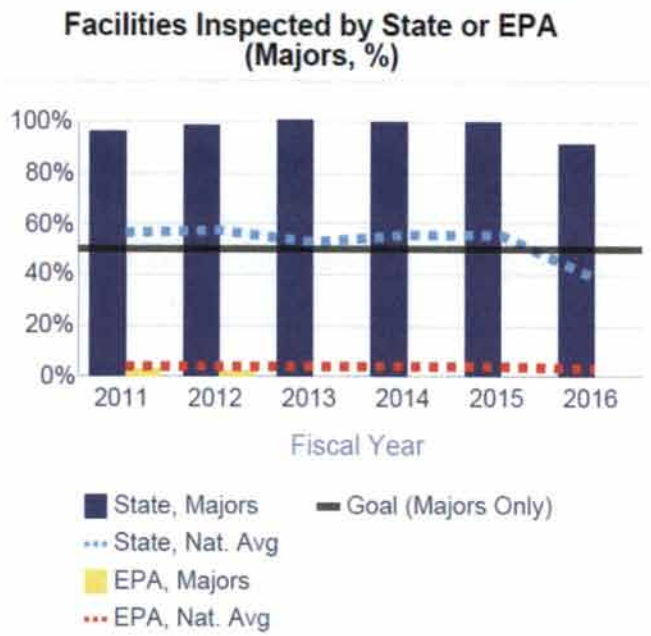
ADEM
Alabama Department of
Environmental Management

Alabama Department of Environmental Management

NPDES Permits by Type - FY15 (All)

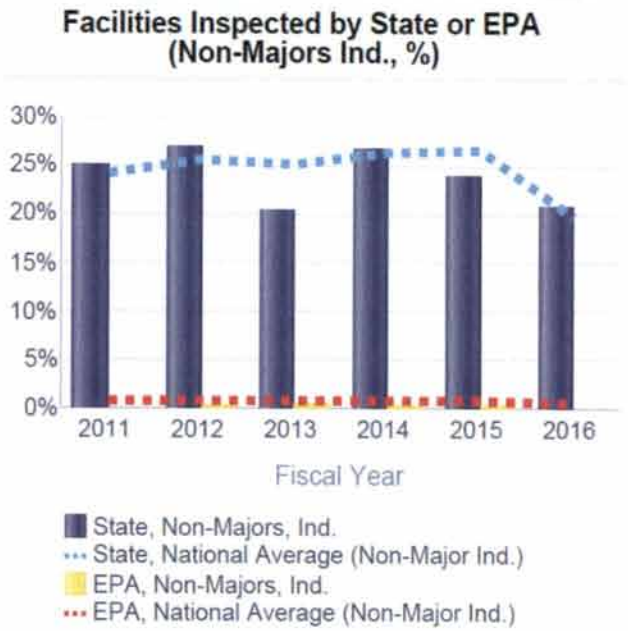


Alabama Department of Environmental Management



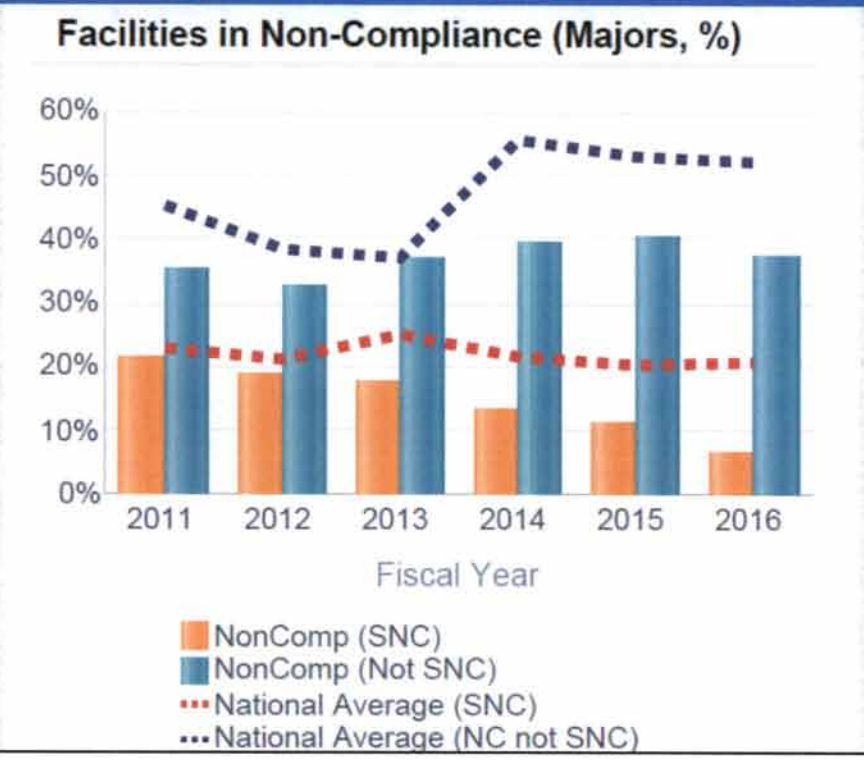
States are provided flexibility in meeting EPA's goal of 50% inspection coverage.

Alabama Department of Environmental Management

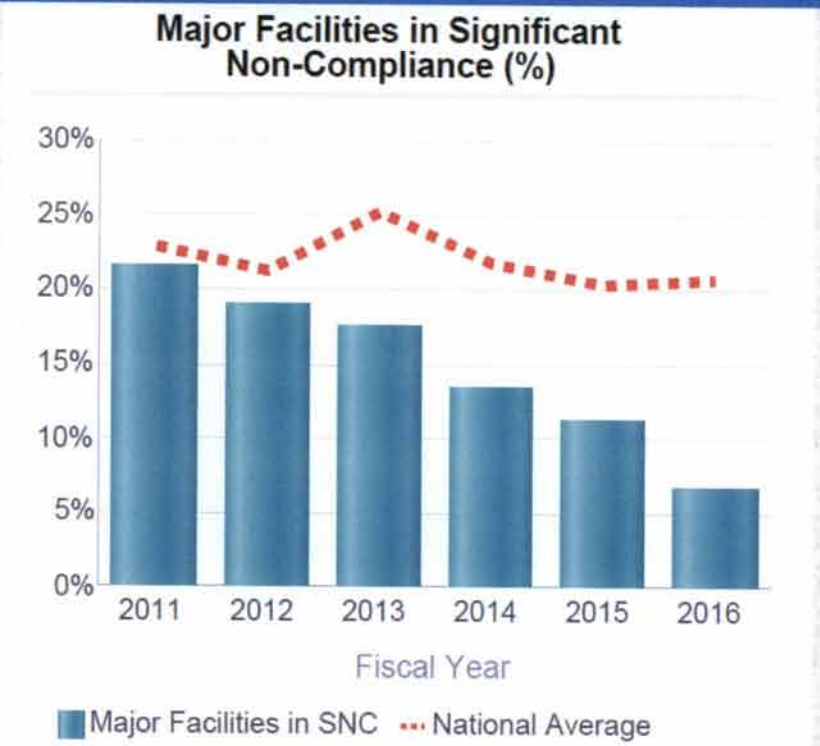


Percentages calculated from EPA's data system (ICIS-NPDES). Only state inspection data on major permittees is required to be shared with EPA.

Alabama Department of Environmental Management

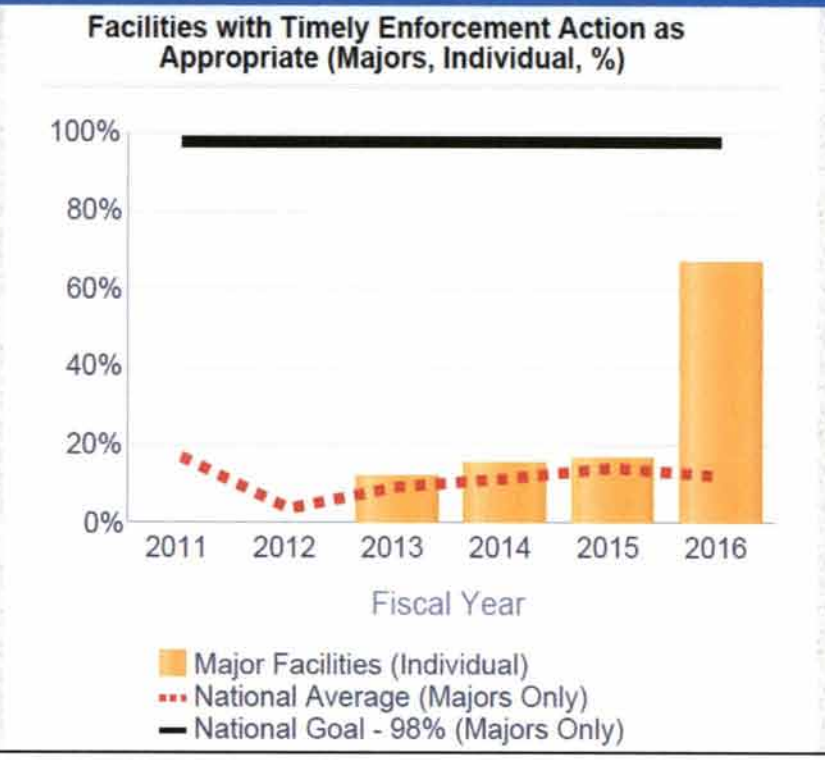


Alabama Department of Environmental Management



Alabama Department of Environmental Management

Alabama Department of Environmental Management



Attachment 4

BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MOTION

Adopt the recommendations of the Personnel Committee

ORDER

This cause having come before the Environmental Management Commission pursuant to the above motion, and having considered the same, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That the above motion is hereby adopted; and

2. That pursuant to the adoption of the recommendations of the Personnel Committee, the Commission approves a salary advance for Director LeFleur of two steps to Step 17 in Pay Grade 90 (per year salary of $160,440.00); and

3. That pursuant to the adoption of the recommendations of the Personnel Committee, the Chair of the Personnel Committee is authorized to meet with Director LeFleur regarding the Summary of Written Comments on ADEM Director Job Performance Evaluation and action taken by the Commission regarding the evaluation and to execute the verification of understanding between the Commission and the Director regarding the evaluation; and

4. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below.

ISSUED this 21st day of October 2016.

APPROVED:

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

DISAPPROVED:

Commissioner

Commissioner

Commissioner

This is to certify that this Order is a true and accurate account of the actions taken by the Environmental Management Commission on this 21st day of October 2016.

H. Lanier Brown, II, Chair
Environmental Management Commission
Certified this 21st day of October 2016

Attachment 5

BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

In the matter of:	)	
	)	
Petition for Rulemaking to Amend	)	EMC Rulemaking Petition 17-01
ADEM Administrative Code	)	
Rule 335-1-6-.04 Permit Application Fees	)	
Petitioner – Alabama Farmers Federation	)	

MOTION

Refer petition to the Department to proceed to rulemaking
with the proposed amendment

ORDER

This cause coming before the Alabama Environmental Management Commission pursuant to the above-referenced petition for rulemaking and arguments supporting said petition, and the position of the Alabama Department of Environmental Management having been considered, it is hereby ORDERED:

That the above-referenced motion is hereby adopted;

That the petition is hereby referred to the Department to proceed to rulemaking with the proposed amendment to ADEM Administrative Code Rule 335-1-6-.04(3); and

That rulemaking proceedings shall be initiated in accordance with Code of Alabama 1975, §§ 22-22A-8 and 41-22-5, as amended; and

That this action has been taken and this order issued by the Alabama Environmental Management Commission effective October 21, 2016; and

That a copy of this order shall be served upon the parties either personally or by certified mail, return receipt requested.

ISSUED this 21st day of October 2016.

APPROVED:

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

DISAPPROVED:

Commissioner

Commissioner

Commissioner

Commissioner

This is to certify that this Order is a true and accurate account of the actions taken by the Environmental Management Commission on this 21st day of October 2016.

H. Lanier Brown, II, Chair
Environmental Management Commission
Certified this 21st day of October 2016

H. Lanier Brown, II, Esq. (Chair) of the Environmental Management Commission (EMC)
C/O Alabama Department of Environmental Management (ADEM)
1400 Coliseum Boulevard, Montgomery, Alabama 36110

PETITION FOR AMENDMENT OF ADEM STATE ADMINISTRATIVE RULE

In accordance with 335-2-2-.03 Right to Petition of the ADEM Environmental Management Commission any person may petition the commission to adopt, amend or repeal a rule by making and filing a written petition in accordance with rule.

Contact Information of the Organization requesting the Petition

Petitioner's Name: Alabama Farmers Federation
Contact: Guy Hall
Mailing Address: PO Box 11000, Montgomery, Alabama 36191-0001
Telephone: 334-612-5181 Email: ghall@alfafarmers.org

Statement of Interest of the Petition

We are requesting the EMC to amend the current language in the Alabama Department of Environmental Management's (ADEM) AFO/CAFO General Administration Administrative Code Chapter 335-1-6-.04 Permit Application Fees. This will allow the Director of ADEM to collect part or all of funding needed to administer the AFO/CAFO program not allocated by the state legislature.

Specific Rule and how it is to be amended

Requested Amendment of Rule:
335-1-6-.04 Permit Application Fees.
(3) Fees required by AFO/CAFO registration may be suspended in part or whole by category by the Director to reflect the budgetary circumstances of the AFO/CAFO program.

Information to Support the Petition

History of Alabama Working Together to Protect the Environment

Since the beginning of the program the state of Alabama Legislature has allocated all or part of the funding needed to run the AFO/CAFO program. In years when the state does not allocate enough funding, the director needs the discretion to collect part of the fees from farms under the NPDES permit.

Petitions Position on the Considerations

We want to thank the ADEM Environmental Management Commission for considering our petition for the amendment 335-1-6-.04 Permit Application Fees. Our organization supports state and federal funding being allocated to defray the cost of burdensome environmental rules and regulations on Alabama farmers. If state or federal funding are not adequate to administer the program, we would prefer that the ADEM Director collect only the amount of funding not allocated by the state legislature.

Sincerely,

Guy Hall

Guy Hall, Director, Dairy, Pork & Poultry Divisions

RECEIVED
OCT 2016
ENV. MGMT.
COMMISSION