Minutes
Meeting of the
Rulemaking Committee of the
Alabama Environmental Management Commission
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
August 21, 2015

This is to certify that the Minutes contained herein are a true and accurate account of actions taken by the Rulemaking Committee of the Alabama Environmental Management Commission on August 21, 2015.

W. Scott Phillips

Chair

Rulemaking Committee

Alabama Environmental Management Commission

Certified this 16th day of October 2015.

Minutes

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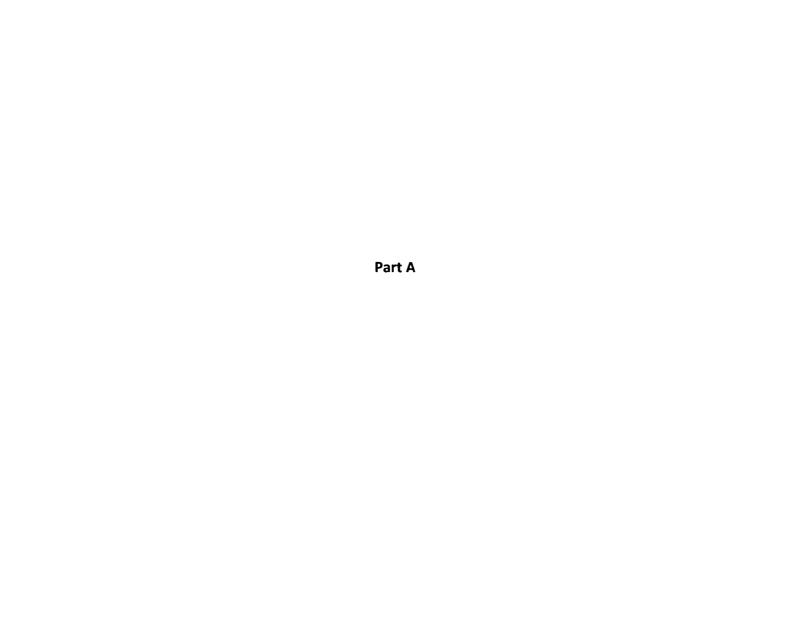
Convened: 10:00 a.m. Adjourned: 10:22 a.m.

Part A

Transcript Word Index

Part B

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		Page 1		Pa	ge 3
1	MEETING OF THE RULEMAKING COMMITTEE		1	CHAIRMAN PHILLIPS: We'll	
2	OF THE		2	call the Rulemaking Committee to	
3	ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION		3	order and acknowledge that we	
4			4	have a quorum of the Rulemaking	
5			1 5	Committee.	
6			6	First agenda item is	
7		i	7	consideration of the minutes	
8			-		
9			8 9	from the meeting held on April the 17th, 2015.	
10	ALABAMA DEPARTMENT OF ENVIRONMENTAL		10	I'll entertain a motion from	
11	MANAGEMENT				
12	Alabama Room	ŀ	11	the Committee regarding the minutes.	
13	1400 Coliseum Boulevard		12		
14	Montgomery, Alabama 36110-2400		13	DR. RICHARDSON: Move to	
15	August 21, 2015		14	adopt the minutes of the April	
16	10:00 a.m.		15	17th, 2015, meeting.	
17	20.00 с.ш.		16	CHAIRMAN PHILLIPS: Do I	
18		i	17	have a second?	
19			18	MS. MERRITT: Second.	
20			19	CHAIRMAN PHILLIPS: I have a	
21			20	motion and second to accept and	
22			21	adopt the minutes of the April	
		1	22	17th, 2015, committee meeting.	
23			23	Any discussion?	
		Page 2		Pa	ge 4
1	Taken by: Charity McCulley, CCR #424				J
2	APPEARANCES		1	(No response.)	
3			2	CHAIRMAN PHILLIPS: No	
4	COMMITTEE MEMBERS PRESENT:	1	3	discussion. All in favor	
5	W. Scott Phillips, Chair	ļ	4	signify with the sign of aye.	
6	Terry D. Richardson, Ph.D.		5	THE COMMITTEE: Aye.	
7	Mary J. Merritt		6	CHAIRMAN PHILLIPS: All	
8			7	opposed?	
9			8	(No response.)	
10	ALSO PRESENT:		9	CHAIRMAN PHILLIPS: We	
11	Robert D. Tambling, EMC Legal Counsel		10	accept that adoption of the	
12	Debi Thomas, EMC Executive Assistant		11	minutes.	
13	DEDI INOMAS, EMC EXECUTIVE ASSISTANT		12	Agenda item number two.	
			13	We're going to move to the	
14		:	14	discussion and consideration of	
15		:	15	our Division 2 Environmental	
16		:	16	Management Commission	
17		:	17	regulations. Rule 335-2-305,	
18		:	18	agenda sections 1 through 3.	
19		:	19	I'll note that we're continuing	
20		:	20	our examination of this and the	
21		:	21	study of this rule. You'll note	
22		:	22	also that Debi sent out some	
23		:	23	information from past committee	

Kuleni	aking Committee Meeting			Augusi	t 21, 2015
		Page 5			Page 7
1	meetings and commission meetings		1	only have just received this, is	
2	regarding when this was taken up		2	that we use this as a place to	
3	before. It did not continue		3	begin taking the comments that	
4	through the Rulemaking Committee		4	we've received and working on	
5	at that time. Comments made at		5	the actual rule itself. Not	
6	the Rulemaking Committee session		6	suggesting for a minute that	
7	on February the 20th, we sent		7	these additions or deletions	
8	out, by Debi, she sent that out		8	actually become a part of the	
9	to all of us, and the		9	rule. It could be that we make	
10	Commissioners and participants		10	these additions and leave the	
11	of that meeting, so that we		11	rule pretty much unchanged and	
12	could continue to look at those.		12	make these additions or	
13	So what I would really like for		13	deletions a part of the	
14	us to do now is to discuss what		14	guidelines. On the other hand,	
15	we've got in front of us. I'll		15	it could certainly be a part of	
16	also point out that Commissioner		16	the rule changes; it depends on	
17	Richardson took the first step		17	how we decide to go with it.	
18	for his thoughts of what he		18	Nonetheless, what I thought	
19	thought we might consider. But		19	was, we needed something	
20	I would just like to open it up		20	actually down to start working	
21	for the Committee members who		21	on, and that's what I feel like	
22	have any discussions relative to		22	I've provided here.	
23	what we have in front of us.		23	CHAIRMAN PHILLIPS: Thank	
	what we have in none of as.		23	CHARGIAN THEELTS. Thank	
		Page 6			Page 8
1	Anybody want to start? Mr.		1	you, Commissioner Richardson.	
2	Richardson?		2	Commissioner Merritt, do you	
3	DR. RICHARDSON: I'll just		3	have any thoughts?	
4	start by commenting, kind of		4	MS. MERRITT: Well, I like	
5	putting my thoughts out, of		5	the way it's put together, and	
6	where I was when I put this work		6	it is something for us to start	
7	in progress together. And that		7	working on. And we can agree	
8	was, I felt like, after we had		8	that we can take this and look	
9	all of the comments in		9	at it and compare it with our	
10	summarized, that we needed to		10	old rules and see what we need	
11	take I felt I needed to take		11	to decide on, whether to let the	
12	what was in those comments and		12	old rule stay or make the	
13	somehow take them from comments		13	changes that he put together	
14	to the rule itself. And that's		14	here.	
15	kind of what I've done here, is		15	CHAIRMAN PHILLIPS: Thank	
16	taken what I thought were some		16	you, Commissioner Merritt. One	
17	of the major concerns that the		17	of the thoughts that I have is	
18	public had, that the Committee		18	before we really get into what	
19	had, and that the Commission		19	you've proposed here,	
20	had, and tried to address them		20	Commissioner Richardson, is do	
21	in just a draft. That's simply		21	we really want to go to a full	
22	all it is. And what I would		22	rulemaking change, or do we	
23	recommend is that since you all		23	really want to try to do	
1	•				

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1	something in more of a guidance		1	prepared when someone wants to	
2	initially, maybe see if that		2	stand up and address us	
3	works. If it works, then great:		3	substantially with five, ten,	
4	If it doesn't, then perhaps we		4	fifteen-minute presentations	
5	have to go to a rulemaking.		5	with visual aids and all of	
6	One of the things that I did		6	that. We need to be prepared.	
7	like, Commissioner Richardson,		7	And I feel like it's appropriate	
8	and what you proposed, is really		8	for us to receive that material	
9	kind of a tiered approach of		9	upfront, come in prepared.	
10	hearing from the public, giving		10	On the other hand, I can	
11	people the opportunity to sign		11	also see where members of the	
12	up before a meeting and present		12	public, just a couple of	
13	or just make comments to us	1	13	statements they want to make, to	
14	without presentation materials.	}	14	bring something to our	
15	But also, those that really		15	attention, and I think that's	
16	would like to spend a little		16	appropriate to have a meeting	
17	more time with us, educating us		17	for that.	
18	or providing information to us,		18	CHAIRMAN PHILLIPS: I was	
19	having the opportunity to do				
i	that in a way that gives us time		19	struck really by how little modifications were really	
20	to absorb it, and also give them		20	•	
21	time to prepare for it. So I		21	required in what you did to give	
22	thought that was nice,		22	us that tiered approach to the rule. And it seems to me that	
23	thought that was mee,		23	rule. And it seems to me that	
	AAAAAAAAAAAAA	Page 10			Page 12
1	considering what we had heard		1	and, Robert, correct me if	
2	from the group.		2	I'm wrong, but it seems to me	
3	DR. RICHARDSON: And also,		3	that it really is within the	
4	in that approach like that		4	management of our meetings that	
5	again, all of these came from		5	these items that you've included	
6	comments that were made during		6	are really more guidance for how	
7	the group meeting that we had.		7	we manage our meeting, as	
8	I mean, it could be that we		8	opposed to really a hard rule	
9	could use some hybrid approach.		9	for it.	
10	It could be that more		10	DR. RICHARDSON: Right.	
11	substantial comments could	}	11	CHAIRMAN PHILLIPS: And I	
12	actually become a part of the	1	12	think we're within the purview	
13	rule, whereas the more briefer		13	of the existing rule to be able	
14	comments, where people just sign	1	14	to do that. Maybe something	
15	in as something we try as a	1	15	that you want to look at.	
16	guideline. Again, there was no	1	16	MR. TAMBLING: Yeah, I'm	
17	real intent for specific rule	1	17	going to need to look at that,	
18	change in what I've presented	1	18	Commissioner Phillips.	
19	here. It's really just		19	DR. RICHARDSON: I mean, I	
20	again, gives us a place to		20	guess what I'm hearing is I	
21	start. But I did try to take a		21	think we need guidance from you	
22	two-tiered approach because I	1	22	now that you have a little more	
23	think that we need to be	1	23	of something in front of you.	
					

	Page 13		Page 15
MR. TAMBLING: Yes.		1	DR. RICHARDSON: And next
DR. RICHARDSON: We need		1	time it may allow ten people.
guidance from you as to what of			CHAIRMAN PHILLIPS: And then
-			for those that really want to
•			bring something more substantive
		[to the Commission, that they
			would do that in a formal
			process very similar to what we
· ·			have now. But it would be for
		ŀ	the meeting down the road, so
			that the full Commission gets to
-			make
_			DR. RICHARDSON: One of the
•			things that seems to be clear
			from the general comments when
•			we all met together, was people
•			presenting and putting these
			things together, wanted to know
•			before they got here, before
			they traveled, if they were
			going to be able to present or
			not. Well, now, the way this
		1	is, if you present us the
5			, <i>y p</i>
	Page 14		Page 16
To kind of summarize, I'm		1	material, we look over it, we
going to summarize very briefly		2	vote on it in our Commission
what you've proposed here,		3	meeting and then get back to you
because I want to make sure that		4	and say, yes, at the next
there's not something that		5	meeting you can present. And
anyone on the Committee thinks		6	that way you don't drive down
was left out. To really		7	here and waste your time and be
summarize, you've set up		8	turned down. You know up
written comments are always		9	front
welcome. The public would sign		10	CHAIRMAN PHILLIPS: Right.
up for a brief three-minute or		11	DR. RICHARDSON: whether
less comment period at the		12	you're going to be allowed to
beginning of the meeting, and		13	speak or not. Although, I do
the Chair would manage that, and		14	understand it's a meeting
we end up with 100 signups,		15	removed kind of thing, but
we're not going to be able to do		16	still, that was kind of what the
all of them.		17	comments everybody seemed
DR. RICHARDSON: Again, it		18	that they would rather know a
has to be managed by the Chair.		19	meeting ahead on that.
It could be that may be only six		20	CHAIRMAN PHILLIPS: But
people time only allows six		21	that's only for those
people time only allows six			mat s only for those
people to talk that day.		22	substantive sessions anyway. I
	DR. RICHARDSON: We need guidance from you as to what of this really would require a rules change or just be guidance and a part of meeting management. MR. TAMBLING: All right. DR. RICHARDSON: If it requires a rule change, so be it; if not, it might be that the more expedient way is to handle this under just a matter of managing meetings just for a period to see how it goes. And if it all seems to work very well, we'll make a rule change then, maybe then. I don't know. CHAIRMAN PHILLIPS: I think that may be be a good thing, Robert, if you can look at this between now and our next meeting. To kind of summarize, I'm going to summarize very briefly what you've proposed here, because I want to make sure that there's not something that anyone on the Committee thinks was left out. To really summarize, you've set upwritten comments are always welcome. The public would sign up for a brief three-minute or less comment period at the beginning of the meeting, and the Chair would manage that, and we end up with 100 signups, we're not going to be able to do all of them. DR. RICHARDSON: Again, it has to be managed by the Chair.	DR. RICHARDSON: We need guidance from you as to what of this really would require a rules change or just be guidance and a part of meeting management. MR. TAMBLING: All right. DR. RICHARDSON: If it requires a rule change, so be it; if not, it might be that the more expedient way is to handle this under just a matter of managing meetings just for a period to see how it goes. And if it all seems to work very well, we'll make a rule change then, maybe then. I don't know. CHAIRMAN PHILLIPS: I think that may be be a good thing, Robert, if you can look at this between now and our next meeting. Page 14 To kind of summarize, I'm going to summarize very briefly what you've proposed here, because I want to make sure that there's not something that anyone on the Committee thinks was left out. To really summarize, you've set up—written comments are always welcome. The public would sign up for a brief three-minute or less comment period at the beginning of the meeting, and the Chair would manage that, and we end up with 100 signups, we're not going to be able to do all of them. DR. RICHARDSON: Again, it has to be managed by the Chair.	DR. RICHARDSON: We need guidance from you as to what of this really would require a rules change or just be guidance and a part of meeting management. MR. TAMBLING: All right. DR. RICHARDSON: If it 9 requires a rule change, so be 10 it; if not, it might be that the 11 more expedient way is to handle 12 this under just a matter of 13 managing meetings just for a 14 period to see how it goes. And 15 if it all seems to work very 16 well, we'll make a rule change 17 then, maybe then. I don't know. CHAIRMAN PHILLIPS: I think 19 that may be be a good thing, 20 Robert, if you can look at this 21 between now and our next 22 meeting. Page 14 To kind of summarize, I'm 23 going to summarize very briefly 24 what you've proposed here, 36 because I want to make sure that 46 there's not something that 37 anyone on the Committee thinks 47 was left out. To really 37 summarize, you've set up written comments are always 49 welcome. The public would sign 40 up for a brief three-minute or 51 less comment period at the 52 beginning of the meeting, and 53 the Chair would manage that, and 54 we end up with 100 signups, 55 we're not going to be able to do 58 all of them. 57 DR. RICHARDSON: Again, it 59 has to be managed by the Chair. 59

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1	three-minute signup to do a		1	you might need to limit it. I	
2	public comment, they have that		2	mean, how many people can sign	
3	ability at any meeting. And		3	up. That's the only thing.	
4	then you add an e-mail.		4	Because of the time. I mean,	
5	DR. RICHARDSON: Yes.		5	you might have ten or fifteen	
6	CHAIRMAN PHILLIPS: Which		6	people, so I just think a limit	
7	was a very popular comment. Was		7	should probably be entered. I	
8	there anything that we really		8	mean, if we decide.	
9	didn't cover in what you		9	DR. RICHARDSON: And the	
10	suggested or you thought wasn't		10	other thing I've already made	
11	necessary in what you suggested		11	some comments on this markup,	
12	that we heard? Anybody? Debi?		12	this myself. I do think that	
13	Robert? Did we miss anything?		13	before we get, as a	
14	DR. RICHARDSON: I mean,		14	sub-statement under two; public	
15	there were definitely a few		15	comment, before we get to A, we	
16	items. But I still feel like by		16	need a statement that says	
17	allowing people to sign in, and		17	something after consideration of	
18	I suggested in here a stopping		18	the agenda items, the Commission	
19	point of five minutes before the		19	may consider comments from	
20	meeting convenes, that way we		20	members of the public that deal	
21	can get the list and bring it up		21	with concerns of the Commission	
22	here, and we know who's going to		22	under the Commission's purview.	
23	be talking. That kind of		23	And specifically list the things	
	or waring. That mile of		23	and specifically list the tillings	
		Page 18			Page 20
1	addresses people who want to		1	we, as a Commission, can deal	
2	speak but don't really have the		2	with. Factors that we have	
3	time to prepare something, maybe		3	control over, and actually list	
4	just doesn't have the desire to		4	them there, which I think is	
5	put together something more		5	basically three categories,	
6	substantial. But, yet, it		6	maybe four categories. I'm not	
7	leaves open the possibility for		7	positive of that. And list	
8	more substantial comments. So I		8	those there; then have these	
9	feel like, no, it did not		9	fall under that.	
10	address every single item that		10	CHAIRMAN PHILLIPS: We ha	ve
11	was discussed that day, but I		11	three, but one of them I don't	
12	think it really hit our		12	think is something we can take	
13	concerns, as well as most of the		13	public comment on relative to	
14	public's concerns. And that's		14	our judicial role.	
15	what I was striving for.		15	DR. RICHARDSON: Correct.	
16	CHAIRMAN PHILLIPS:		16	That would be one thing I've	
17	Commissioner Merritt, did you		17	already seen that needs to be	
18	think there was anything that we		18	added to this. And that's done	
19	needed to add or modify?		19	right up front. So if someone	
20	MS. MERRITT: The only thing]	20	is wanting to address us, they	
21	I see in there is where you talk		21	see that and see, okay, well,	
22	about, you know, people come in		22	what I was going to talk about	
23	and they sign up. I'm thinking		23	really does fall into any one of	
	, , , , , , , , , , , , , , , , , , , ,			y	

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1	those categories. And that was		1	that you're going to have	
2	something else that the public,		2	certain people who are going to	
3	I think it was a concern of		3	complain, who are going to say,	
4	ours. And I think it was a		4	you know, why did I have to give	
5	concern at the public meeting as		5	two weeks advanced notice and	
6	well to know precisely what it		6	submit all of my presentations,	
7	is the Commission can and cannot		7	when these people were able to	
8	deal with.		8	get up and speak for more than	
وا	CHAIRMAN PHILLIPS: I		9	three minutes.	
10	agree. I think that's a good	.	10	DR. RICHARDSON: Certainly,	
11	addition. Anything else that we		11	the time limit would have to be	
12	think needs to be included or		12	strictly enforced.	
13	not included? We have a rule in	(13	MS. MERRITT: Yeah.	
14	place. We can take some time.	1	14	MR. TAMBLING: And then I	
15	We want Robert to take some time		15	think what Commissioner Merritt	
16	and look at this and see whether		16	said is, you know, how many	
17	we can do this as a guidance		17	people are you going to allow	
18	verses a rule. I would prefer		18	if you're going to have to	
19	to do it as a guidance if we		19	manage your meeting, how many	
20	can. We can start using it as		20	people are you going to permit	
21	quickly as we can. I really	ļ		to speak for a three-minute	
22	don't see that we couldn't start		21	period.	
23	using it fairly quickly.	1	22 23	DR. RICHARDSON: I know a	
	using it family quickly.	'	23	DR. RICHARDSON, I know a	
		Page 22			Page 24
1	MR. TAMBLING: Well, I think		1	lot of city commissions operate	
2	there's a point of departure.		2	in this manner. And I don't	
3	When you're looking at the rule,		3	think as a general rule they get	
4	you have to look at what the		4	overwhelmed. It might be	
5	reasonable expectations are from		5	occasionally they have more than	
6	the rule. When you look at the		6	really they can handle. But I	
7	rule, and the rule says that		7	don't think that as a rule of	
8	anybody who wants to speak		8	thumb, they get overwhelmed. It	
9	before the Commission has to		9	may be once or twice they get	
10	submit a written request, my		10	really you're shaking your	
11	impression of that is that		11	head out there, you're obviously	
12	you're just not going to be able		 12	familiar with some of this. And	
13	to get up and speak if you sign	I	13	occasionally they would. I	
14	in. I'm not sure how we		14	don't doubt that whatsoever.	
15	CHAIRMAN PHILLIPS: You war	1	15	But I think that's a point when	
16	to interpret that as a written		16	the Chair of the Commission has	
17	request?	- 1	17	to say, okay, we've been at this	
18	MR. TAMBLING: Well, I guess	-	18	for 30 minutes; we're going to	
19	you could. And I think the		19	have to stop. If you would like	
20	other problem that you could run		20	to continue and maybe make your	
21	into, if you don't strictly		21	comments at the next Commission	
22	enforce this, especially with		22	meeting, we'll leave your name	
23	regard to the time limit, is		23	on the list or something, you	
				2. wie not of contening, you	

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1	know. I just feel like that as	1	changes; I think they encourage	
2	a general rule I know my	2	public comment. And I think	
3	city, home city, Florence, they	3	that's what we're here to do.	
4	do this. And I think many	4	But I'm not sure that we could	
5	others do. Yeah, like I said,	5	go forward with that without	
6	occasionally, it's a problem,	6	making a rule change.	
7	but as a general rule, I don't	7	DR. RICHARDSON: Right.	
8	think it is. I think, as a	8	MR. TAMBLING: And if we	
9	general rule, we wouldn't hear	9	have to	
10	either. I think there might be	10	CHAIRMAN PHILLIPS: So be	
11	times when some really emotional	11	it.	
12	hot-button issues come up when	12	MR. TAMBLING: so be it.	
13	you have a lot of people who	13	CHAIRMAN PHILLIPS: Well,	
14	want to speak. You know, it's	14	and the other, so be it, the	
15	kind of important to me, as a	15	Committee tends to recommend	
16	Commissioner, to see that a lot	16	DR. RICHARDSON: If that's	
17	of people are passionate enough	17	what the Committee decides to	
18	about what's going on that they	18	do. And I also think that my	
19	want to speak about it. So, I	19	intention wasn't for this to	
20	mean, there's pros and cons to	20	stand alone without guidelines.	
21	it, obviously.	21	I do think that, in addition to	
22	MR. TAMBLING: I think it's	22	this, we need to have a set of	
23	a really good idea. My concern	23	guidelines for anyone that's	
			Ç ,	
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1	is whether or not it needs to be	1	wanting to put together a more	
2	adopted as a rule. Because	2	detailed addressing of the	
3	written requests have to be	3	Commission, what kind of you	
4	submitted 14 days ahead of time.	4	know, the guidelines for that,	
5	DR. RICHARDSON: Correct.	5	as well as the general	
6	MR. TAMBLING: And if you	6	guidelines for a three-minute	
7	sign up and you consider that a	7	talk. I don't think that's	
8	written request, well, then,	8	unreasonable for us to have	
9	you're kind of in conflict with	9	guidelines out and say that, you	
10	the rule.	10	know, this is what you should	
11	DR. RICHARDSON: Yeah.	11	strive to obtain or follow,	
12	Would it require the rule to be	12	these guidelines.	
13	changed to accommodate that?	13	MR. TAMBLING: And please	
14	MR. TAMBLING: I think	14	understand, my role is to	
15	guidelines from the Commission	15	protect you as a committee from	
16	are helpful, because they inform	16	challenges down the road. If my	
17	the public as to how the	17	recommendation is that you	
18	Commission interprets the rule	18	pursue this change through	
	and how they would like the rule	19	rulemaking, then that's what it	
19	and now they would like the fule	i		
	to function. You know, given	20	is. It's done to protect you.	
19	to function. You know, given the changes that you've	20 21	is. It's done to protect you. It may not be the most expedient	
19 20	to function. You know, given			

			Augus	
	Page	e 29		Page 31
1	will certainly look at this and	1	with the adopted motion?	
2	give you my thoughts on it.	2	CHAIRMAN PHILLIPS: Yes, I	
3	DR. RICHARDSON: What I	3	would.	
4	would suggest then is that	4	MS. THOMAS: I'll get y'all	
5	Robert take this, we each take	5	to sign this, and I'll get the	
6	this back, think about some of	6	exact wording from the court	
7	the additions we've even spoken	7	reporter.	
8	about here today, other things	8	CHAIRMAN PHILLIPS: While	
9	or deletions, changes to this	9	Debi is doing that, your	
10	that each of you, as well as	10	comment, Commissioner	
11	myself, may need to be made, and	11	Richardson, about the number of	
12	Robert. Also try to put	12	people that may sign up. You	
13	together guidelines that we	13	know, to me, that's really a	
14	think should be followed that we	14	Chair management issue. And I	
15	know of relative to our	15	think as long as we do that at	
16	experience as sitting on the	16	the beginning of the meeting, so	
17	Commission, and then maybe we'll	17	that we acknowledge that we have	
18	have that to come forth at the	18	three people that are going to	
19	October meeting.	19	speak, verses 100 people that	
20	CHAIRMAN PHILLIPS: Are you	20	are going to speak, I think that	
21	offering that as a motion?	21	may be the best way, so the	
22	DR. RICHARDSON: So moved.	22	expectation is set early on and	
23	MS. MERRITT: I second.	23	not just a cut off in the	
	Page	930		Page 32
1	CHAIRMAN PHILLIPS: I have a	1	middle, because it seems a	
2	motion to take the information	í		
		2	little arbitrary at that point.	
3	provided by Commissioner	3	little arbitrary at that point. So that may be a way to deal	
3 4	provided by Commissioner Richardson, for all of us to	1		
	provided by Commissioner Richardson, for all of us to look, including Robert, who will	3	So that may be a way to deal	
4	provided by Commissioner Richardson, for all of us to look, including Robert, who will advise us on the necessity of	3 4	So that may be a way to deal with that effectively.	
4 5	provided by Commissioner Richardson, for all of us to look, including Robert, who will advise us on the necessity of rulemaking versus guidance,	3 4 5	So that may be a way to deal with that effectively. Agenda item number three.	
4 5 6	provided by Commissioner Richardson, for all of us to look, including Robert, who will advise us on the necessity of rulemaking versus guidance, provide any additional guidance	3 4 5 6	So that may be a way to deal with that effectively. Agenda item number three. Any other business to come	
4 5 6 7	provided by Commissioner Richardson, for all of us to look, including Robert, who will advise us on the necessity of rulemaking versus guidance,	3 4 5 6 7	So that may be a way to deal with that effectively. Agenda item number three. Any other business to come before the Committee?	
4 5 6 7 8 9	provided by Commissioner Richardson, for all of us to look, including Robert, who will advise us on the necessity of rulemaking versus guidance, provide any additional guidance	3 4 5 6 7 8	So that may be a way to deal with that effectively. Agenda item number three. Any other business to come before the Committee? (No response.)	
4 5 6 7 8 9	provided by Commissioner Richardson, for all of us to look, including Robert, who will advise us on the necessity of rulemaking versus guidance, provide any additional guidance that we think should go with	3 4 5 6 7 8 9	So that may be a way to deal with that effectively. Agenda item number three. Any other business to come before the Committee? (No response.) CHAIRMAN PHILLIPS: All	
4 5 6 7 8 9 10	provided by Commissioner Richardson, for all of us to look, including Robert, who will advise us on the necessity of rulemaking versus guidance, provide any additional guidance that we think should go with this, and we will entertain that	3 4 5 6 7 8 9	So that may be a way to deal with that effectively. Agenda item number three. Any other business to come before the Committee? (No response.) CHAIRMAN PHILLIPS: All right. Let's talk about the	
4 5 6 7 8 9 10 11	provided by Commissioner Richardson, for all of us to look, including Robert, who will advise us on the necessity of rulemaking versus guidance, provide any additional guidance that we think should go with this, and we will entertain that at the October Rulemaking	3 4 5 6 7 8 9 10	So that may be a way to deal with that effectively. Agenda item number three. Any other business to come before the Committee? (No response.) CHAIRMAN PHILLIPS: All right. Let's talk about the future Rulemaking Committee	
4 5 6 7 8 9 10 11 12	provided by Commissioner Richardson, for all of us to look, including Robert, who will advise us on the necessity of rulemaking versus guidance, provide any additional guidance that we think should go with this, and we will entertain that at the October Rulemaking Committee meeting.	3 4 5 6 7 8 9 10 11	So that may be a way to deal with that effectively. Agenda item number three. Any other business to come before the Committee? (No response.) CHAIRMAN PHILLIPS: All right. Let's talk about the future Rulemaking Committee meeting. We will have that on	
4 5 6 7 8 9 10 11 12 13	provided by Commissioner Richardson, for all of us to look, including Robert, who will advise us on the necessity of rulemaking versus guidance, provide any additional guidance that we think should go with this, and we will entertain that at the October Rulemaking Committee meeting. All in favor signify with	3 4 5 6 7 8 9 10 11 12	So that may be a way to deal with that effectively. Agenda item number three. Any other business to come before the Committee? (No response.) CHAIRMAN PHILLIPS: All right. Let's talk about the future Rulemaking Committee meeting. We will have that on October the 16th, 2015, at 10:00	
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4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	provided by Commissioner Richardson, for all of us to look, including Robert, who will advise us on the necessity of rulemaking versus guidance, provide any additional guidance that we think should go with this, and we will entertain that at the October Rulemaking Committee meeting. All in favor signify with the sign of aye. THE COMMITTEE: Aye. CHAIRMAN PHILLIPS: All opposed? (No response.) CHAIRMAN PHILLIPS: It	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	So that may be a way to deal with that effectively. Agenda item number three. Any other business to come before the Committee? (No response.) CHAIRMAN PHILLIPS: All right. Let's talk about the future Rulemaking Committee meeting. We will have that on October the 16th, 2015, at 10:00 a.m. Does that time work with the Committee members? MS. MERRITT: I won't be able to be here the next meeting.	
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         able to be here.
 1
            CHAIRMAN PHILLIPS: I should
 2
         also. Are you okay with us
 3
         moving forward?
 5
            MS. MERRITT: Yes.
            CHAIRMAN PHILLIPS: All
 6
         right. I'll accept a motion to
 7
 8
         adjourn.
            DR. RICHARDSON: So moved.
 9
            CHAIRMAN PHILLIPS: Second?
10
11
            MS. MERRITT: Second.
12
            CHAIRMAN PHILLIPS: All in
         favor?
13
            THE COMMITTEE: Aye.
14
15
            CHAIRMAN PHILLIPS: Thank
16
         you.
17
18
   (THE MEETING OF THE RULEMAKING COMMITTEE
        WAS ADJOURNED AT 10:22 A.M.)
20
21
22
23
                                             Page 34
 1
             CERTIFICATE
 2 STATE OF ALABAMA )
 3 COUNTY OF CONECUE )
         I hereby certify that the above and
 5 foregoing transcript of proceedings was
 6 taken down by me in machine shorthand, and
 7 the questions and answers thereto were
 8 transcribed by means of computer-aided
 9 transcription, and that the foregoing
10 represents a true and correct transcript of
11 the proceedings given by said witness upon
12 said hearing.
13
         I further certify that I am neither
14 of counsel nor of kin to the parties to the
15 action, nor am I in anywise interested in
16 the result of said cause.
17 I further certify that I am duly licensed
18 by the Alabama Board of Court Reporting as
19 a Certified Court Reporter as evidenced by
20 the ACCR number following my name below.
21
22
         CHARITY McCULLEY ACCR# 424
23
         My Commission Expires: 2/19/17
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CERTIFICATE 1 2 STATE OF ALABAMA COUNTY OF CONECUH) 3 4 I hereby certify that the above and 5 foregoing transcript of proceedings was taken down by me in machine shorthand, and 6 7 the questions and answers thereto were transcribed by means of computer-aided 8 transcription, and that the foregoing 9 10 represents a true and correct transcript of 11 the proceedings given by said witness upon 12 said hearing. 13 I further certify that I am neither 14 of counsel nor of kin to the parties to the 15 action, nor am I in anywise interested in the result of said cause. 16 I further certify that I am duly licensed 17 18 by the Alabama Board of Court Reporting as 19 a Certified Court Reporter as evidenced by the ACCR number following my name below. 20 21 CHARITY MCCULLEY ACCR# 424 22 23 My Commission Expires: 2/19/17

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Part B

Attachment Index

Attachment 1 Agenda

Attachment 2 Order adopting motion for EMC counsel to review information provided

by Commissioner Richardson and thereafter advise the Committee on

the necessity of rulemaking v. guidance, which shall be further

addressed by the Committee at its October meeting

(Agenda Item 2)



AGENDA* MEETING OF THE RULEMAKING COMMITTEE

OF THE

ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

DATE: August 21, 2015 TIME: 10:00 a.m.

LOCATION: Alabama Department of Environmental Management (ADEM) Building
Alabama Room (Main Conference Room)
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400

ITEMS

- 1. Consideration of minutes of meeting held on April 17, 2015**
- 2. Discussion and consideration of Division 2, Environmental Management Commission Regulations, Rule 335-2-3-.05, <u>Agenda</u>, Sections (1) through (3)
- 3. Other business
- 4. Future Rulemaking Committee meeting

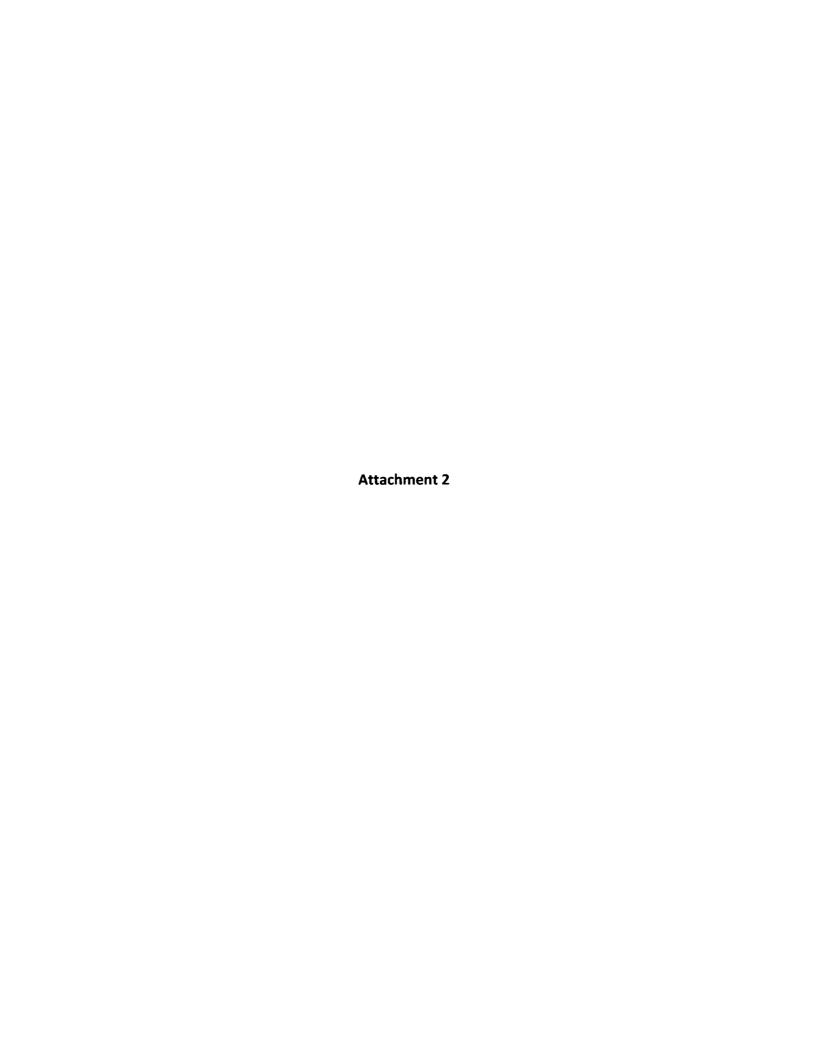
^{*} The agenda for this meeting will be available on the ADEM website, <u>www.adem.alabama.gov</u>, under Environmental Management Commission.

^{**} The minutes of this meeting will be available on the ADEM website under Environmental Management Commission.

- 1. CONSIDERATION OF MINUTES OF MEETING HELD ON APRIL 17, 2015
- 2. <u>DISCUSSION AND CONSIDERATION OF DIVISION 2, ENVIRONMENTAL MANAGEMENT</u>
 COMMISSION REGULATIONS, RULE 335-2-3-.05, AGENDA, SECTIONS (1) THROUGH (3)

The Rulemaking Committee continues its re-examination and study of Rule 335-2-3-.05, <u>Agenda</u>, Sections (1) through (3). This rule includes the procedures and requirements regarding requests from the public to appear before the Commission at its meetings following consideration of agenda items.

- 3. OTHER BUSINESS
- 4. FUTURE RULEMAKING COMMITTEE MEETING



BEFORE THE RULEMAKING COMMITTEE OF THE ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

ORDER

This cause having come before the Rulemaking Committee pursuant to motion for EMC			
counsel to review information provided by Commissioner Richardson and			
thereafter advise the Committee on the necessity of rulemaking v. guidance,			
which shall be further addressed by the Committee at its October meeting			
the Committee hereby ORDERS, ADJUDGES, and DECREES as follows:			
1.	That the	motion	referenced above 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 August 2015.			
APPROVED: Committee M Committee M Committee M	Eichards	on	This is to certify that this Order is a true and accurate account of the actions taken by the Rulemaking Committee on this 21st day of August 2015. W. Scott Phillips, Chair Rulemaking Committee Certified this 21st day of August 2015