

AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
DATE: April 8, 2022
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

<u>ITEM</u>	<u>PAGE</u>
1. Consideration of minutes of meeting held on February 11, 2022**	2
2. Report from the ADEM Director	2
3. Report from the Commission Chair	2
4. Consideration of proposed amendments to ADEM Administrative Code Division 335-1, General Administration Regulations, and Division 335-15, Brownfield Redevelopment and Voluntary Cleanup Program Regulations	2
5. <u>Lee County Commission, Petitioner v. ADEM, Respondent, and Creekwood Resources, LLC, Intervenor, EMC Docket No. 21-05 (NPDES-Related Matter)</u>	2
6. <u>Alabama Power Company, Petitioner v. ADEM, Respondent, EMC Docket No. 21-01 (NPDES-Related Matter)</u>	2
7. Consideration of Petition to Adopt ADEM Administrative Code Chapter 335-2-4, EMC Rulemaking Petition 22-01, Petitioner – Environmental Defense Alliance	3
8. Other business	3
9. Future business sessions	3
PUBLIC COMMENT PERIOD	3
Brief statements by members of the public registered to speak	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 FEBRUARY 11, 2022
2. REPORT FROM THE ADEM DIRECTOR
3. REPORT FROM THE COMMISSION CHAIR
4. CONSIDERATION OF PROPOSED AMENDMENTS TO ADEM ADMINISTRATIVE CODE DIVISION 335-1, GENERAL ADMINISTRATION REGULATIONS, AND DIVISION 335-15, BROWNFIELD REDEVELOPMENT AND VOLUNTARY CLEANUP PROGRAM REGULATIONS

The Commission will consider proposed amendments to ADEM Administrative Code Division 335-1, General Administration Regulations, and Division 335-15, Brownfield Redevelopment and Voluntary Cleanup Program Regulations. Revisions to Division 1 of the ADEM Code are being proposed to modify and add forms required for the implementation of the Department's rules and regulations. Additional modifications are being proposed to restructure the Voluntary Cleanup Program fees outlined in Fee Schedule H. In addition, revisions to the Division 15 Code are being proposed to provide greater public participation for cleanup remedies in which the proposed final remedy is an Environmental Covenant. Additionally, changes to the Voluntary Cleanup Program Application are proposed to improve site identification. The Department is also proposing to update citation references and clarify language. The Department held public hearings on the proposed amendments on February 3, 2022.

5. LEE COUNTY COMMISSION, PETITIONER V. ADEM, RESPONDENT, AND CREEKWOOD RESOURCES, LLC, INTERVENOR, EMC DOCKET NO. 21-05 (NPDES-RELATED MATTER)

The Commission will acknowledge for the record Lee County Commission's withdrawal of its Request for Hearing.

On September 2, 2021, Lee County Commission ("LCC") filed with the Commission a Request for Hearing regarding ADEM's issuance of NPDES Permit AL0084191 to Creekwood Resources, LLC, Shady Grove Quarry ("Permit"). On February 16, 2022, LCC filed with the Commission a Withdrawal of Its Request for Hearing ("Withdrawal"). In the Withdrawal, LCC gave notice that it no longer intends to pursue the hearing on the issuance of the Permit and withdrew its Request for Hearing without prejudice to any rights, remedies, or claims (however denominated) or defenses and matters in avoidance (however denominated) in any other proceeding or lawsuit.

6. ALABAMA POWER COMPANY, PETITIONER V. ADEM, RESPONDENT, EMC DOCKET NO. 21-01 (NPDES-RELATED MATTER)

The Commission will consider the Hearing Officer's Recommendation of Dismissal, based on the Stipulation for Dismissal filed by the parties. The Hearing Officer recommends that the Commission dismiss the appeal with prejudice.

On January 8, 2021, Alabama Power Company ("APC") appealed a single aspect of NPDES Permit No. AL0002879 for APC, James M. Barry Electric Generating Plant, issued by ADEM on December 9, 2020. On February 23, 2022, the parties filed a Stipulation of Dismissal. With the Stipulation of Dismissal, APC gave notice that it no longer intends to pursue this appeal.

7. CONSIDERATION OF PETITION TO ADOPT ADEM ADMINISTRATIVE CODE CHAPTER 335-2-4, EMC RULE-
MAKING PETITION 22-01, PETITIONER – ENVIRONMENTAL DEFENSE ALLIANCE

The Commission will consider the Petition to Adopt ADEM Administrative Code Chapter 335-2-4, Maintenance, Preservation, and Availability of Records, as a new chapter in ADEM Administrative Code Division 335-2, Environmental Management Commission Regulations. The proposed new chapter includes Rule 335-2-4-.01, Definitions, and Rule 335-2-4-.02, Duty to maintain, preserve, and make available records.

8. OTHER BUSINESS

9. FUTURE BUSINESS SESSIONS

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.