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
October 17, 2014
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 October 17, 2014.

W. Scott Phillips  
Chair  
Rulemaking Committee  
Alabama Environmental Management Commission

Certified this 12th day of December 2014.
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
October 17, 2014

Convened: 10:00 a.m.
Adjourned: 10:14 a.m.

Part A

Transcript
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Attachment 1 - Agenda
MEETING OF THE
RULEMAKING COMMITTEE
OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
Alabama Room
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
October 17, 2014
10:00 a.m.

Taken by: Victoria M. Castillo, CCR#17

CHAIRMAN PHILLIPS: I want to call to order the Rulemaking Committee meeting this morning. I want to acknowledge that we have a quorum. We have all the members of the Rulemaking Committee here with us today.

I'd like to consider the minutes of the Committee meeting held on August 15th and would entertain a motion from the Committee regarding those minutes.

DR. RICHARDSON: Move to accept the minutes as presented.

MS. MERRITT: Second.

CHAIRMAN PHILLIPS: We have a motion and a second. Any additional discussion?

(No response)

CHAIRMAN PHILLIPS: With no additional discussion, all in favor signify by saying "aye."

(All Committee members signify "aye.")

CHAIRMAN PHILLIPS: All opposed?

(No response)

CHAIRMAN PHILLIPS: Motion carries. Agenda item number two is the Committee rule. If you recall, we were charged with taking comments on our public comment regulation rule in Agenda Section 1 through 3, Rule 335-2-3-05. These sections of rules include the procedures that we currently use and the requirements regarding requests from the public to appear before the full Commission at its meetings following consideration of the agenda items.

We solicited input from the public through written comments regarding the current rule and any proposed changes or improvements to these rules, and those comments were due to us by 5 p.m. on September 15th.

We provided all these comments -- Debi provided all those comments to us, and now I would like to
open up the floor for discussion regarding those comments, any input, thoughts, ideas that we need to talk about as a Committee, and then I will make the report to the Commission regarding our deliberations here today.

DR. RICHARDSON: Thank you, Mr. Chairman. I'd just like to make a statement that -- a couple of things. First off, that given the number of comments that came in and some of the things that were mentioned, I personally would like to have more time before we start actually trying to hammer out details to put some more thought to this. I was particularly impressed by the number of comments related to thinking we were doing away with public comments. That is not the intention of our review. This never has been the intention of our review of this, as I understand it. It was simply to make changes to it and not to do away with it. So I certainly want, as a matter of clarity for the record, that it clearly stated that the objective of this Committee, as I see it, is not to do away with public comment. Public comment is valuable to me, personally. It helps steer my thinking and -- and give me -- give me food for thought when I'm away from the Commission. So I don't think that that is the intent here. Making some changes to make the process better and smoother? Perhaps, yes. To change it to make it better and clearer for us as Commissioners? Yes. But to do away with it? No. So having said that, I just simply want to mention that, you know, I don't think we're in any big hurry here, as I understand it. So I would just like, before we start really throwing out specific ideas that we might like -- the changes we might like to make to give us a little more time to look at it. Thank you.

CHAIRMAN PHILLIPS: And thank you, Commissioner Richardson. Mary?

MS. MERRITT: Okay. I concur with Commissioner Richardson. I think we do need more time to look because we did get a lot of comments, and I'd like to have more time before we start, you know, discussing anything on the Committee.

CHAIRMAN PHILLIPS: Any other comment?

MS. MERRITT: That's it.

CHAIRMAN PHILLIPS: Okay. Thank you for your comments, Commissioner Merritt. My thoughts are very aligned with yours, Commissioner Richardson, relative to the large number -- very large number of comments that we got thinking that we were doing away with public comment period. That was never the intention. It's not the intention, at least now, to do that, and I know it's not of the two of you.

It was really more to make them more efficient, more effective for the people that gave us comment, and to make sure, in my mind, that that comment period was focused around the things that this Commission are charged with doing and helping us in doing those charges.

We did receive many comments. We did receive some late, which we did not consider those late comments. We need to go on the record with that. However, the number -- large number of comments that we got prior to the deadline I think covered every comment that we could have thought of.

There were some good comments about how to do things better. There were comments on supporting the comment -- the public comment process. I don't think we got a lot of details on improvements other than don't make it harder than it already is. That was probably the most prevalent
improvement comment that we got. Most other comments were around, Don't do away with the comment period.

So I think going through those, we're going to have to rely more heavily on ourselves to -- to figure out the things that we think work and the things that don't work and then use our time. As you said, I don't think there is a hurry here because we already have a public comment rule in place. It's not going anywhere until we do something different.

And so I think we should take the time and make sure that we're very deliberate in considering all the comments that came in. And if those lead us to make changes and improvements, then so be it.

But otherwise I think we should take our time and be very cautious in making changes.

DR. RICHARDSON: Well, also, if I may.

CHAIRMAN PHILLIPS: Sure.

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DR. RICHARDSON: We've asked for some guidance on how bodies such as ours deal with guidelines versus rules and changes to rules. So I think all of this, the large number of comments, and especially the confusion of -- of what the intent of the Rule Committee was in this particular action and needing to hear all the rules and guidelines and such, I think definitely just -- just reiterates the fact for us to take more time to take our time with this.

CHAIRMAN PHILLIPS: Okay.

Thank you, Commissioner. I think it also needs to be said that, you know, from my perspective, we put in place a rule many years ago, and at least from the logistic standpoint I would like to see that rule become a little more easy for those requesting public comment to know prior to the meeting whether or not we're going to approve public comment for -- for them.

So I think we need to look at

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the logistics, the timing that we have in the rules and regulations, and we need to become a little more objective about how that process goes so that people know prior to the day of our meeting whether or not we're going to hear their public comment.

DR. RICHARDSON: Yes.

There's -- there's a fine line between not making it cumbersome for the public, which -- more cumbersome, which I certainly concur, and giving us ample time to prepare and come to a Commission meeting with the -- the knowledge and background that we need in hearing a particular comment, and then making sure someone doesn't drive 200 miles to not be heard, you know. I think that's all very, very important.

And -- and I think -- I think there's a way we can handle this and -- and make public comments ultimately be more informative for us and more amenable for those who want to make these comments. And if we -- if there is -- as we've stated,
1 comments to us at any time. That's not
2 real clear at that moment that that's
3 something that we accept.
4 DR. RICHARDSON: And that
5 those written comments can be made a part
6 of the record.
7 CHAIRMAN PHILLIPS: Yes.
8 DR. RICHARDSON: That it
9 doesn't have to be something that requires
10 standing up in front of an audience and
11 giving a presentation. We can take written
12 comments and make it part of the record.
13 But that -- that's all the kind of stuff I
14 think we need to work through.
15 CHAIRMAN PHILLIPS: To work
16 through.
17 DR. RICHARDSON: And -- and
18 even if it's not necessarily changing
19 something, per se, perhaps it just needs to
20 be more clearly spelled out, you know,
21 in -- in the rule itself.
22 MS. MERRITT: Yes.
23 CHAIRMAN PHILLIPS: Okay.

1 Do we have anything else on agenda item
2 number two?
3 (No response)
4 CHAIRMAN PHILLIPS: All
5 right. We'll move to agenda item number
6 three, Other Business. Any other business
7 to come before the Rulemaking Committee?
8 DR. RICHARDSON: Yes,
9 Mr. Chairman. I think all Commissioners
10 are aware, so the Commissioners certainly
11 of this Committee should be aware, that
12 dated September 12th I received a letter
13 from David Ludder and -- about
14 Environmental Justice and the Department's
15 policy related to Environmental Justice.
16 I had asked Mr. Ludder -- after
17 one of his presentations related to this
18 particular matter, I had asked him to
19 please forward to me some -- some detailed
20 comments that he had indicated he had made
21 and some information that he had. And he's
22 done so. That's really the primary
23 purpose, I think, of his letter to me was

1 to present that information to us.
2 While I'm not trying to unduly
3 delay things, what I would like for us to
4 do -- we all have a copy of this letter. I
5 want to -- I'm using this mechanism to
6 formally bring this to the Committee's
7 attention. It is a topic I do want us to
8 take up, but after we finish with the 335
9 consideration.
10 But I do want it clearly noted
11 that this is something that I personally
12 feel is important and that we need to -- to
13 look into. But it is something that is
14 going to require quite a bit of thought, I
15 think, deliberation and additional
16 comment. So just laying that out for the
17 record. And we'll certainly welcome any
18 thoughts you'all have on the matter.
19 CHAIRMAN PHILLIPS: Thank
20 you, Commissioner Richardson. Commissioner
21 Merritt, do you have any comments relative
22 to that?
23 MS. MERRITT: No, I don't

1 have any comments.
2 CHAIRMAN PHILLIPS: Okay. I
3 would propose that I take this in our
4 report -- my report to the full Commission,
5 let them know I agree with you, I think we
6 should take this up after we deal with the
7 rulemaking section that we've already
8 talked about -- or -- or the public comment
9 section that we've already talked.
10 DR. RICHARDSON: The -- the
11 thing I think I want clear for those here
12 in the audience as well as for the rest of
13 the Commissioners is that if -- we do
14 intend to take this up, you know. It is
15 definitely intended to be taken up. It's
16 just that, well, we're all kind of spread a
17 little thin, you know, and we've got to
18 take one of these things at a time. So
19 thank you.
20 CHAIRMAN PHILLIPS: Thank
21 you, Commissioner. Any other business to
22 come before the Rulemaking Committee?
23 (No response)
CHAIRMAN PHILLIPS: Move to agenda item number four, which is the future Rulemaking Committee meeting. I'd like to state that the next Committee meeting is scheduled for December 12th. Does that date work for the two of you?

MS. MERRITT: Yes, it works for me.

DR. RICHARDSON: Yes.

CHAIRMAN PHILLIPS: Then I will entertain a motion to set the next Committee meeting on December 12th at 10 a.m. in this conference room.

DR. RICHARDSON: So moved.

MS. MERRITT: Second.

CHAIRMAN PHILLIPS: All in favor, "aye."

(All Committee members signify "aye.")

CHAIRMAN PHILLIPS: All opposed?

(No response)

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CHAIRMAN PHILLIPS: Motion carries. I will entertain a motion to adjourn.

MS. MERRITT: Move that we adjourn.

DR. RICHARDSON: Second.

CHAIRMAN PHILLIPS: All in favor?

(All Committee members signify "aye.")

CHAIRMAN PHILLIPS: Thank you.

(The meeting concluded at 10:14 a.m.)

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COUNTY OF MONTGOMERY

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Victoria Castillo

VICTORIA CASTILLO, ACCR #17, 9/30/15
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Part B
Attachment 1
AGENDA*
MEETING OF THE
RULEMAKING COMMITTEE
OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
DATE: October 17, 2014
TIME: 10:00 a.m.
LOCATION: Alabama Department of Environmental Management (ADEM) Building
Alabama Room (Main Hearing Room)
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400

ITEMS

1. Consideration of minutes of meeting held on August 15, 2014**

2. Discussion and consideration of Division 2, Environmental Management Commission
Regulations, Rule 335-2-3-.05, Agenda, Sections (1) through (3)

3. Other business

4. Future Rulemaking Committee meeting

* The agenda for this meeting will be available on the ADEM website, www.adem.alabama.gov,
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 AUGUST 15, 2014

2. DISCUSSION AND CONSIDERATION OF DIVISION 2, ENVIRONMENTAL MANAGEMENT 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, Agenda, 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. On August 15, 2014, the Committee through a notice solicited input from the public through written comments regarding the current Rule 335-2-3-.05, Agenda, Sections (1) through (3), and proposed changes, or improvements, to this rule and set the deadline of 5:00 p.m., September 15, 2014, for submission of the comments to the Committee.

3. OTHER BUSINESS

4. FUTURE RULEMAKING COMMITTEE MEETING