Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
October 21, 2016
This is to certify that the Minutes contained herein are a true and accurate account of actions taken by the Alabama Environmental Management Commission on October 21, 2016.

H. Lanier Brown, II, Chair
Alabama Environmental Management Commission

Certified this 16th day of December 2016.
Minutes
Environmental Management Commission Meeting
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1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
October 21, 2016

Convened: 11:00 a.m.
Adjourned: 12:00 p.m.

Part A

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Part A
ALABAMA ENVIRONMENTAL MANAGEMENT
COMMISSION MEETING

ALABAMA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT
Alabama Room
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400

October 21, 2016
11:00 a.m.

Taken by: April Sargent,
ACCR 579

* * * * * * * * *

ALSO PRESENT (continued):
Jimmie Ilachild, Unitarian Universalists of Montgomery
Ron Smith, Ashurst Bar/Smith Community

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CHAIRMAN BROWN: Good morning.
We will call the -- can we get some quiet, please?
We will call the October 21, 2016 meeting of the Environment Management Commission to order. The Chair acknowledges that we have a quorum.
The first item on the agenda is the consideration of the minutes of the meeting held on August 19, 2016. The minutes have been circulated to the members of the Commission for review prior to the meeting, and Chair will look for a motion.
MR. RICHARDSON: Move to adopt the minutes as presented.
MR. LAIER: Second.
CHAIRMAN BROWN: All in favor?
(Unanimous.)
CHAIRMAN BROWN: Item passes.
Next agenda item is the

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APPEARANCES

COMMISSION MEMBERS PRESENT:
H. Lanier Brown, Esquire, Chair
James E. Laier, Ph.D., P.E.
Craig Martin, D.V.M.
Mary J. Merritt
Samuel L. Miller, M.D.
Terry D. Richardson, Ph.D.

COMMISSION MEMBERS NOT PRESENT:
W. Scott Phillips, Vice Chair

ALSO PRESENT:
Robert Tambling, EMC Legal Counsel
Lance R. Lefleur, ADEM Director
Debi Thomas, EMC Executive Assistant

SPEAKERS DURING PUBLIC COMMENT PERIOD:
Adam Johnston, Black Belt Citizens for Health and Justice
Michael William Mullen,
Choctawhatchee Riverkeepers
Chair will consider the -- the Commission will consider the position of the Chair and Vice Chair and will look for a motion on that.

MR. MILLER: Mr. Chairman, I move that we continue with you as the Chairman and Mr. Phillips as the Vice Chairman.

MR. MARTIN: Second.

CHAIRMAN BROWN: Any discussion?

(NO RESPONSE)

CHAIRMAN BROWN: For the question all in favor?

(Unanimous.)

CHAIRMAN BROWN: Motion carries.

Next on the agenda is the report from the Director.

Good morning.

MR. LEFLEUR: Good morning.

Congratulations on your election.

Chairman BROWN: Thank you, I think.

MR. LEFLEUR: And welcome to those others present. This is the first meeting of the Alabama Environmental Management Commission for the fiscal year 2017. Today's report will update you on the Department's funding for this fiscal year; address the high points of the Department's Operating Plans for FY 2016 and FY 2017; report on the Department's performance in the NPDES arena using EPA dashboards; notify you of EPA action on a recently filed petition to withdraw the Department's authority to issue landfill permits; and finally, to recognize several ADEM personnel for professional accomplishments. I'm pleased to report that the special session of the Legislature completed on September 7 did not result in any adverse impact to the Department's current meager General Fund budget.

On October 1, we began our fiscal year 2017. The efficiency and cost-shedding programs reviewed in the last two Commission meetings are now being implemented. We're continuing to work with Concentrated Animal Feeding Operations (CAFOs) and members of the Legislature to address the looming depletion of funds to operate that program. If the Legislature does not act, it's anticipated the collection of previously suspended CAFO fees will begin in the second quarter of calendar year 2017.

Later in this meeting you'll be considering a rulemaking petition to facilitate the collection of only the specific level of fees necessary to operate that program. Final resolution of the CAFO funding issue, along with the efficiency and cost-shedding programs, are expected to provide the funds necessary for the Department to meet all of its operating commitments.

Work continues on RESTORE Act funding to replace the two woefully substandard facilities in Mobile housing our field office and coastal programs with a single facility designed to allow the Department to accomplish its mission today and in the future. Despite ongoing and difficult budget challenges, the Department has not only met all federal and state statutory and regulatory obligations, but as the EPA dashboards and other impartial
metrics consistently demonstrate, has performed at a level among the highest in the nation. In 2014, the Department and the Commission updated the joint consolidated strategic plan, as it does every five years. Each fiscal year the Department updates its annual operating plan which addresses the same goals reflected in the strategic plan. The strategic plan and annual operating plan shared goals are:

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

With the next several slides, I'll recap some of the FY 2016 Departmental Operating Plan objectives that were accomplished during the past fiscal year and provide a general description of some of the new objectives in the FY 2017 Departmental Operating Plan. Again, the Departmental Operating Plan goals are the same as those in the Commission and Department's consolidated strategic plan. The first goal is to have an Effective and Responsive Commission. To achieve this goal, there must be effective communication between me, as Director, and each of the seven Commissioners. To this end, the Department provides a schedule of all anticipated rulemaking well before proposed rules are formally presented. I regularly brief you, both orally and in writing, on the latest issues confronting the

Department and affecting our environment. Prior to each Commission meeting, it has also been my practice to send you a memorandum titled "ADEM Update," which highlights significant new activities in each of the Department's five divisions, addresses progress on the objectives set out on the Department's Operating Plan, and shows standard performance metrics. The ongoing rulemaking and ADEM Update are found on the website in eFile under Director's Correspondence, shown circled in red in this website screenshot.

Goal 2, High-Performing Work Environment has several subgoals or objectives, which, among other things, focus on the resource management, including both financial and human resources.

On the financial side, in addition to the General Fund, fee, and RESTORE Act funding activities noted just a moment ago, managers at ADEM have been diligent in seeking new funding for their individual programs. During fiscal year 2016, the Department competed for and received more than $1.7 million in federal grants for environmental programs in Alabama. The state Clean Diesel, Clean Vessel, and local Brownfields grants provide added help in reducing pollution in Alabama's air, water, and land respectively. The Exchange Network and Multipurpose grants are dedicated to increasing Departmental efficiency through e-Enterprise, The Underground Storage Tank grant supplements the depleted Department.
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1 General Fund resources. This grant will allow the Department to meet its current year EPA work plan tank inspection obligations.
2 In the human resource management effort to promote high-performing work environment, one of the objectives is to increase the Department's use of interns and co-op students.
3 In this past year, we were able to attract 15 students from multiple disciplines: engineering, biology, meteorology, and information technology from a diverse group of schools including Tuskegee University, Alabama A&M University, Auburn University, the University of South Alabama, the University of Alabama, and the University of Alabama Huntsville.
4 Our strategy is to introduce the students to real environmental applications in their chosen disciplines while they are still in school. The objective is for them to be pleased with their experience and return upon graduation and become permanent employees of ADEM.
5 The Department is also focused on recruiting and advancing diversity within the Department at entry-level positions, as well as promotional positions. Our recruitment team continues to visit colleges and universities throughout Alabama each spring and fall in our ongoing effort to attract minority applicants.
6 Here you see Lynn Battle of our External Affairs Branch. She's talking with a prospect. Specific historically black colleges and universities visited on a continuous basis in Alabama include Alabama State University, Miles College, Oakwood University, and Tuskegee University. Other colleges and universities where we recruit minorities include Auburn University, Auburn University, Montgomery, Huntington College, Troy University, the University of Alabama, the University of Alabama in Birmingham, and the University of South Alabama.
7 As a direct result of these efforts, 40 new employees from the colleges and universities in Alabama, including nine minorities, were hired during the fiscal year 2016 to fill vacancies left by departing employees.
8 Nearly all the objectives in High-Performing Work Environment goal, including providing financial and human resources, using data-driven performance measures, and promoting innovation are ongoing endeavors that continue to advance but, by their nature, are never fully completed.
9 Objectives for FY 2017 within this broad goal remain the same as they were in FY 2016.
10 The third broad goal, Credible Relationships with External Stakeholders, has received a lot of attention in reports to the Commission this past year. Having credible relationships requires face-to-face time with stakeholders, which is done in numerous group meetings set out in the plan, as well as one-on-one meetings as opportunities arise. In the April Commission meeting, ADEM's Environmental Justice activities were reviewed and a detailed compilation of those activities entitled "Community Engagement" was presented.
For anyone who has not had the
topportunities to review the
numerous activities documented in
the report, it is available on the
Department's website.

Another recent addition to the
website is the eMaps Portal circled
in red on this web page screenshot,
which is designed to further
enhance involvement with external
stakeholders.

Selecting the eMaps Portal icon
displays a page with five major
headings that can be used to locate
on interactive maps Brownfields
sites, impaired water bodies, river
basins, determine where total
maximum daily loading
determinations have been made,
where underground storage tanks
exist, where UST spills have
occurred, and other information.
The user can view the entire
state or zoom in all the way down
to a specific street address or
stream segment. The eMaps Portal
is natural complement to the eFile,
eComplaint, and "What's Happening
in Your County" applications that
are available to help citizens
access information about their
specific geographic areas of
interest.

Making data readily available
to external stakeholders through
easily-accessible computer systems
promotes transparency and also
promotes efficiency of operation.

Other outreach initiatives
include the energy efficiency
efforts highlighted in the August
Commission meeting and a planned
drinking water quality assurance
outreach to all Alabama public
schools.

The goal of Credible

A major objective under this
goal is to meet or exceed all work
plan commitments with EPA. This
was accomplished in FY 2016 and is
an objective for FY 2017.

Another important objective
within the broad goal of Efficient
and Effective Departmental
Operations is to incorporate more
c-enterprise and e-business
applications. Many in this room
are familiar with EPA's eReporting
rule and its aggressive deadlines.
The eReporting rule, which goes
into effect in December of this
year, is EPA's recent effort to
promote electronic reporting of
Discharge Monitoring Reports known
as eDMRs. The Department
wholeheartedly supports this EPA
effort. Fortunately, the
Department began its eDMR system
and set specific penetration goals
several years ago, which put us far ahead of most other states in complying with the new eReporting rule deadlines. Today ADEM has 93 percent of the covered NPDES water permitted universe on the eDMR system. As shown on this slide, this includes 98 percent of the municipal and industrial facilities holding NPDES permits on the eDMR system. Though very few states will be able to meet EPA’s eReporting goal of 90 percent in 2017, the Department has already surpassed that goal. Another of the electronic application objectives within the broader goal of efficient and effective Departmental Operations is implementation of the nSPECT system discussed at the last Commission meeting. As of October 1, the field tablets allowing direct entry of inspection data into multiple databases, which improves both productivity and accuracy, are fully operational. Here are a few photos of Sarah Dominguez, one of our Field Operation Division inspectors, using a tablet to record data and document the inspection with photographs. Four additional objectives in the area of electronic applications which have been incorporated in the FY 2017 Operating Plan are also designed to improve efficiency. In addition to the new electronic applications for FY 2017, new objectives in the areas of enhanced procedures for fish kill events and the evaluation of drone technology, as well as cyber security monitoring, have been put in place. Many of these activities help regularly presented using EPA-generated metrics so ADEM can compare itself against all other states in standardized performance measurements. On a rotating basis, we look at Air, Hazardous Waste, NPDES Water, and recently the Drinking Water program. We are past due in reviewing the performance of the Air program. The reason for the delay is that EPA initiated changes to the reporting regimen for the Air programs which has resulted in the EPA reworking the graphs. It was anticipated the update to the dashboards would be ready by now. However, EPA has run into problems. The last Air update presented you used data in 2014. That continues to be the most current data available. It’s not known when more current graphs will be.
forthcoming. If the delay period becomes significantly extended, an alternative method of analysis will be developed to review performance of the Department’s Air Program. Earlier this calendar year, the performance analyses of the Hazardous Waste and Drinking Water programs were presented. Updated dashboards for the NPDES Water program are now available. Because Air program data is not available, the rotation order will be readjusted to present an analysis of performance of the NPDES Water program today. By way of reminder, the Interactive Visual Compliance and Enforcement Metrics, known as dashboards, are developed by EPA using standard data required to be submitted to EPA by all states. The dashboards show how each state performs, compared to all other states, over a period of five years. Current performance, as well as trends in performance, are displayed. The dashboards are readily available to any interested party on the EPA website. Dashboards are useful management tools because they can highlight the areas where performance can be improved. As has been the case with other media and previous reports on the NPDES Water program, the following slides will focus on the size of the universe of regulated facilities, the inspections performed, the violations found in those inspections, the most serious violations, and the enforcement actions taken as a result of the violations. As we go through these graphs, I'll highlight where EPA has encountered several glitches in both correctly displaying data and, in at least one case, how it defines one of the variables being displayed. This first slide is one typically presented in updates which shows the size of the universe of NPDES permitted water-discharging facilities. It shows that there are approximately 10,400 NPDES permits outstanding in Alabama, with a large majority being general permits shown in red. The graph clearly displays the Department’s strategy to increasingly use general permits because they both reduce the workload associated with permit issuance, which increases efficiency, and generally have tighter discharge limits.

There are numerous graphs related specifically to enforcement and compliance. The first of these is the INSPECTIONS group. The graphs in this INSPECTIONS group of dashboards analyze the rate of inspections. This next slide is one typically presented in our regular updates. It shows that the percentage of all major facilities inspected in Alabama, the purple columns, consistently exceeds both the national average shown by the dashed blue line, and the EPA target of 50 percent, shown by the solid black line. Please be aware that the data set for 2016 is not yet complete. In the inspection group of dashboards is also a graph showing the percentage of non-majors that have been inspected. You will note
that EPA has not set a target for
the rate of inspections for
non-majors as they did for majors.
However, ADEM's EPA work plan calls
for an inspection rate of 20
percent, which, as you can see, has
been met or exceeded every year.
Once again, please note the data
set for 2016 is not yet complete.
The next group of graphs is the
VIOLATIONS group of dashboards,
which analyze permit violations.
Once again, this slide is typically
included in regular updates. It
shows the percentage of majors in
non-compliance. As you see, the
percentage of majors in Alabama
with serious violations (shown in
orange) and non-serious violations
(shown in blue) is better, often by
a wide margin, than the respective
national averages shown as the red
and blue dashed lines.

The SERIOUS VIOLATIONS
dashboard group focuses
specifically on serious violations.
This slide, showing serious
violations, is a subset of the
previous slide. As you can see,
the national average represented by
the dashed red line, has been
hovering around 20 percent, while
the Department's level of serious
violations has been steadily
declining and is now less than
one-third of the national average.
This is the trend we're looking
for.

In the ENFORCEMENT ACTIONS
dashboard group, I typically review
with you the graph showing a trend
in the rate of formal and informal
enforcement actions, since that is
reflective of a key strategy to
advance our main goal of increasing
overall compliance. Due to recent
data capture errors at EPA, that
graph is now currently available.
However, the next two graphs, the
one on the screen now and the next
one, from the same endorsement
group, illustrate the trend in
non-compliance and the timeliness
of enforcement actions.

In this graph, unlike others,
the dashed red line represents the
percentage of major facilities in
Alabama that are classified as, in
significant non-compliance, rather
than a national average. The trend
is clearly going down, which means
compliance is going up. As is
often stated, one of our primary
objectives is to increase
compliance, and this line
demonstrates that objective is
being met.
The blue columns represent the
percentage of major facilities that
are in non-compliance and also have
a formal enforcement action against
them. Since the red line shows
fewer facilities in significant
non-compliance, there are fewer
facilities against which to take
enforcement action; and thus the
blue columns are getting smaller.
The reason why the red line and
the blue columns don't overlap,
which would mean every instance of
significant non-compliance has a
formal enforcement action, is that
some non-compliance, such as not
filing a timely report, requires
the next reporting period to occur
before the facility can be
classified as in-violation once
again and a formal enforcement
action is not warranted.
The second enforcement graph --
this will be our last graph. The
second enforcement graph shows the
1 percentage of facilities in non-compliance that have timely enforcement action, using EPA's definition of timely enforcement. In this graph the dashed red line shows the national average, which is pretty low. The yellow columns show the Department's performance, which although higher than the national average, is still somewhat low and well below EPA's stated goal of 98 percent, shown as the heavy black line at the top of the graph. EPA's definition of timely enforcement action does not properly take into account the type of violation, the type of facility, whether enforcement is warranted, and other relevant factors. For example, as mentioned a moment ago, a failure to file a report is a violation but may be corrected with no enforcement action being taken. On the other hand, at the other end of the scale, an enforcement action against a sister state agency, such as the Alabama Department of Youth Services, may require a lengthy intra-governmental process. In both instances, the EPA metric would not reflect timely enforcement. Quite simply, sometimes enforcement action is not required and some enforcement actions take more time than others. EPA has recognized the problems with this graph and is in the process of reworking it. Notwithstanding the unquestionably-defined metric and the resulting unrealistic EPA target, the Department's performance is significantly better than the national average and is improving. The metrics displayed in these

1 dashboard groups continue to be the only comprehensive, verifiable, objective measures of performance available. As you've seen, every group of measures demonstrates the Department is consistently beating national averages and that performance is trending toward continued improvement. I would now like to notify you of a recent EPA action involving the Department. On August 18, 2016, a petition was filed with EPA by the Environmental Defense Alliance, a group made up of three Alabama environmental organizations, to have EPA withdraw its 1994 Determination of Adequacy of Alabama's Municipal Solid Waste Landfill Permit Program. On September 26, 2016, EPA issued a rejection of the petition. In this case EPA acted expeditiously and decisively.

Finally, from time to time, it's my pleasure to report on significant accomplishments of our employees. Today I am pleased to recognize four employees who have completed the work necessary to earn the respected designation of Certified Public Manager I and three employees who have earned the advanced designation of Certified Public Manager II. The CPM program prepares our engineers, scientists, and other employees to assume the managerial duties critical to the success of the Department. The professional development of our employees is an important goal in our strategic and annual operating plans. Please stand and remain standing as I call your name. Earning the designation CPM I am

Mark Davidson in our Air Division.
Mark, are you here? I saw you
earlier. Ashley Mastin in the Land
Division. That's Ashley. Dan
Nobles in the Permits and Services
Division. I thought Dan was here
too. They must be back working.
Spring Tate, also in the Permits
and Services Division.
Evidently I didn't get the word
out well.
Those earning the CPM 2
designation are Don Barron in the
Air Division, Susan Dingman -- and
I know she's not here -- in our
Permits and Services Division.
Jerome Hand in the back corner in
the Permits and Services Division
also.
Would you please join me in
congratulating them? Good work for
all of y'all.
That concludes today's report.

I'll be pleased to answer any
questions you may have.
MR. RICHARDSON: Director, I
have a couple of questions about
your presentation on the
dashboards.
I was particularly concerned in
the lack of dashboard information
presented on the non-majors
general, which is over 80 percent
of our NPDES program. Is that
there and available?
MR. LEFLEUR: There is
information on the non-majors. The
EPA is currently working on getting
timely information on that.
Information on non-majors, we
submit it the same time we submit
our data on majors. Other states,
however, submit a different report.
It's called an ANCPR report. And
that usually has a -- slightly over
a one-year lag so that it will
appear as two years of zero data in
the last five-year comparisons.
We're working with EPA to get that
data to be presented as currently
as the majors are. But it is a
shortcoming of the EPA dashboard
program right now.
MR. RICHARDSON: So it's really
on their part, not any oversight or
omission on our part?
MR. LEFLEUR: Correct. We're
once again, ahead of the game as
far as EPA reporting. They'll be
catching up.
And, once again, people can go
onto the EPA website and get --
there are about 150 different
graphs of performance and activity.
And people can go on and look at
those and move around in them.
There's a lot of good information
in there, even though there are
some problems with some of it.

MR. RICHARDSON: Thank you.
CHAIRMAN BROWN: Any other
questions or comments from the
Commission?
(No response.)
CHAIRMAN BROWN: Thank you.
Next on the agenda is the report
from the Commission Chair.
I would just like to note that
this is the first of our new public
comment period. We've got some
registrants to speak after the
Commission concludes its business
portion of the meeting.
I just want to welcome everyone
that signed up to speak. We do
appreciate your comments. I do
want to emphasize the guidelines
that have been published to you.
And please refrain from anything
that is ongoing that the Commission
might have to rule on or litigated
issues.
While the Department is not required to speak, if you do want to speak -- and Mr. Director -- in response to any comments, we'll give you that opportunity. And if any of the Commissioners want to ask questions of the speakers, I'll give y'all that opportunity as well.

Next on the agenda is, the Chair will call on Personnel Committee Chair Laier for a report and recommendations from the Personnel Committee on the ADEM Director job performance evaluation, including potential salary advances and meeting with the Chair -- excuse me -- with the Director regarding the summary of written comments.

MR. LAIER: Ready?

CHAIRMAN BROWN: Ready.

MR. LAIER: The Personnel Committee and Chair met this morning at 10 a.m. We had a quorum. Our three committee members were together. The first order of business was to adopt the draft summary of written comments on ADEM Director's job performance evaluation. That was done successfully. We had two other items to discuss. One was a recommendation that the Commission adopt a salary advance to Director LeFleur of two steps to step 17 in pay grade 90 in the amount of $160,440. Recommendation number two was that the Commission authorize the Personnel Committee Chair to meet with Director LeFleur regarding the summary of written comments on the ADEM Director's job performance evaluation and actions taken by the Commission regarding the evaluation and to execute the Verification of Understanding between the Commission and the Director regarding the evaluation. The Committee -- in conclusion -- the Committee recommends that the results and the recommendations be submitted to the Commission for adoption. That's the end of my statement.

CHAIRMAN BROWN: Does anybody on the Commission have any questions or comments regarding the report?

(No response.)

CHAIRMAN BROWN: Then we will entertain a motion, if there is one.

MR. MILLER: I move we accept the Committee's recommendation.

MS. MERRITT: And I second it.

CHAIRMAN BROWN: Any discussion regarding the motion?

(No response.)

CHAIRMAN BROWN: I have a question. Every year we've been dealing with a budget crunch for the last four or five years. What have we as a Department been able to do, with regard to the salaries of our employees, over that time?

MR. LEFLEUR: Mr. Chairman, the State had a freeze on all the merit raises that was lifted approximately two years ago. Since that time, we maintained a head count that is below our authorized head count, and because of that -- we do that intentionally. We would prefer to have fewer high performing employees than a large number of lower performing employees. As far as salaries go, every employee that has been eligible for a raise since the salary freeze was lifted has
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. LEFLER: 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
24 of funding needed to administer
25 the AFO/CAFO program not allocated
26 by the state legislature. The
27 proposed amendment is to add the
28 wording "in whole or in part" to
29 Rule 335-1-6-.04(3) as follows:
30 Fees required by AFO/CAFO
31 registration maybe suspended in
32 part or whole by the Director to
33 reflect budgetary circumstances of
34 the program.
35 A petition was made by Alabama
36 Farmers Federation. We have
37 asked -- or the Commission asked
38 that Director LeFleur assist the
39 Commission by providing the
40 Department's response to the
41 petition and any relevant
42 information. That response was
43 submitted and has been circulated
44 amongst the Commissioners in
45 advance of the meeting.
46 The Chair also requested the
47 Petitioner and the Department have
48 representatives here today to
49 discuss the matter. So at this
50 time, we will call on the
51 Petitioner, a representative on
52 behalf of the Alabama Farmers
53 Federation -- I don't know who it
54 is -- to speak.
55 So the first thing you need to
56 give us is your name, sir.
57 MR. HALL: Good morning. I am
58 Guy Hall. I am the director of
59 Pork, Poultry, and Dairy for the
60 Alabama Farmers Federation.
61 CHAIRMAN BROWN: Thank you.
62 MR. HALL: You're welcome.
63 We want to thank the ADEM
64 Environmental Management Commission
65 for considering our Petition for
66 Amendment of 335-1-6-.04 Permit
67 Application Fees.
68 With that, we believe that this
69 change in wording will allow the
70 Director of ADEM to collect part or
71 all of the fees and fundings needed
72 to administer the AFO/CAFO program
73 not allocated by the state
74 legislature.
75 With that, I'll open it up to
76 any questions you may have.
77 CHAIRMAN BROWN: Anybody have
78 any questions, comments?
79 (No response.)
80 CHAIRMAN BROWN: Thank you,
81 MR. HALL: Yes, sir. Thank
82 you.
83 CHAIRMAN BROWN: Director
84 LeFleur, are you or someone else
85 from the Department going to
86 address this?
87 MR. LEFLER: We have made
88 available to the Commission the
89 views of the Director regarding
90 this matter.
91 In summary, I would say that in
92 the entire life of the CAFO
program, which began in 1999, the
Legislature has provided 100 percent of the funding necessary to operate the program. In the recent FY 2016, they did not provide enough to fund the program. And for FY 2017, it does not look like they will be providing enough or potentially could be providing less than the amount necessary to operate the program.

The way that the current rule reads, the Director -- and this is related only to the CAFO program. This particular rule is based only for the CAFO program. The rule says that the Director may suspend payment of that fee or collection of that fee. That has been done since 1999. The universe of CAFOs has increased dramatically since 1999. And by virtue of that larger number of facilities, the standard fee structure would result in collecting more than the amount necessary to operate the program.

The proposed changes allow the Director to collect a portion of the fees that will supplement what the Legislature might provide, either now or in the future, and collect an amount equal to the cost of the program. Unlike other programs, the CAFO program is not supplemented by federal grants.

CHAIRMAN BROWN: So what you're telling me is, we have an interest group that has petitioned for its constituents to pay some money and a government agency that doesn't want to collect all that it could?

MR. LEFLEUR: As strange as that sounds.

CHAIRMAN BROWN: These are historic times. Does anybody else have questions or comments?

I see you want to say something.

MR. LEFLEUR: I would point out that Commissioner Richardson has been very active and very important in trying to convince the Legislature of the need to fund this program from the State's General Fund budget. I have high hopes that his efforts will be met with success.

CHAIRMAN BROWN: I think everybody hopes that. If there's no further discussion, I'll entertain a motion.

MR. RICHARDSON: So moved.

MR. LAIER: Second.

CHAIRMAN BROWN: All in favor?

(Unanimous.)

CHAIRMAN BROWN: Is there any other business any Commissioner wishes to address?

(No response.)

CHAIRMAN BROWN: With there being none, I'll note the next Commission meeting of December 16, 2016, same time, same place.

And we will move to the public comment period. I think I outlined the ground rules, and we've got four people to speak.

And we will call first Adam Johnston.

MR. MILLER: Excuse me just a minute.

(Commissioner Miller left the meeting for a brief period.)

CHAIRMAN BROWN: For the record, will you state your name and who you're here speaking on behalf of?

Fighting for Health and Justice and also stand in between lunch and a state agency staff, so I'll stay within the three minutes.

CHAIRMAN BROWN: Thank you.

MR. JOHNSTON: Once again, thank y'all for this opportunity to have public comment. I think it's important that we have this opportunity. I do want to say that -- before we start that we feel like we have pursued all reasonable opportunities made available to the Department and its Director for addressing these concerns. And our concerns today are completely directed to the Director, as the ultimate responsibility of the Agency. And we feel like all the actions therefore underneath the Agency reflect the Director's ability to manage and lead his Agency.

My comments today are particularly about the community engagement document. The comments today have everything to do with the recent job evaluation and statement that was given. It has everything do with some of the ongoing issues around the state, and in particular Uniontown. And I'd be more than happy to provide any type of relevant information and data that y'all have and would like to request and be more than happy to get that to y'all after today. I apologize if I don't have any of it.

The comments I'd like to make today, and specifically about the community engagement document, is that members of Uniontown and other members around the state felt like the community engagement document has deceptively used language improper to the community's concerns. They have improperly put photographs on there without communicating with community members or asked for permission to put their photos on there. We have written specific letters to the state agency, including EPA's Office of Civil Rights and to the Department of Justice asking that this deception of language be addressed.

The Director wrote back, and we have copies of this information that we could provide at a different time. The Director wrote back that he felt like the language was sufficient and removed one of the photographs that we asked to be removed. And there are still other photographs in this document, of which citizens do not feel like they have been properly asked for that permission.

We also do not feel that the agency is, quote, unquote, going above and beyond for the community of Uniontown. And we would like to address that through these comments as well.

So we're going to continue to ask the ADEM agency to remove any pictures or language that's in the community engagement documents to be reflective of the community's concerns and to actually speak with the community and actually ask them how they feel about the language in that. So we have great concern about the community engagement document, and we feel like it's a deceptive use of taxpayer money.

Also with the job evaluation -- and we submitted formal comments to the job evaluation back earlier this year. And we feel like the
job evaluation for Director LeFleur
paints a pretty good picture of
what's going on around the state
and that there is incredible
disproportionate impact happening
as a result of the Director's
management of the staff. It has no
reflection whatsoever of the state
agency staff, other than the
leadership of the Director.
And we feel that under the
leadership of the Director that
many past permits have been
granted, that have which caused
severe, severe, severe
disproportionate impact in
communities and continued to
pollute the environment and impact
public health in these communities.
And with our comments
submitted, we'd be more than happy
to give any updates to the ADEM's
Director's job evaluation that I

believe ended in July or sometime
around that point. We have a lot
more information that we'd like to
share that we feel like the job
evaluation is unsatisfactory to the
concerns of the community. And we
call for the complete resignation
and firing of the Director at this
immediate moment, and for many
reasons that we will state
hereafter.
We feel like the Director has
been unresponsive to the concerns
of the Unitiontown citizens, in
particular, asking to have proper
review of permits, in which these
permits have gone forth to continue
to produce pollution. We feel that
under the leadership of the
Director that the permitting of the
Arrowhead landfill, the Title VI
Civil Rights investigations, that
the Director and the Agency, if
they would have never permitted
that landfill, we wouldn't be
dealing with these Civil Rights
investigations.
We also feel that the direct
permitting of the Stones Throw
Landfill in Tallasse has also
violated rights of individuals'
concerns and that if the Director
would've never permitted that
entity, then we wouldn't have these
civil rights concerns.
And so under the leadership of
the Director, you've seen continued
civil rights violations; you've
seen continued also just great,
great, great disproportionate
impact.
And, unfortunately, Director,
through your greatest efforts of
going above and beyond, you're
still failing the communities.
So we ask for his complete

firing right now under his job
record.
Five minutes left?
CHAIRMAN BROWN: No. That's
five minutes. You only had three.
MR. RICHARDSON: What he's
saying is, you can have a seat.
MR. JOHNSTON: What I'm saying
is --
MR. RICHARDSON: What he's
saying is, you can have a seat.
MR. JOHNSTON: What I'm saying
is revoke this permit 5303, fill
the treatment plant in Unitiontown --
MR. RICHARDSON:
Mr. Chairman --
CHAIRMAN BROWN: Wrap it up.
MR. JOHNSTON: And those are my
final comments. I'll be more than
happy to get those -- any type of
information that you would like to
have requested -- be more than
happy to get that to you.
CHAIRMAN BROWN: Thank you.
Questions or comments for Mr. Johnston?
(No response.)
CHAIRMAN BROWN: Mr. Director, any comments? You don't have to.
MR. LEFLEUR: Very briefly.
I'm sorry.
We will remove all photographs that -- people who are in them that they don't want to have in the book. And there was one request that was removed.
And the matters regarding Title VI, those are under litigation, so we are not discussing those.
CHAIRMAN BROWN: Thank you.
Next will be Mr. Michael William Mullen.
MR. MULLEN: Based on conversations I've had with the Field Operations Director Chief this morning, I withdraw my comments because they were about a specific example of failure to meet the things that you all put forward in the 2014 strategic plan about enforcement. I will probably send you something in writing because it's still an issue. But the specific thing I was going to comment on this morning is -- hopefully no longer remains, so I appreciate it.
CHAIRMAN BROWN: Thank you.
I'm going to butcher the pronunciation, I'm sure, but Jim Ilachild.
MR. ILACHILD: Good morning.
CHAIRMAN BROWN: Good morning and welcome.
MR. ILACHILD: My name is Jimmy Ilachild, and I am from the Unitarian Universalist Fellowship of Montgomery, the social action committee of that group.
We are -- well, the social action committee and the fellowship generally has about a dozen concerns of social issues. One of -- strongly so is the impact of racism in our society. Another is the environment. And also as these two issues interact; the issue of environmental racism and the proclivity to locate environmental hazards in areas that are impacted of people of ethnic minorities and people of poverty.
We specifically are concerned about the Commission's -- or the Department's consideration of renewing the permit of the Arrowhead Landfill in Uniontown, Perry County, Alabama. The EPA has cited that situation as being in violation of civil rights. It also obviously has many health concerns and environmental concerns of the water quality. The water obviously doesn't just stay in Uniontown. It goes into creeks and rivers and affects people all over the state of Alabama.
We wonder how the Department can even consider renewing the permit of Arrowhead Landfill, which exists basically to dump coal ash into the landfill there and -- which is a very toxic and environmentally hazardous and health hazardous situation.
Thank you.
CHAIRMAN BROWN: Thank you.
And thank you for staying within the time limit. Anybody have any questions or comments?
Mr. Director?
(No response.)
CHAIRMAN BROWN: Finally, we have Ron Smith. Welcome.
MR. SMITH: Good morning, I
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 Tallahassee 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.

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

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

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
sitting was done, we wouldn't have these problems.
The Commission meetings are fine. I've had a whole lot of public involvement where I've had to make decisions like you do.
When I want public input, I put the meetings at a time when the public can show up. There would be a whole lot more people here if they didn't have to go to work. And remember Title VI is about protecting people who can't defend themselves. What we are seeing is, y'all are taking the path of least resistance. We hadn't paid us no lawyers. We can't take off our jobs and come to these meetings and tell you what's happening with us.
The church that we meet in had to tear the floors out of the church and put plastic over the soil because the odor was coming through the floor and the people couldn't have service. We met there Sunday evening, along with a whole lot of TV cameras. And in that process there, the people in the room started coughing. They've had to buy filtration systems just to hold services in that church.
So all this sounds good and looks good on Powerpoint. But if this is the best the nation can do, we're in trouble.
Thank you.
CHAIRMAN BROWN: Thank you.
Any questions or comments?
Mr. Director?
(No response.)
CHAIRMAN BROWN: With that, the Chair will entertain a motion to adjourn.
MR. MILLER: So move.
MR. LAIER: Second.
CHAIRMAN BROWN: We're adjourned. Well, all in favor?
I'm sorry.
(Unanimous.)
The proceeding ended at 12:00 p.m.)
REPORTER'S CERTIFICATE

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

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

This 3rd day of October, 2016.

/s/ APRIL SARGENT, ACCR-579,
Certified Court Reporter
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<p>| ultimate (1)    | 53:18      | wake (1)          | 68:9       |
|                 |            | walked (1)        | 66:7       |
|                 |            | warranted (2)     | 32:20,33:19|
|                 |            | Waste (4)         | 24:6,25:8,35:19; 65:11 |
|                 |            | water (12)        | 12:17,17:16,18:20; 21:6,24:7,8,25:8,10, 15:26,14:64:1,1 |
|                 |            | water-discharging (1) | 27:11 |
|                 |            | way (4)           | 18:1,25:17,49:12; 65:22 |
|                 |            | web (1)           | 17:8       |
|                 |            | website (7)       | 11:14,17,17:5,7; 23:1,26,7,39:16 |
|                 |            | welcome (5)       | 6:3,40:15,47:16; 62:18,64:22 |
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|                 |            | whole (5)         | 46:5,9,69:4,10,70:4 |
|                 |            | wholeheartedly (1) | 20:20 |
|                 |            | wide (1)          | 29:21      |
|                 |            | Wildlife (1)      | 10: subset - Wildlife |</p>
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Part B
Attachment Index

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
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

<table>
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<td>1. Consideration of minutes of meeting held on August 19, 2016**</td>
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<tr>
<td>2. Elections</td>
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<td>3. Report from the ADEM Director</td>
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<td>4. Report from the Commission Chair</td>
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<td>5. Report and recommendations from the Personnel Committee on the ADEM Director Job Performance Evaluation for Commission consideration</td>
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<td>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)</td>
<td>2</td>
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<td>7. Other business</td>
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<td>8. Future business session</td>
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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.
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:

[Signatures of Commissioners]

DISAPPROVED:

[Signatures of Commissioners]

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
Shared AEMC / ADEM Plan Goals

- Effective and Responsive Commission
- High Performing Work Environment
- Credible Relationships with External Stakeholders
- Efficient and Effective Departmental Operations
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
## Director's Correspondence

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<td>Director's Report to AEMC.pdf</td>
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<td>Download</td>
<td>2016 08 12</td>
<td>LeFleur to EMC - ADEM Update.pdf</td>
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<td>LeFleur to EMC - ADEM Ongoing Rulemaking.pdf</td>
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<td>Director's Report to AEMC.pdf</td>
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adem operating plan goals

- high performing work environment
  - financial resources
  - human resources
  - data driven performance measurement
  - promote innovation
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<td>Exchange Network</td>
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<td>380,000</td>
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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
ADEM is committed to keeping all residents of Alabama informed and involved regarding the environmental activities in their local communities.
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
Alabama Department of Environmental Management

Percent in eDMR

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NPDES Permits by Type - FY15 (All)

- Non-Major (General Permit)
- Non-Major (Ind.)
- Major

8,957
1,260
187
Facilities Inspected by State or EPA (Majors, %)

Fiscal Year

- State, Majors
- Goal (Majors Only)
- State, Nat. Avg
- EPA, Majors
- EPA, Nat. Avg

States are provided flexibility in meeting EPA's goal of 50% inspection coverage.
Facilities Inspected by State or EPA (Non-Majors Ind., %)

Fiscal Year

- State, Non-Majors, Ind.
- State, National Average (Non-Major Ind.)
- EPA, Non-Majors, Ind.
- EPA, National Average (Non-Major Ind.)

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

Facilities in Non-Compliance (Majors, %)

Fiscal Year

- NonComp (SNC)
- NonComp (Not SNC)
- National Average (SNC)
- National Average (NC not SNC)
Facilities with Timely Enforcement Action as Appropriate (Majors, Individual, %)

- Major Facilities (Individual)
- National Average (Majors Only)
- National Goal - 98% (Majors Only)
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:

Mary J. Memme
Commissioner

Greg E. Brown
Commissioner

Harriet Brown
Commissioner

Commissioner

DISAPPROVED:

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

[Signature]
Commissioner

[Signature]
Commissioner

[Signature]
Commissioner

DISAPPROVED:

[Signature]
Commissioner

[Signature]
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. Laniel 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, Director, Dairy, Pork & Poultry Divisions