

9/30/26

DRAFT

Minutes

**Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
August 14, 2026**

DRAFT
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
August 14, 2026

Convened: 11:00 a.m.
Adjourned: 11:48 a.m.

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Part A

MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

LOCATION: ALABAMA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT (ADEM) BUILDING

ALABAMA ROOM

1400 COLISEUM BOULEVARD

MONTGOMERY, ALABAMA 36110-2400

DATE: FRIDAY, AUGUST 14, 2026

TIME: 11:00 A.M.

REPORTED BY: JEANA S. BOGGS, CCR

ABCR #7

Commissioner for the
State of Alabama at Large

APPEARANCES

COMMISSION MEMBERS PRESENT:

A. FRANK MCFADDEN, P.E., CHAIR

RUBY L. PERRY, DVM, MS, PhD, VICE CHAIR

JOHN (JAY) H. MASINGILL, III

J. PATRICK TUCKER, M.D.

MARY J. MERRITT

H. LANIER BROWN, II, ESQ.

KEVIN MCKINSTRY

ALSO PRESENT:

EDWARD POOLOS, DIRECTOR

ROBERT D. TAMBLING, ESQ., EMC LEGAL COUNSEL

SHAWN SIBLEY, ESQ., EMC LEGAL COUNSEL

DEBI THOMAS, EMC EXECUTIVE ASSISTANT

SPEAKERS:

AUBREY WHITE, AIR DIVISION

RUSSELL KELLY, CHIEF, PERMITS & SERVICES DIV

STEPHEN COBB, CHIEF, LAND DIVISION

CHAIRMAN MCFADDEN: Okay. I
think it's about 11 o'clock, so we'll
get started. Thank you all for
coming, and we'll call the meeting to
order.

And we do have a quorum, so
we'll consider the minutes from the
June 12th, 2026, meeting. And I'll
entertain a motion for that.

MR. BROWN: I move to approve
the minutes from the last meeting.

DR. TUCKER: Second.

CHAIRMAN MCFADDEN: I have a
second. All in favor -- Any
discussion about the minutes?

(No response).

CHAIRMAN MCFADDEN: All in
favor, raise your right hand.

(Commission members raising
hands).

CHAIRMAN MCFADDEN: All right.
Motion carries.

Agenda Item Number 2 is the

report from Director Poolos.

MR. POOLOS: Good morning. It's
great to see each of you here today,
and welcome to the sixth and final
meeting of the Alabama Environmental
Management Commission for FY-2026.

Before I get to my Director's
report, I do want to take a kind of a
second of personal privilege to
congratulate one of our -- one of
your commissioners, one of the
commissioners here on a wonderful
honor.

Commissioner Kevin McKinstry was
named this past Friday evening as the
new president of the Alabama Wildlife
Federation. With me coming from the
Department of Conservation and
Natural Resources, I understand what
a truly honor that is.

And, Kevin, you're going to do a
wonderful job.

MR. MCKINSTRY: Thank you.

Page 5 1 MR. POOLOS: And that is a big 2 honor, and I am so proud for you and 3 congratulations on that. 4 MR. MCKINSTRY: Thank you. 5 DR. PERRY: Congratulations. 6 CHAIRMAN MCFADDEN: Congratula- 7 tions. 8 (Applause). 9 MR. POOLOS: Also, I want to 10 take a second to introduce Jimbo 11 Carlson. Is Jimbo here? 12 Jimbo was named the Chief of 13 Water Division on April the 22nd but 14 was out of town during our last 15 meeting, so I didn't get the 16 opportunity to introduce him to you. 17 I have known Jimbo for many, many 18 years, and I am extremely confident 19 that Jimbo will do a tremendous job 20 in this new role. 21 If you haven't met Jimbo, after 22 the meeting, take a second and let 23 Jimbo introduce himself to you.	Page 6 1 Thank you, Jimbo. 2 (Applause). 3 MR. POOLOS: With this being the 4 last meeting of the fiscal year, I 5 wanted to update you on the 6 Department's progress regarding our 7 annual commitments. With just over 8 six weeks remaining in the fiscal 9 year, as usual, we are on pace to 10 meet all grant commitments. This is 11 accomplished through much hard work 12 and dedication by our employees. 13 One of the many ongoing efforts 14 of ADEM is community outreach and 15 involvement and to inform the public, 16 including our youth, about 17 environmental matters. To that end, 18 ADEM engages the community in 19 environmental activities and issues. 20 I am proud to announce that the 21 Community Engagement Guide, which 22 highlights our historic and ongoing 23 community outreach efforts, was
Page 7 1 recently updated. If you see in 2 front of you, you will have a flyer 3 that has a QR code. I actually have 4 a copy of the Community Engagement 5 book, but if you have a copy, it has 6 a QR code. You can scan it to your 7 phone and get a copy of our Community 8 Engagement report. I invite everyone 9 in attendance or following the 10 meeting virtually to review the 11 document by searching Community 12 Engagement on the ADEM website. 13 It goes without saying that 14 science-based information readily 15 available to the public is very 16 important. One of the keys to 17 ensuring the sustainability of 18 Alabama's air, land and water 19 resources is getting individuals and 20 communities to recognize their vested 21 interest in protecting those 22 resources at a local level. This 23 document identifies the many	Page 8 1 opportunities that the public engaged 2 with or received information from 3 ADEM. 4 Next, we have some recent legal 5 developments on the 2024 PM2.5 air 6 quality standard which could 7 potentially put many areas across the 8 country in non-attainment. In June, 9 the D.C. Circuit Court denied EPA's 10 motion to vacate the standard, which 11 will now remain at 9 micrograms per 12 cubic meter. Last month, in a 13 separate case, the Northern District 14 of California ruled that EPA must 15 issue attainment designations by 16 February of next year. 17 We remain confident that we will 18 have no non-attainment areas in the 19 state. However, with limited 20 headroom under the standard, 21 permitting will be much more 22 complicated in some of our areas in 23 the state.

Page 9 1 The next item I wish to mention 2 is a project that ends at the end of 3 this calendar year. It is the grant 4 funding through ARPA for drinking 5 water and wastewater improvements. 6 We have currently distributed \$476 7 million out of the \$615 million that 8 was appropriated by the Legislature. 9 As you can see, our staff is working 10 hard to ensure these dollars are 11 expended by the end of the year. We 12 still have around \$139 million 13 remaining of these funds to be paid 14 to systems. 15 October 1st is the date when we 16 are pushing to have these projects 17 completed for us to have time to get 18 these projects paid by the December 19 31st deadline. The deadline is 20 unlike normal grant deadlines where 21 we have time to pay after the end of 22 the cycle. These funds must be 23 completely out of the State treasury	Page 10 1 by December 31st. 2 The last item I have is one that 3 I wish I didn't have to do. Today 4 marks the last Commission meeting for 5 two of our Commissioners: 6 Commissioner Lanier Brown and 7 Commissioner Jay Masingill. Lanier 8 has looked way too happy walking in 9 here. 10 These two gentlemen have served 11 with dedication, grace and dignity 12 and their presence on the Commission 13 will be missed. I am pleased that 14 Governor Ivey has issued a 15 commendation for each of these 16 commissioners. And if you'll allow 17 me, I will read these commendations 18 from the Governor. 19 Commendation by the Governor of 20 Alabama. Whereas, H. Lanier Brown, 21 the II, Esquire, began his service in 22 the attorney position on the Alabama 23 Department of Environmental
Page 11 1 Management Commission with his 2 appointment by Governor Bob Riley in 3 2009, followed by his reappointment 4 by Governor Robert Bentley in 2014 5 and by my reappointment in 2020. 6 And, whereas, throughout his 7 tenure on the Commission, Mr. Brown 8 has played an integral role in 9 carrying out the Commission's 10 responsibilities by advising the 11 Director of ADEM, promulgating rules, 12 developing environmental policy for 13 the State of Alabama, and hearing 14 appeals of administrative actions. 15 Whereas, Mr. Brown participated 16 in the adoption of numerous rules, 17 regulations that protect the health 18 and life of Alabama citizens and 19 preserve Alabama's natural 20 environment, including revisions to 21 the water quality and drinking water 22 standards, water body use 23 classifications, water quality	Page 12 1 discharge permits, underground 2 storage tank regulations, permitting 3 fees for the administration of ADEM 4 programs, air pollution prevention, 5 and rules governing the management of 6 solid, hazardous and medical waste. 7 Whereas, Mr. Brown has 8 participated in the Commission's 9 consideration of appeals involving 10 ADEM's administrative actions, 11 including permit issuances, 12 administrative orders and 13 regulations. 14 Whereas, during his 15 distinguished tenure, Mr. Brown 16 played an important role in the 17 selection and oversight of four ADEM 18 directors. 19 Whereas, Mr. Brown provided 20 exceptional leadership to the 21 Commission, serving six terms as 22 Chair and five terms as Vice-Chair. 23 Whereas, throughout the more

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1 than 17 years of dedicated service,
 2 Mr. Brown demonstrated an unwavering
 3 commitment to the Commission, to
 4 ADEM, to protect Alabama's
 5 environment and well-being of the
 6 people of this great state.
 7 Now, therefore, I, Kay Ivey,
 8 Governor of Alabama, do hereby
 9 commend H. Lanier Brown, the II.
 10 (Applause).
 11 MR. BROWN: Thank y'all.
 12 MR. POOLOS: And, Chairman, I
 13 believe you have one from the
 14 Commission.
 15 CHAIRMAN MCFADDEN: We have one
 16 from the Commission. And did you
 17 really have hair back then?
 18 MR. BROWN: I did.
 19 CHAIRMAN MCFADDEN: He reminded
 20 us of that.
 21 Anyway, yes, the Commission has
 22 a Resolution regarding this and Jay
 23 Masingill also. So, I'll read this

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1 on the Commission will be greatly
 2 missed by his fellow commissioners,
 3 the Commission's executive assistant,
 4 the Commission's legal counsel,
 5 leadership and staff of ADEM and many
 6 within the governmental, regulated
 7 and environmental communities.
 8 Now, therefore, be it resolved
 9 that the Commission expresses
 10 gratitude to H. Lanier Brown, the II,
 11 and for his contribution to a better
 12 environment and an improved quality
 13 of life for the citizens of Alabama.
 14 Done this 14th day of August,
 15 2026.
 16 (Applause).
 17 MR. BROWN: You've got to vote
 18 for it.
 19 CHAIRMAN MCFADDEN: Well, if
 20 they don't vote it, I'll tell them to
 21 ignore this.
 22 MR. BROWN: You've got to vote
 23 for it.

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1 one for Lanier.
 2 Whereas, H. Lanier Brown, the
 3 II, Esquire, has served for over 17
 4 years as a member of the Alabama
 5 Environmental Management Commission,
 6 the Commission, in the attorney
 7 position from April 24, 2009, until
 8 August 14, 2026, and will continue to
 9 serve until September 30th, 2026, the
 10 end of the term of his position.
 11 And, whereas, his legal
 12 expertise has contributed
 13 significantly to the impartial and
 14 orderly conduct of the Commission's
 15 deliberations on a variety of issues.
 16 And, whereas, his leadership
 17 abilities were recognized by his
 18 election as Vice Chair of the
 19 Commission for five terms and as
 20 Chair for six terms during his tenure
 21 on the Commission.
 22 And, whereas, his knowledge and
 23 experience gained from his many years

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1 MR. POOLOS: That's what I was
 2 going to say, do you --
 3 CHAIRMAN MCFADDEN: No. We're
 4 going to do that. Let's go,
 5 continue.
 6 MR. POOLOS: Okay.
 7 CHAIRMAN MCFADDEN: We're going
 8 to -- on advice of counsel, we can do
 9 the voting when it gets to my turn.
 10 MR. POOLOS: I understand.
 11 CHAIRMAN MCFADDEN: Okay.
 12 MR. POOLOS: For commendation by
 13 the Governor of Alabama: Whereas, in
 14 2018, I appointed J. Masingill, the
 15 III, to serve in the Certified by the
 16 National Groundwater Certification
 17 Program or Professional Geologist
 18 position on the Alabama Environmental
 19 Management Commission, and I
 20 reappointed him in 2020.
 21 And, whereas, throughout his
 22 tenure on the Commission, Mr.
 23 Masingill played an integral role in

Page 17 1 carrying out the Commission's 2 responsibilities by advising the 3 Director of ADEM, promulgating rules, 4 developing environmental policy for 5 the State of Alabama, and hearing 6 appeals on administrative actions. 7 Mr. Masingill participated in 8 the adoption of numerous rules and 9 regulations that protect the health 10 of Alabama citizens and preserve the 11 state's natural environment, 12 including revisions to water quality 13 and drinking water standards, water 14 body use classifications, water 15 quality discharge permits, 16 underground storage tank regulations, 17 permitting fees necessary for the 18 administration of ADEM programs, air 19 pollution prevention and control 20 regulations, and rules governing the 21 management of solid, hazardous and 22 medical wastes. 23 And, whereas, Mr. Masingill also	Page 18 1 participated in the Commission's 2 consideration of appeals involving 3 ADEM's administrative actions, 4 including permit issuances, 5 administrative orders and 6 regulations. 7 Whereas, during his service, Mr. 8 Masingill played an important role in 9 the selection and oversight of two 10 ADEM directors. 11 Whereas, Mr. Masingill served 12 the Commission with distinction as 13 both Chair and Vice Chair, providing 14 steady leadership and sound guidance. 15 Whereas, throughout more than 16 eight years of dedicated service, Mr. 17 Masingill demonstrated an unwavering 18 commitment to the Commission, ADEM, 19 the protection of Alabama's 20 environment and the willingness of 21 the people of the great state of 22 Alabama. 23 Now, therefore, I, Kay Ivey,
Page 19 1 Governor of the State of Alabama, do 2 hereby commend John "Jay" H. 3 Masingill, the III. 4 (Applause). 5 MR. POOLOS: And Vice Chairman 6 Perry, I believe you have a -- one 7 from the Commission. 8 DR. PERRY: I do, Director. 9 From the State of Alabama 10 Resolution: Whereas, John, fondly 11 known as "Jay," H. Masingill, the 12 III, has served for over eight years 13 as a member of the Alabama 14 Environmental Management Commission 15 in the Certified by the National 16 Groundwater Certification Program, or 17 Professional Geologist position, from 18 June 1st, 2018, until August 14th, 19 2026, and will continue to serve 20 until September the 30th, 2026, the 21 end of the term of his position. 22 And, whereas, his knowledge 23 gained from his professional	Page 20 1 background provided experience, 2 wisdom and foresight in the 3 Commission's deliberations on 4 significant issues. 5 And, whereas, he effectively 6 served the Commission as Vice Chair 7 and Chair for one-year terms. 8 And, whereas, his personable and 9 caring manner and steadfast 10 dedication to his service on the 11 Commission will be greatly missed by 12 his fellow commissioners, the 13 Commission's executive assistant, the 14 Commission's legal counsel, 15 leadership and staff of the ADEM and 16 many within the governmental, 17 regulated and environmental 18 communities. 19 Now, therefore, be it resolved 20 that the Commission expresses 21 gratitude to John H. Masingill, the 22 III, for his contribution to a better 23 environment and an improved quality

Page 21 1 of life for the citizens of Alabama. 2 Done this 14th day of August, 3 2026. 4 Congratulations, Jay. 5 (Applause). 6 CHAIRMAN MCFADDEN: Okay. Well, 7 we're going to do the photo now. 8 MR. POOLOS: We can do the one 9 photo now, and then the full 10 commission afterward, if you'd like. 11 CHAIRMAN MCFADDEN: Okay. 12 MR. POOLOS: But it's your call. 13 CHAIRMAN MCFADDEN: Let's do 14 that. So -- 15 MR. POOLOS: So, if we can go 16 off the record just a second and let 17 us take a picture, that would be 18 great. 19 (Thereupon, a discussion was 20 held off the record.) 21 MR. POOLOS: I'll tell you what 22 I learned is never read at the same 23 time Dr. Perry is reading. She does	Page 22 1 such a much better job than I do. 2 That is what I learned. 3 Before I turn it over to Aubrey 4 White from our Air Division to do an 5 air presentation, I will take any 6 questions you may have. 7 (No response). 8 MR. POOLOS: Seeing none. 9 Aubrey, if you would, I hope you know 10 how to run this thing. 11 MR. WHITE: I'll do my best, 12 sir. 13 Good morning, Chairman, 14 Honorable members of the Commission. 15 I'm Aubrey White, Chief of the Air 16 Division. 17 In my 35 years with the 18 Department, I have been amazed many 19 times by the every day activities 20 performed by ADEM staff. We have 21 highly skilled chemists in the 22 laboratory next door operating 23 complex and precise instrumentation,
Page 23 1 engineers in the drinking water 2 branch working with rural water 3 systems to ensure that drinking water 4 not only meets standards, but is the 5 cleanest it can possibly be. 6 And I can't overlook our permit 7 writers who every day translate 8 hundreds of pages of regulations into 9 the enforceable limits that protect 10 our land, water and air. 11 Today, I'd like to introduce you 12 to a group that few people know 13 about, doing work that even fewer 14 people would be willing to do. And I 15 think you'll find them to be as 16 amazing as I do. 17 Imagine if you will you're a 18 scientist working for the Department. 19 Your job includes knowing and 20 applying regulations, carrying out 21 intricate procedures, keeping 22 specialized equipment running 23 correctly, and performing careful	Page 24 1 calculations under pressure. That's 2 a normal day for any of the 3 Department's 274 scientists. 4 Now, imagine performing that 5 work hundreds of feet off the ground 6 with temperatures approaching 100 7 degrees, not unlike today, a hot 8 stack right next to you and a metal 9 grate at your feet. That's daily 10 life for the scientists in the 11 emissions measurement section of the 12 Air Division, or EMS for short. 13 EMS performs or attends nearly 14 half of all stacked tests performed 15 in the state. These men and women 16 don't just have to master the dozens 17 of EPA testing methods. As you're 18 about to see, the job is also 19 physically demanding in ways most 20 careers would never ask of you. 21 When someone in the EMS says 22 they are climbing the ladder, they 23 most likely mean that literally.

Page 25 1 This facility requires a 180-foot 2 climb straight up to the testing 3 platform. That's the same height as 4 the tip of Vulcan's torch. And 5 that's not even the highest one. The 6 tallest testing platform in the state 7 tops 500 feet. Fortunately, that one 8 has an elevator. 9 All 12 scientists in EMS are 10 expected to make these climbs, 11 supervisors included. Luckily for 12 me, however, that does not include 13 their division chief. 14 And the heights aren't the only 15 danger that EMS faces every day. The 16 gases they're sampling can be quite 17 hazardous to breathe. EMS also 18 performs monitoring on platforms out 19 in the Gulf, which happily checks off 20 several other boxes on my phobias 21 list. And some of these stacks have 22 no testing platform at all. Those 23 have to be sampled from a man lift	Page 26 1 suspended out in open air. 2 EMS personnel also conduct leak 3 audits at gasoline bulk terminals. 4 Thankfully, that work is done almost 5 entirely from the ground. 6 EMS also manages the Visible 7 Emissions Certification Program, 8 affectionately known around the 9 Department as Smoke School. At Smoke 10 School, participants learn to perform 11 EPA methadyne, which measures the 12 visual opacity of a smoke plume, 13 basically judging how much of the 14 background is blocked by emissions 15 accurately by eye in real time. 16 I can tell you from experience 17 that this isn't easy to do. The 18 graduates of the program can 19 determine plume opacity with 20 surprising precision. How many 21 states run their own certification 22 program for this? Exactly two. I'm 23 proud to say that Alabama is one of
Page 27 1 them. The Air Division is also one 2 of only five programs nationwide that 3 operates its own in-house test teams. 4 Before I close, I would like to 5 recognize a few members of the 6 Emissions Measurements Section who 7 are here with us today, including 8 Section Chief Mark Davidson and Unit 9 Chief Brandy Tiblier. 10 (Applause). 11 MR. WHITE: These men and women 12 are masters of their craft, working 13 in every kind of weather, often 14 higher off the ground than most of us 15 would ever be comfortable with. 16 So, the next time you look up 17 and see one of these smokestacks, 18 remember, EMS scientists have been up 19 there to ensure that that facility is 20 in compliance. 21 I thank you and also Director 22 Poolos for this opportunity, and I 23 would be thrilled to answer any	Page 28 1 questions. 2 DR. TUCKER: Where's the 3 500-foot stack? 4 MR. WHITE: That's at one of our 5 power plants. 6 MR. DAVIDSON: ABC -- I mean, 7 Barry and Gaston. It's at a power 8 plant. 9 MR. WHITE: That's pretty far up 10 there. 11 CHAIRMAN MCFADDEN: It is. 12 MR. WHITE: And they also -- 13 they perform work even when it gets 14 very cold. There are certain sources 15 that only run when it's below, like, 16 18 degrees. And so, on a very 17 blustery day, they'll be up there 18 monitoring, as well. 19 CHAIRMAN MCFADDEN: Any way 20 drones can do some of this work now 21 that we're in the new era of 22 technology? 23 MR. WHITE: I'm hopeful that

Page 29 1 some day we'll have that opportunity. 2 But right now, I think with drone 3 technology the way it is, it's -- it 4 may not be the most stable platform 5 and the amount of weight that they 6 would have to lift -- 7 CHAIRMAN MCFADDEN: Oh, okay. 8 MR. WHITE: -- probably would be 9 an issue, as well. 10 Outside the room, we do have a 11 setup showing how they perform some 12 of the monitoring for particulate, 13 for example. 14 CHAIRMAN MCFADDEN: Yeah. Okay. 15 MR. WHITE: You could see it's 16 pretty bulky. 17 (Applause). 18 CHAIRMAN MCFADDEN: Yeah. 19 MR. WHITE: Thank y'all. 20 CHAIRMAN MCFADDEN: Thank you. 21 DR. PERRY: Thank you. 22 (Applause). 23 CHAIRMAN MCFADDEN: You're good.	Page 30 1 Okay. We'll go on to Item 3, the 2 report from the Commission Chair. 3 The first item here is we'll 4 consider the adoption of the 5 resolutions for the aforementioned 6 Commissioners who are leaving: 7 Lanier Brown and Jay Masingill. 8 So, we've read the -- we've read 9 the resolutions, and now I'll just 10 entertain a motion to adopt those. 11 MS. MERRITT: Second. 12 DR. TUCKER: I move to adopt the 13 resolutions for Brown and Masingill. 14 CHAIRMAN MCFADDEN: Okay. A 15 motion and a second. And any 16 discussion? 17 (No response). 18 CHAIRMAN MCFADDEN: All in 19 favor, raise your hand. 20 (Commission members raising 21 hands). 22 CHAIRMAN MCFADDEN: Almost had a 23 majority.
Page 31 1 MR. BROWN: Almost. 2 CHAIRMAN MCFADDEN: Okay. 3 MS. THOMAS: You'll need to sign 4 these. 5 CHAIRMAN MCFADDEN: Yeah, we've 6 got to sign some paperwork here, make 7 it official. I'll add to that here 8 in just a second. We will certainly 9 miss you guys. You've been a great 10 help to this bunch and the Department 11 before. 12 (Committee members signing 13 documents). 14 CHAIRMAN MCFADDEN: Okay. Thank 15 you, David. 16 I'll just add a few things here. 17 We've done the official reading of 18 the proclamations and the 19 commendations, and that speaks for 20 itself. 21 But I came on the Commission 22 three years ago not knowing what to 23 expect, the first time. And what	Page 32 1 I'll say about this group of folks, 2 they are -- all they are about is 3 what's best for the state of Alabama, 4 our environment, our natural 5 resources and our economy. And 6 it's -- sometimes those things get in 7 tension as we know. Different folks 8 have different ideas on that, and 9 it's hard to sometimes sort all that 10 out, especially when you're having to 11 look at science and, you know, what's 12 the best science behind all of this. 13 I'll say about Commissioner 14 Brown and Commissioner Masingill, 15 they have just wanted that same 16 thoughtful process in evaluating what 17 we're doing. And it doesn't matter 18 which side of the stakeholder 19 continuum it falls on. They just 20 want to do the right thing. And all 21 of these Commissioners want to do 22 that. 23 And I'll give you one example.

Page 33 1 Last year, we had presented to us a 2 petition to look at the water quality 3 criteria regulations by one of the 4 environmental organizations, and this 5 Commission -- and really, I think, 6 Lanier, it was you -- that said, 7 well, if we're supposed to be doing 8 this, we need to do it. 9 So, the petition passed. And, 10 you know, ultimately that is still 11 ongoing to get that done. But that's 12 the kind of dedication that is 13 nonpartisan, in my opinion, in terms 14 of stakeholder groups. This whole 15 Commission wants the right 16 information, get the best information 17 we can and make the best decision. 18 It's not always easy, and -- but it's 19 been just continuity here. 20 And even in hiring Director 21 Poolos, it took a while to get 22 through that meeting to get you here. 23 But they really wanted to dive into	Page 34 1 all of the attributes of all the 2 candidates. And Ed popped out on top 3 and is doing a great job. 4 So, thank you for that, Ed. 5 But that's who these folks are. 6 And so, as outgoing Chair, you know, 7 I wanted to express that and my 8 appreciation for their attitude and 9 able to work together. Not all 10 groups work together very well. We 11 have a bunch in Washington D.C. that 12 don't work very well. I wish they 13 worked like we do. 14 But thank y'all and good luck in 15 whatever is past the ADEM Commission 16 days, and maybe we'll call you back 17 soon. 18 Okay. All right. So, that -- 19 that concludes Agenda Item 3. 20 Agenda Item 4 is Consideration 21 of proposed amendments to the Admin 22 Code Division 335-1, which is general 23 admin. Mr. Kelly.
Page 35 1 MR. KELLY: Good morning, Mr. 2 Chairman, members of the Commission. 3 I'm Russell Kelly, Chief of the 4 Permits and Services Division. 5 I'm here today to recommend the 6 adoption of the amendments of the 7 Department's Division 1 General 8 Administration Regulations. 9 Amendments were proposed to Chapter 6 10 to amend and add new fee schedules to 11 outline the criteria for the annual 12 cost adjustment to application fees 13 for issuance, reissuance or 14 modification of a permit, 15 registration license or certification 16 based on the percentage increase in 17 the Consumer Price Index for all 18 urban consumers, also and fee 19 increases for fee Schedules A through 20 E, Schedule G and Schedule I. 21 Also proposed is a new fee 22 schedule, the NPDES Construction 23 Stormwater General Permit	Page 36 1 Authorization, and Fee Schedule K, 2 the NPDES Sand and Gravel General 3 Permit Authorization. 4 In addition, a new Chapter 5 335-1-8 for other fees was proposed 6 to outline disposal fees for 7 generators of solid wastes at solid 8 waste management facilities permitted 9 by the Department, provisions for 10 underground storage tank fees, and 11 also outlines the process for the 12 worthless instruments. 13 The proposed revisions were 14 subject of a public comment period 15 which ran from May 20th to July 7th, 16 and a public hearing was held by the 17 Department at the Department on July 18 7th. Oral arguments were not 19 received -- or I'm sorry, oral 20 comments were not received during the 21 hearing, but written comments were. 22 Based on the comments received, 23 Rule 335-1-6, Fee Schedule E,

Page 37 1 Footnote 6 has been amended to 2 clarify that the fee applies on a per 3 application basis regardless of the 4 number of variances. 5 Also, Rule 335-1-6, Fee Schedule 6 F, has been amended to add Footnote 7 4. This footnote provides clarity on 8 reissuance fees when the permittee 9 already has a current NPDES 10 Construction General Permit. These 11 changes were included and described 12 in your reconciliation statement. 13 At this time, the Department 14 respectfully requests the Commission 15 to adopt the proposed changes to 16 Division 1 General Administration 17 Program. 18 And I'll yield for any 19 questions. 20 CHAIRMAN MCFADDEN: You may have 21 said it, Russell. This is pretty 22 well was accepted by the permittees, 23 permit holders in general. Nobody	Page 38 1 wants to pay more fees, but there are 2 worse alternatives, I guess, 3 especially in a slim-funded 4 environmental agency like we are. 5 MR. KELLY: Yeah. It's just the 6 nature of the world we live in. I 7 mean, funds, you never know how 8 consistent they'll be. And until 9 recently, you know, it wasn't that 10 long ago, some of you probably 11 remember, we were pretty close to 12 zeroed out. We get a little bit of 13 general fund now. Probably not as 14 much as we -- certainly not as much 15 as we need. Federal funds level 16 funded for a number of years, maybe a 17 slight dip. 18 So, it's one of the methods that 19 we use and have the authority in the 20 Environmental Management Act to do. 21 So, we try to hold them to a 22 minimum. Every director I've ever 23 served under, including this one, has
Page 39 1 always tried to hold this to a bare 2 minimum, and they are a necessary 3 force to operate. 4 CHAIRMAN MCFADDEN: And didn't 5 you say, or maybe you did, maybe 6 talking earlier about it, some of the 7 fees went down? 8 MR. KELLY: Yes, they did. 9 CHAIRMAN MCFADDEN: In terms of 10 categories or something? 11 MR. KELLY: Yeah, there were a 12 couple of the fees that were looked 13 at individually. Not all the -- 14 this -- this increase, unlike others 15 in the past, was not 100% across the 16 board. I'd say the majority of the 17 schedules were. The two new 18 schedules that were created actually 19 lowered the fees in some cases and 20 went to a tier level. 21 CHAIRMAN MCFADDEN: Yeah. That 22 was construction. 23 MR. KELLY: Construction,	Page 40 1 stormwater, and maybe the sand and 2 gravel may have also. It went to a 3 tier level, and I think some of the 4 lower end ones did go down. 5 CHAIRMAN MCFADDEN: That will 6 help some of the smaller projects -- 7 MR. KELLY: Correct. 8 CHAIRMAN MCFADDEN: -- and 9 smaller entities. 10 MR. KELLY: Acreage wise, yes, 11 sir. 12 CHAIRMAN MCFADDEN: Yes, that 13 was a good move. Yeah. 14 Anything else for Mr. Kelly? 15 (No response). 16 CHAIRMAN MCFADDEN: Okay. Thank 17 you, Russell. 18 MR. KELLY: All right. Thank 19 you, Mr. Chairman, members. 20 CHAIRMAN MCFADDEN: Okay. You 21 heard from the Department. And I 22 adopt a motion to adopt the proposed 23 amendments.

Page 41 1 MR. MASINGILL: I move to adopt 2 the proposed amendments. 3 CHAIRMAN MCFADDEN: Motion made. 4 DR. PERRY: Second. 5 CHAIRMAN MCFADDEN: I hear a 6 second. Any further discussion on 7 that? 8 (No response). 9 CHAIRMAN MCFADDEN: All in 10 favor, raise your hand. 11 (Commission members raising 12 hands). 13 CHAIRMAN MCFADDEN: The motion 14 carries. Thank you. Paperwork to 15 sign. 16 (Commission members signing 17 document). 18 CHAIRMAN MCFADDEN: Okay. Thank 19 you, Debi. 20 All right. Agenda Item Number 5 21 is: Consideration of proposed 22 amendments to ADEM's Administrative 23 Code Division 335-6, the Water	Page 42 1 Quality Program Regulations, Volume 2 II, the Underground Storage Tanks. 3 Mr. Cobb? 4 MR. COBB: Yes. Thank you, Mr. 5 Chairman. And good morning, 6 Commissioners. I'm Stephen Cobb, 7 Chief of the Land Division, and I'm 8 here today to recommend that the 9 Commission adopt amendments to the 10 Department's Division 6, Volume II, 11 Water Quality UST Regulations. 12 These changes are very simple, 13 and they're directly related to the 14 changes that you just approved to 15 Division 1. These amendments propose 16 changes to Chapter 15 to update two 17 things: One, the definition of the 18 term "Significant Noncompliance 19 Subject to Delivery Prohibition" in 20 335-6-15-.02; and to also update the 21 Underground Storage Tank Regulation 22 fee provisions in 335-6-15-.42 to 23 include references to the fee
Page 43 1 schedules in Chapter 8 of Division 1. 2 The proposed revisions to the 3 Water Quality Program were the 4 subject of a public comment period 5 which ran from May 20th to July 7th. 6 A public hearing was held at the 7 Department on July 7th. And for 8 these rules, these changes, no oral 9 comments were received during the 10 public hearing. No written comments 11 were received during the public 12 comment period. 13 So, the proposed regulations are 14 presented today for your 15 consideration. We ask that you adopt 16 these changes. And I'm happy to 17 answer any questions that you might 18 have. 19 CHAIRMAN MCFADDEN: How is -- 20 How is the UST -- is funded mandatory 21 funding by the -- Who pays for that 22 now? 23 MR. COBB: Well, the fee that is	Page 44 1 referenced here is the UST Tank 2 registration fee, which is a fee that 3 is paid per tank by the tank owners. 4 CHAIRMAN MCFADDEN: Right. 5 MR. COBB: The -- you may be 6 referring to the -- 7 CHAIRMAN MCFADDEN: The fund -- 8 the fund itself. 9 MR. COBB: -- the UST Trust 10 Fund -- 11 CHAIRMAN MCFADDEN: Yeah. 12 MR. COBB: -- which provides 13 cleanup dollars, that is funded by a 14 fee or a tax on the withdrawal of 15 fuel from -- from storage as it's 16 distributed to the service stations. 17 And that is a per gallon fee that is 18 set by the Trust Fund Advisory Board. 19 CHAIRMAN MCFADDEN: So, it's the 20 wholesaler that you're charging that. 21 It's not the point of sale? 22 MR. COBB: Right. It's at that 23 point of transfer from the wholesaler

Page 45 1 to the retailer. 2 CHAIRMAN MCFADDEN: Okay. All 3 right. I didn't know if that had 4 changed any. Okay. Good. 5 Any -- any more questions for 6 Mr. Cobb? 7 (No response). 8 CHAIRMAN MCFADDEN: Okay. Thank 9 you, Steve. 10 MR. COBB: Thank you. 11 CHAIRMAN MCFADDEN: Okay. Do I 12 have a motion to adopt the proposed 13 amendments? 14 MS. MERRITT: I move to adopt 15 the proposed amendment. 16 CHAIRMAN MCFADDEN: Second? 17 MR. MASINGILL: Second. 18 DR. TUCKER: Second. 19 CHAIRMAN MCFADDEN: All right. 20 Two seconds. 21 All right. Any more discussion 22 on that? 23 (No response).	Page 46 1 CHAIRMAN MCFADDEN: Okay. I 2 call for the question. All in favor, 3 raise your hand. 4 (Commission members raising 5 hands). 6 CHAIRMAN MCFADDEN: The motion 7 passes. Thank you, sir. 8 (Commission members signing 9 document). 10 CHAIRMAN MCFADDEN: Any chance 11 we can get an autopen? It'd make the 12 meeting 20 minutes shorter, wouldn't 13 it, today. 14 MR. BROWN: Exactly. 15 CHAIRMAN MCFADDEN: Okay. On to 16 Agenda Item Number Six, BlackBelt 17 Women Rising, Petitioner, versus 18 ADEM, Respondent, and Perry County 19 Associates, LLC, Intervenor, EMC 20 Docket Number 26-05. 21 Note that under this Agenda Item 22 6, the Commission has before it the 23 consideration of the Hearing
Page 47 1 Officer's recommendation on motions 2 to dismiss. And the Chair notes that 3 in his recommendation, the Hearing 4 Officer views the request for the 5 hearing as being filed by Portia 6 Shepherd on behalf of BlackBelt Women 7 Rising, finding that the filing of 8 the request is prohibited by ADEM, 9 Administrative Code 335-2-1-.30, and 10 Alabama Code 34-3-6, which preclude 11 the filing of petitions in cases such 12 as these by individuals who are not 13 properly licensed attorneys. 14 The Hearing Officer recommends 15 that the request be dismissed as a 16 legal nullity. Our Chair notes that 17 the Commission has received and 18 considered the full record in this 19 matter, and he will entertain a 20 motion from the Commission to adopt 21 the Hearing Officer's recommendation 22 on motions to dismiss, which would 23 strike the request for a hearing and	Page 48 1 dismiss it as legal nullity or, 2 alternatively, adopt Portia 3 Shepherd's proposed order, which 4 would reject the Hearing Officer's 5 recommendation on motions to dismiss, 6 deny ADEM's motion to strike and 7 dismiss, deny Intervenor or Perry 8 County Associates LLC's motion to 9 dismiss, strike the designation of 10 BlackBelt Women Rising as a 11 petitioner in the caption of this 12 case and designate, Portia Shepherd, 13 in parentheses, as a petitioner, and 14 proceed to hearing on the merits of 15 Ms. Shepherd's request for a hearing. 16 So, we either have a motion to 17 adopt the Hearing Officer's 18 recommendations on motions to dismiss 19 or to adopt Portia Shepherd's 20 proposed order. 21 DR. TUCKER: I move to adopt the 22 Hearing Officer's recommendation on 23 motions to dismiss.

Page 49 1 MS. MERRITT: Second. 2 CHAIRMAN MCFADDEN: A motion and 3 a second. Any discussion? More 4 discussion on that? 5 (No response). 6 CHAIRMAN MCFADDEN: I call for 7 the question. All in favor, raise 8 your hand. 9 (Commission members raising 10 hands). 11 CHAIRMAN MCFADDEN: Those 12 opposed? 13 (No response). 14 CHAIRMAN MCFADDEN: Motion 15 carries. 16 (Commission members signing 17 documents). 18 CHAIRMAN MCFADDEN: Okay. Do we 19 have any other business to come 20 before the Commission? Anybody? 21 (No response). 22 CHAIRMAN MCFADDEN: Not hearing 23 any, future business, the Chair notes	Page 50 1 the date of the next Commission 2 meeting is October 9th, 2026. And 3 we'll -- assume we'll have enough for 4 a quorum and two new commissioners to 5 have some very big shoes to fill for 6 the two leaving. I look forward to 7 that. 8 Public Comment Period is next on 9 the agenda, and I believe we do 10 have -- we had one person sign up for 11 a three-minute presentation. 12 Henry Phillips? Do you want to 13 come to the podium, Mr. Phillips? 14 MR. PHILLIPS: Thank you, 15 Commissioner. I want to appreciate 16 the Commission allowing me the chance 17 to speak. My name is Henry Lynn 18 Phillips. I'm an environmental 19 engineer. I've worked -- I'm a 20 registered professional engineer in 21 Alabama. I've worked with community 22 groups in Uniontown and surrounding 23 areas for over five years. And I am
Page 51 1 not an attorney. 2 My first comment is that I 3 support the petition that Ms. 4 Shepherd submitted that you just 5 considered. I understand you just 6 rejected the petition. I think it's, 7 not considering the technical issues 8 raised in that petition, is 9 inappropriate and makes Alabama -- 10 instead it makes Alabama look bad. 11 So, I ask that since you 12 received the full hearing record, if 13 you just would read through the 14 technical issues, particularly the 15 odor complaints associated with the 16 landfill, because in my personal 17 experience and in my investigation, 18 those are valid. 19 Moving on to my second set of 20 comments, I challenged in my comments 21 to the Perry County Associates 22 landfill permit application, the 23 validity of the slope stability	Page 52 1 variance that was requested. There 2 are technical issues associated with 3 the geotechnical aspects of that 4 vertical expansion, which would 5 increase the working phase from the 6 up to 33%, which is significant in a 7 landfill like this. 8 And so, I'm asking that -- and 9 then the response from ADEM in review 10 was only that the request for 11 variance was submitted in a proper 12 form and a timely manner. Nothing 13 about a technical review of that. 14 And my request to the Commission 15 is that they consider directing ADEM 16 to reconsider my technical comments 17 and require Arrowhead to submit 18 technical data and analysis of the -- 19 as appropriate for a landfill 20 vertical expansion. 21 Are there any questions? 22 CHAIRMAN MCFADDEN: Anybody have 23 any questions for Mr. Phillips?

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1 (No response).
2 CHAIRMAN MCFADDEN: Thank you,
3 sir.
4 Okay. That was the only person
5 that signed up to speak. So, we are
6 at the time for a motion to adjourn.
7 MR. BROWN: So moved.
8 MR. MASINGILL: Second.
9 CHAIRMAN MCFADDEN: Imagine
10 that. I think motion to adjourn
11 takes priority in the Roberts Rules
12 of Order. I guess we have to vote on
13 it.
14 Any discussion?
15 (No response).
16 CHAIRMAN MCFADDEN: Nope. All
17 in favor, raise your hand.
18 (Commission members raising
19 hands).
20 CHAIRMAN MCFADDEN: Thank you,
21 guys.
22
23

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1 * * * * *
2 REPORTER'S CERTIFICATE
3 * * * * *
4 STATE OF ALABAMA
5 TALLAPOOSA COUNTY
6 I, Jeana S. Boggs, Certified Professional
7 Reporter and Notary Public in and for the State of
8 Alabama at Large, do hereby certify on Friday,
9 August 14, 2026, that I reported the meeting in the
10 matter of:
11 MEETING OF THE
12 ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
13 ALABAMA DEPARTMENT OF ENVIRONMENTAL
14 MANAGEMENT (ADEM) BUILDING
15 ALABAMA ROOM
16 1400 COLISEUM BOULEVARD
17 MONTGOMERY, ALABAMA 36110-2400
18
19 That the foregoing 54 computer-printed Pages
20 contain a true and correct transcript of the meeting
21 set out herein. I further certify that I am neither
22 of relative, employee, attorney or counsel of any of
23 the parties, nor am I a relative or employee of such

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1
2 (WHEREUPON, the Commission
3 meeting was concluded at
4 11:48 a.m.)
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1 attorney or counsel, nor am I financially interested
2 in the results thereof. All rates charged are usual
3 and customary.
4 I further certify that I am duly licensed by
5 the Alabama Board of Court Reporting as a Certified
6 Court Reporter as evidenced by the ABCR number
7 following my name found below.
8 This 18th day of September, in the year of our
9 Lord, 2026.
10
11
12 *15/Jeana S. Boggs*
13 Jeana S. Boggs, CCR
14 ACCR NO. 7, Exp 9/30/2027
15 Certified Court Reporter and
16 Notary Public
17 Commission expires: 8/11/2030
18
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Part B

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Attachment 3	Resolutions for Commissioners H. Lanier Brown, II, Esquire and John “Jay” H. Masingill, III (Agenda Item 3)
Attachment 4	Resolution adopting amendments to ADEM Administrative Code Division 335-1, General Administration Regulations, and Attachment A, Final Proposed Rules (Agenda Item 4)
Attachment 5	Resolution adopting amendments to ADEM Administrative Code Division 335-6, Water Quality Program Regulations, Volume II, Underground Storage Tank (UST), and Attachment A, Final Proposed Rules (Agenda Item 5)
Attachment 6	Order adopting Hearing Officer’s Recommendation on Motions to Dismiss, and Attachment, Hearing Officer’s Recommendation on Motions to Dismiss (Agenda Item 6)

Attachment 1

AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

DATE: August 14, 2026

TIME: 11:00 a.m.

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

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4. Consideration of proposed amendments to ADEM Administrative Code Division 335-1, General Administration Regulations	2
5. Consideration of proposed amendments to ADEM Administrative Code Division 335-6, Water Quality Program Regulations, Volume II, Underground Storage Tank (UST)	2
6. <u>BlackBelt Women Rising, Petitioner v. ADEM, Respondent, and Perry County Associates, LLC, Intervenor</u> , EMC Docket No. 26-05 (In the matter of ADEM's March 9, 2026, modification of the Municipal Solid Waste Disposal Facility Permit No. 53-03 and the Major Source Operating Permit No. 107-0003 for the Perry County Associates, LLC, Arrowhead Landfill, Uniontown, Perry County)	2,3
7. Other business	3
8. Future business session	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 About/Notices and Events/EMC Meetings.

** The minutes for this meeting will be available on the ADEM website under About/Notices and Events/EMC Meetings.

1. CONSIDERATION OF MINUTES OF MEETING HELD ON JUNE 12, 2026
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 ADMINISTRATIVE CODE 335-1, GENERAL ADMINISTRATION REGULATIONS

The Commission will consider proposed revisions to ADEM Administrative Code Division 335-1, General Administration Regulations to amend and add new fee schedules that are required for the implementation of the Department's rules and regulations. Rule 335-1-6-.01 outlines provisions for cost adjustments based on the Consumer Price Index for All Urban Consumers. In addition, a new chapter, 335-1-8, Other Fees, is proposed for disposal fees, underground storage tank fees, and provisions for worthless instruments. The Department held a joint public hearing on the proposed amendments to the Division 1 and Division 6 regulations on July 7, 2026.

5. CONSIDERATION OF PROPOSED AMENDMENTS TO ADEM ADMINISTRATIVE CODE DIVISION 335-6, WATER QUALITY PROGRAM REGULATIONS, VOLUME II, UNDERGROUND STORAGE TANK (UST)

The Commission will consider proposed revisions to ADEM Administrative Code Division 335-6, Water Quality Program Regulations, Volume II, Underground Storage Tank (UST) to remove the tank fees amount from Division 6 and add references to Division 1 pertaining to the yearly underground storage tank regulation fee. The Department held a joint public hearing on the proposed amendments to the Division 1 and Division 6 regulations on July 7, 2026.

6. BLACKBELT WOMEN RISING, PETITIONER V. ADEM, RESPONDENT, AND PERRY COUNTY ASSOCIATES, LLC, INTERVENOR, EMC DOCKET NO. 26-05 (IN THE MATTER OF ADEM'S MARCH 9, 2026, MODIFICATION OF THE MUNICIPAL SOLID WASTE DISPOSAL FACILITY PERMIT NO. 53-03 AND THE MAJOR SOURCE OPERATING PERMIT NO. 107-0003 FOR THE PERRY COUNTY ASSOCIATES, LLC, ARROWHEAD LANDFILL, UNIONTOWN, PERRY COUNTY)

Before the Commission for its consideration is the Hearing Officer's "Recommendation on Motions to Dismiss" in the above-referenced matter. In his recommendation, the Hearing Officer views the request for hearing as being filed by Ms. Shepherd on behalf of BlackBelt Women Rising, finding that the filing of the request is prohibited by ADEM Admin. Code r. 335-2-1-.30 and Ala. Code § 34-3-6, which preclude the filing of Petitions in cases such as these by individuals who are not properly licensed attorneys. The Hearing Officer recommends that the request be dismissed as a legal nullity.

Also before the Commission are filings pertaining to the Hearing Officer's recommendation which include "Portia Shepherd's Objections to Hearing Officer's Recommendation," "ADEM's Response to BlackBelt Women Rising's Objections to Hearing Officer's Recommendation," Perry County Associates, LLC's "Response to Objections to Recommendation," and "Portia Shepherd's Reply to ADEM's Response to BlackBelt Women Rising's Objections to Hearing Officer's Recommendation." In Ms. Shepherd's objections, she provides alternative findings and a proposed order supporting her position that she filed the request for hearing as an individual versus filing it on behalf of the organization BlackBelt Women Rising. In ADEM's response to BlackBelt Women Rising's objections, it agrees with the Hearing Officer and requests that the Commission adopt the Hearing Officer's Recommendation by striking the Request for

6. BLACKBELT WOMEN RISING, PETITIONER V. ADEM, RESPONDENT, AND PERRY COUNTY ASSOCIATES, LLC, INTERVENOR (CONTINUED)

Hearing dismissing the purported Request for Hearing on behalf of BlackBelt Women Rising as a legal nullity. In Perry County Associates, LLC's response to objections, it agrees with ADEM and the Hearing Officer and requests that the Commission adopt the Hearing Officer's Recommendation striking the original pleading and dismissing the purported Request for Hearing on behalf of BlackBelt Women Rising as a legal nullity.

7. OTHER BUSINESS

8. FUTURE BUSINESS SESSION

PUBLIC COMMENT PERIOD

BRIEF STATEMENTS BY MEMBERS OF THE PUBLIC REGISTERED TO SPEAK

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

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

Attachment 2



Commendation

By the Governor of Alabama

WHEREAS, H. Lanier Brown, II, Esquire, began his service in the attorney position on the Alabama Environmental Management Commission with his appointment by Governor Bob Riley in 2009, followed by his reappointment by Governor Robert Bentley in 2014 and my reappointment in 2020; and

WHEREAS, throughout his tenure on the Commission, Mr. Brown played an integral role in carrying out the Commission's responsibilities by advising the Director of the Alabama Department of Environmental Management (ADEM), promulgating rules, developing environmental policy for the state of Alabama and hearing appeals of administrative actions; and

WHEREAS, Mr. Brown participated in the adoption of numerous rules and regulations that protect the health of Alabama's citizens and preserve the state's natural environment, including revisions to water quality and drinking water standards, waterbody use classifications, water quality discharge permits, underground storage tank regulations, permitting fees necessary for the administration of ADEM's programs, air pollution prevention and control regulations and rules governing the management of solid, hazardous and medical wastes; and

WHEREAS, Mr. Brown also participated in the Commission's consideration of appeals involving ADEM administrative actions, including permit issuances, administrative orders and regulations; and

WHEREAS, during his distinguished tenure, Mr. Brown played an important role in the selection and oversight of four ADEM Directors; and

WHEREAS, Mr. Brown provided exceptional leadership to the Commission, serving six terms as Chair and five terms as Vice Chair; and

WHEREAS, throughout more than 17 years of dedicated service, Mr. Brown demonstrated an unwavering commitment to the Commission, ADEM, the protection of Alabama's environment and the wellbeing of the people of this great state:

NOW, THEREFORE, I, Kay Ivey, Governor of Alabama, do hereby commend

H. Lanier Brown, II

for his distinguished service to the state of Alabama and extend my sincere appreciation and best wishes for continued success in the years ahead.



*Given Under My Hand and the Great Seal of the
Office of the Governor at the State Capitol in the City of
Montgomery on the 8th day of July 2026.*

Kay Ivey
Kay Ivey, Governor



Commendation

By the Governor of Alabama

WHEREAS, in 2018, I appointed John "Jay" H. Masingill, III to serve in the Certified by National Ground Water Certification Program or Professional Geologist position on the Alabama Environmental Management Commission, and I reappointed him in 2020; and

WHEREAS, throughout his tenure on the Commission, Mr. Masingill played an integral role in carrying out the Commission's responsibilities by advising the Director of the Alabama Department of Environmental Management (ADEM), promulgating rules, developing environmental policy for the state of Alabama and hearing appeals of administrative actions; and

WHEREAS, Mr. Masingill participated in the adoption of numerous rules and regulations that protect the health of Alabama's citizens and preserve the state's natural environment, including revisions to water quality and drinking water standards, waterbody use classifications, water quality discharge permits, underground storage tank regulations, permitting fees necessary for the administration of ADEM's programs, air pollution prevention and control regulations and rules governing the management of solid, hazardous and medical wastes; and

WHEREAS, Mr. Masingill also participated in the Commission's consideration of appeals involving ADEM administrative actions, including permit issuances, administrative orders and regulations; and

WHEREAS, during his service, Mr. Masingill played an important role in the selection and oversight of two ADEM Directors; and

WHEREAS, Mr. Masingill served the Commission with distinction as both Chair and Vice Chair, providing steady leadership and sound guidance; and

WHEREAS, throughout more than eight years of dedicated service, Mr. Masingill demonstrated an unwavering commitment to the Commission, ADEM, the protection of Alabama's environment and the wellbeing of the people of this great state:

NOW, THEREFORE, I, Kay Ivey, Governor of Alabama, do hereby commend

John "Jay" H. Masingill, III

for his distinguished service to the state of Alabama and extend my sincere appreciation and best wishes for continued success in the years ahead.



Given Under My Hand and the Great Seal of the Office of the Governor at the State Capitol in the City of Montgomery on the 8th day of July 2026.

Kay Ivey
Kay Ivey, Governor

Attachment 3

State of Alabama



RESOLUTION

WHEREAS, H. Lanier Brown, II, Esquire has served for over 17 years as a member of the Alabama Environmental Management Commission (Commission) in the Attorney Position from April 24, 2009, until August 14, 2026, and will continue to serve until September 30, 2026, the end of the term of his position; and

WHEREAS, his legal expertise has contributed significantly to the impartial and orderly conduct of the Commission's deliberations on a variety of issues; and

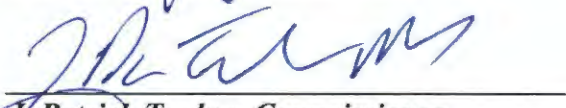
WHEREAS, his leadership abilities were recognized by his election as Vice Chair of the Commission for five terms and as Chair for six terms during his tenure on the Commission; and

WHEREAS, his knowledge and experience gained from his many years on the Commission will be greatly missed by his fellow Commissioners, the Commission's Executive Assistant, the Commission's Legal Counsel, leadership and staff of the ADEM, and many within the governmental, regulated, and environmental communities; now

THEREFORE, be it resolved that the Commission expresses gratitude to H. LANIER BROWN, II, ESQUIRE for his contribution to a better environment and an improved quality of life for the citizens of Alabama.

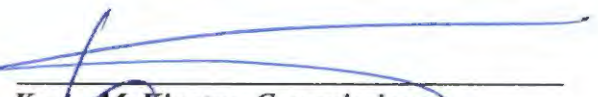
DONE this 14th day of August 2026.


Mary J. Mergitt, Commissioner


J. Patrick Tucker, Commissioner


John (Jay) H. Masingill, III, Commissioner


A. Frank McFadden, Commissioner


Kevin McKinstry, Commissioner


Ruby L. Perry, Commissioner

This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 14th day of August 2026.


A. Frank McFadden, Chair
Environmental Management Commission
Certified this 14th day of August 2026

State of Alabama



RESOLUTION

WHEREAS, John (Jay) H. Masingill, III has served for over 8 years as a member of the Alabama Environmental Management Commission (Commission) in the Certified by the National Ground Water Certification Program or Professional Geologist Position from June 1, 2018, until August 14, 2026, and will continue to serve until September 30, 2026, the end of the term of his position; and

WHEREAS, his knowledge gained from his professional background provided experience, wisdom, and foresight in the Commission's deliberations on significant issues; and

WHEREAS, he effectively served the Commission as Vice Chair and Chair for one-year terms; and

WHEREAS, his personable and caring manner and steadfast dedication to his service on the Commission will be greatly missed by his fellow Commissioners, the Commission's Executive Assistant, the Commission's Legal Counsel, leadership and staff of the ADEM, and many within the governmental, regulated, and environmental communities; now

THEREFORE, be it resolved that the Commission expresses gratitude to JOHN (JAY) H. MASINGILL, III for his contribution to a better environment and an improved quality of life for the citizens of Alabama.

DONE this 14th day of August 2026.

Mary J. Merritt
Mary J. Merritt, Commissioner

J. Patrick Tucker
J. Patrick Tucker, Commissioner

A. Frank McFadden
A. Frank McFadden, Commissioner

H. Lanier Brown, II
H. Lanier Brown, II, Commissioner

Kevin McKinstry
Kevin McKinstry, Commissioner

Ruby L. Perry
Ruby L. Perry, Commissioner

This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 14th day of August 2026.

A. Frank McFadden
A. Frank McFadden, Chair
Environmental Management Commission
Certified this 14th day of August 2026

Attachment 4

ENVIRONMENTAL MANAGEMENT COMMISSION RESOLUTION

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to ADEM Admin. Code 335-1 of the Department's Administrative Division – General Administration Program Rules in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

WHEREAS, a public hearing was held before a representative of the Alabama Department of Environmental Management designated by the Environmental Management Commission for the purpose of receiving data, views and arguments on the amendment of such proposed rules; and

WHEREAS, the Alabama Department of Environmental Management has reviewed all submissions introduced into the hearing record, and has prepared a concise statement of the principal reasons for and against the adoption of the proposed rules incorporating therein its reasons for the adoption of certain revisions to the proposed rules in response to oral and written submissions, such revisions, where appropriate, having been incorporated into the proposed rules attached hereto; and

WHEREAS, the Environmental Management Commission has considered fully all submissions respecting the proposed amendments and the Reconciliation Statement prepared by the Alabama Department of Environmental Management.

NOW THEREFORE, pursuant to Ala. Code. §§ 22-27-2, 22-27-7, 22-27-9, 22-27-12 (2006 Rplc. Vol.), and Ala. Code. § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to division 335-1 [rules 335-1-6-.01/ Applicability (Amend); 335-1-6-.04 /Permit Application Fees (Amend); 335-1-6-.07 / Payment of Fees (Amend); Chapter 335-1-8/ Other Fees (New)] of the Department's Administrative Division – General Administration Program Rules, administrative code attached hereto, to become effective forty-five days, unless otherwise indicated, after filing with the Alabama Legislative Services Agency.

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

ADEM Admin. Code division 335-1 – General Administration Program

IN WITNESS WHEREOF, we have affixed our signatures below on this 14th day of August, 2026.

APPROVED:



Mary J. Merritt, Commissioner



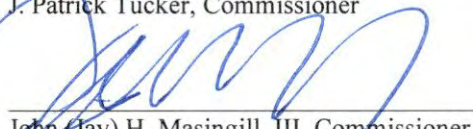
H. Lanier Brown, II, Commissioner



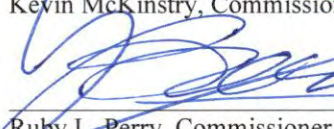
J. Patrick Tucker, Commissioner



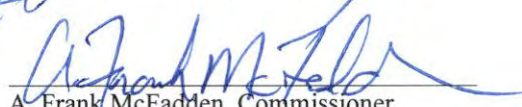
Kevin McKinstry, Commissioner



John (Jay) H. Masingill, III, Commissioner



Ruby L. Perry, Commissioner



A. Frank McFadden, Commissioner

DISAPPROVED:

Mary J. Merritt, Commissioner

H. Lanier Brown, II, Commissioner

J. Patrick Tucker, Commissioner

Kevin McKinstry, Commissioner

John (Jay) H. Masingill, III, Commissioner

Ruby L. Perry, Commissioner

A. Frank McFadden, Commissioner

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

ABSTAINED:

Mary J. Merritt, Commissioner

H. Lanier Brown, II, Commissioner

J. Patrick Tucker, Commissioner

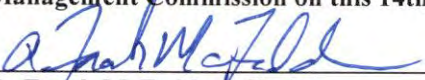
Kevin McKinstry, Commissioner

John (Jay) H. Masingill, III, Commissioner

Ruby L. Perry, Commissioner

A. Frank McFadden, Commissioner

This is to certify that this Resolution is a true and accurate
account of the actions taken by the Environmental
Management Commission on this 14th day of August 2026.



A. Frank McFadden, Chair
Environmental Management Commission
Certified this 14th day of August 2026

ATTACHMENT A

335-1-6-.07

Payment Of Fees.

(1) Payment of permit application/registration fees required under subparagraphs (1)(a) and (1)(b) or paragraph (2) of Rule 335-1-6-.04 shall be included with the permit application/registration. No permit application shall be processed without payment of such fees.

(2) Any fee required under subparagraph (1)(c) of Rule 335-1-6-.04 shall be billed to the applicant. Payment of such fee shall be made within thirty days of the invoice date. No final decision regarding the permit application shall be made until after payment of such fee. Failure to make payment as provided herein shall constitute cause for non-processing/denial of the permit application.

(3) Payment of fees required under Rule 1-6-.05 shall be made within thirty days of the date of the invoice which the Department shall send to the person making the application or request or requiring the certificate.

(4) Payment of fees required under Rule 335-1-6-.06 shall be included with the application for such license, variance or certification. No application shall be processed without payment of such fees.

(5) All fees paid pursuant to the requirements of this Chapter shall be non-refundable.

(6) All fees and remittances shall be made payable to the Alabama Department of Environmental Management.

SCHEDULE A
AIR QUALITY PERMITS

<u>Type of Activity</u>	<u>Fee</u>
Permit Application (Per Application)	\$150
Permit Preparation (Per Permit)	\$1,830
State Regulations Only (Per Permit)	\$720
Public Comment Period (Per Application)	\$925
NSPS Review (Per Permit/Per NSPS)	\$3,495
NESHAPS Review (Per Permit/Per NESHAP)	\$3,495
MACT/112(g) Determination (Per Pollutant/Per Determination)	\$1,175
PSD Review (Per Application)	\$3,015
BACT Determination (Per Pollutant)	\$1,175
Non-Attainment Review Submittal Fee(Per Application)	\$3,015
LAER Determination (Per Permit per Pollutant/Per Determination)	\$1,175

<u>Type of Activity</u>	<u>Fee</u>
Plantwide Applicability Limits (PAL) Review (Per Pollutant)	\$14,790
Non-Criteria Air Pollutant Review (Per Pollutant)	\$2,370
Modeling Protocol Review	\$3,220
Modeling Review	\$23,825
Class 1 Modeling Review	\$3,220
Secondary MERPS	\$2,100
VOC Only PSD (MERPS review)	\$1,500
Emission Inventory Preparation	\$1,825 + \$190/ point/pollutant
Meteorological Data	\$1,355
Adequacy Determination of Preconstruction Monitoring Network/Data	\$9,295
Soil Remediation Plan Review	\$815
Asbestos Notification/ Registration	\$150
Certification and Recertification of Asbestos Removal Contractors	\$925
Name Change	\$1,000 + \$190 per permit

FEE SCHEDULE B
COASTAL USE PERMITS, STATEWIDE WATER QUALITY CERTIFICATIONS, AND
PROJECT REVIEWS

<u>Type of Activity</u>	<u>Fee</u>
<u>Commercial and/or Residential Development Located Wholly or Partially in the Coastal Area</u>	
a) Commercial and Residential Development greater than 5 acres and less than 25 acres in size.	\$11,280
b) Commercial and Residential Development 25 acres or greater and less than 50 acres in size.	\$15,725
c) Commercial and Residential Development 50 acres or greater and less than 75 acres in size.	\$21,285
d) Commercial and Residential Development 75 acres or greater and less than 100 acres in size.	\$26,840
e) Commercial and Residential Development 100 acres or greater in size.	\$32,400
Groundwater extraction from a well having capacity of 50 gpm or more (335-8-2-.09).	\$4,995
<u>Construction on Beaches and Dunes (335-8-2-.08)</u>	
a) 1 single family dwelling or 1 duplex.	\$1,665
b) 2 single family dwellings or 2 duplexes.	\$2,190
c) Commercial (non-residential) structure, multi-unit residential structure having more than 2 units, or any other	\$22,205

**FEE SCHEDULE B
COASTAL USE PERMITS, STATEWIDE WATER QUALITY CERTIFICATIONS, AND
PROJECT REVIEWS**

<u>Type of Activity</u>	<u>Fee</u>
combination of living units not covered under a) or b) above.	
d) Hardened erosion control structure, including retaining walls, seawalls, bulkheads and similar structure, or the placement of rip-rap.	\$2,545
<u>Beach Nourishment Projects</u>	
a) Gulf-fronting Beach Nourishment Project filling less than 1,000 square feet of State water bottoms.	\$1,895
b) Gulf-fronting Beach Nourishment Project filling 1,000 square feet to 100,000 square feet of State water bottoms.	\$3,785
c) Gulf-fronting Beach Nourishment Project filling greater than 100,000 square feet of State water bottoms.	\$6,985
d) Non-gulf-fronting beach nourishment project.	\$800
<u>Projects Impacting Wetlands</u>	
a) Project involving the dredging or filling of less than 0.025 acres of wetlands.	\$2,655
b) Project involving the dredging or filling of 0.025 acres or more of wetlands.	\$5,295

**FEE SCHEDULE B
COASTAL USE PERMITS, STATEWIDE WATER QUALITY CERTIFICATIONS, AND
PROJECT REVIEWS**

<u>Type of Activity</u>	<u>Fee</u>
c) Pile Supported residential, multifamily or commercial structure (does not include piers, walkways, gazebos).	\$4,925
<u>Projects Impacting Water Bottoms</u>	
a) Project involving the filling of less than 1,000 square feet of water bottom	\$2,655
b) Project involving the filling of 1,000 square feet or more of water bottom.	\$5,295
c) Project involving the dredging of less than 500 cubic yards of material from the water bottom.	\$2,125
d) Project involving the dredging of 500 cubic yards to less than 2,000 cubic yards of material from the water bottom.	\$2,655
e) Project involving the dredging of 2,000 cubic yards to less than 10,000 cubic yards of material from the water bottom.	\$3,575
f) Project involving the dredging of 10,000 cubic yards to less than 25,000 cubic yards of material from the water bottom.	\$5,295
g) Project involving the dredging of 25,000 cubic yards to less than 75,000 cubic yards of material from the water bottom.	\$6,805

h) Project involving the dredging of 75,000 cubic yards to less than 100,000 cubic yards of material from the water bottom.	\$8,310
i) Project involving the dredging of 100,000 cubic yards or more of material from the water bottom.	\$9,820
j) Project which involves the construction of coastal or inland marinas, canals, or creek relocation or modification.	\$5,295
k) Raised creek crossing.	\$1,000

Shoreline Stabilization of Non Gulf-Fronting Properties

a) Shoreline stabilization project which does not include jetties, groins, bulkheads, or the placement of rip-rap.	\$800
b) Shoreline stabilization project involving 50 feet or less of shoreline stabilization including bulkhead construction or placement of rip-rap.	\$1,000
c) Shoreline stabilization project involving more than 50 feet of shoreline stabilization, including bulkhead construction or placement of rip-rap.	\$1,665
Groin, jetty, and/or other sediment catching shoreline structure.	\$2,100
Construction of pile supported pier, dock, boardwalk, or other similar structure associated with a single-family dwelling/property.	\$800
Construction of pile supported pier, dock, boardwalk, or other similar structure not otherwise specified.	\$2,400

Siting, construction and operation of energy facility.	\$24,480
Mitigation bank project.	\$10,915
State agency permits subject to review, not otherwise specified in Schedule B.	\$2,100
Federal license or permits not otherwise specified in Schedule B.	\$2,100
401 Certification of Hydropower & Other Energy Projects Requiring a Federal License (FERC, NRC, etc.)	\$14,500
All other projects and/or consistency reviews not otherwise specified in Schedule B which are subject to ADEM's Division 8 regulations.	\$1,000
Certification transfer or to change the name of the applicant only.	\$1,000
Modifications, and/or time extension, not requiring public notice.	\$1,000
Modifications and/or time extension, requiring public notice shall be one-half the fee listed in schedule B but in no case less than \$1,000.	$\frac{1}{2}$ or \$1,000
Additive fee for variance request.	\$4,095

**FEE SCHEDULE C
HAZARDOUS WASTE PERMITS**

<u>TYPE OF ACTIVITY</u>	<u>INITIAL UNIT (1)</u>	<u>NEW DESIGN/ ADDITIONAL UNIT (2)</u>	<u>MINOR MOD (3)</u>	<u>MAJOR MOD (4)</u>	<u>CLOSURE PLAN (5)</u>
Permit Type (6)					
Transport- Hazardous Waste/ Used Oil	\$2,630	-----	\$1,425	\$2,630	-----
Base Application (Non Transporter) (25)	\$8,730	-----	-----	-----	-----
Storage (Container/ Tank/ Containment Building)	\$45,595	\$34,400	\$2,900	\$11,280	\$10,195
Drip Pad	\$45,595	\$34,400	\$2,900	\$11,280	\$10,195
Treatment (7)	\$57,895	\$43,525	\$3,645	\$14,290	\$12,200
Thermal Treatment (8)	\$139,440	\$104,675	\$9,005	\$34,675	\$12,200
Land Treatment	\$78,190	\$58,795	\$4,925	\$19,395	\$23,240
Waste Pile	\$65,995	\$49,700	\$4,095	\$16,290	\$24,490
Surface Impoundment	\$106,765	\$80,280	\$6,750	\$26,480	\$24,490
Landfill	\$593,750	\$562,500	\$8,575	\$33,230	\$24,490

**FEE SCHEDULE C
HAZARDOUS WASTE PERMITS**

<u>TYPE OF ACTIVITY</u>	<u>INITIAL UNIT (1)</u>	<u>NEW DESIGN/ ADDITIONAL UNIT (2)</u>	<u>MINOR MOD (3)</u>	<u>MAJOR MOD (4)</u>	<u>CLOSURE PLAN (5)</u>
Post-Closure (9)	\$102,670	\$77,200	\$6,390	\$25,495	-----
SWMU Only (10)	\$20,390	-----	\$1,280	\$5,090	-----
Miscellaneous Units	\$117,225	\$88,095	\$7,275	\$29,125	-----
Corrective Action Management Unit (CAMU) (17)	\$52,975	\$39,780	\$3,465	\$13,300	Varies (18)
Non-Unit Specific Modifications (11)	-----	-----	\$1,450	\$6,750	-----
Modifications to Incorporate Final Corrective Measures	-----	-----	-----	\$18,190	-----
ADDITIVE FEES (12)					
Groundwater Contamination (13)					
Plume Undefined	\$77,450	\$58,075	-----	-----	-----
Plume Defined	\$40,770	\$30,515	-----	-----	-----
Trial Burn (14)	\$20,390	-----	-----	-----	-----

**FEE SCHEDULE C
HAZARDOUS WASTE PERMITS**

<u>TYPE OF ACTIVITY</u>	<u>INITIAL UNIT (1)</u>	<u>NEW DESIGN/ ADDITIONAL UNIT (2)</u>	<u>MINOR MOD (3)</u>	<u>MAJOR MOD (4)</u>	<u>CLOSURE PLAN (5)</u>
RCRA Facility Assessment (RFA) (24)	\$20,390	-----	-----	-----	-----
RCRA Facility Investigation (RFI) Certification (15)	\$30,590	\$23,490	-----	-----	-----
Corrective Action Program (CAP) or Corrective Measures Implementation (CMI) Plan Certification (16)	\$52,990	\$39,780	\$3,475	\$13,300	-----
Temporary Unit	\$44,865	\$33,685	\$2,915	\$11,190	\$10,195
Off-Site Waste Analysis Certification (19)	\$10,195	-----	\$1,015	\$2,655	-----
Indirect Risk Assessment (20)	\$203,880	-----	-----	-----	-----
Landfill 5-Year Review Certification (25)	\$562,500	\$562,500	-----	-----	-----

**FEE SCHEDULE C
HAZARDOUS WASTE PERMITS**

<u>TYPE OF ACTIVITY</u>	<u>INITIAL UNIT (1)</u>	<u>NEW DESIGN/ ADDITIONAL UNIT (2)</u>	<u>MINOR MOD (3)</u>	<u>MAJOR MOD (4)</u>	<u>CLOSURE PLAN (5)</u>
Confirmatory Sampling (CS) Work Plan Certification (21)	\$25,495	\$19,130	-----	-----	-----
Interim Measures (IM) Work Plan Certification (22)	\$25,495	\$19,130	-----	-----	-----
Corrective Measures Study (CMS) Certification (23)	\$30,945	\$23,670	-----	-----	-----

FEE SCHEDULE C (Continued)

EXPLANATORY NOTES

- (1) Fee applies to initial unit (design) of a given type at a facility.
- (2) Fee applies to additional designs and/or units of the same type unit or process at a given facility.
- (3) Refer to rule 335-14-8-.04(3) for classification of minor mods. Each separate mod request requires a separate fee payment. Multiple changes to a permit consolidated in one mod request will be charged a single fee for each applicable unit. (e.g., A facility permitted for container storage and a landfill who requests modifications to both units will be charged the appropriate fee for each unit.)

- (4) Refer to rule 335-14-8-.04(2) for classification of major mods. Each separate mod request requires a separate fee payment. Multiple changes to a permit consolidated in one mod request will be charged a single fee for each applicable unit. (e.g., A facility permitted for container storage and a landfill who requests modifications to both units will be charged the appropriate fee for each unit.)
- (5) If clean closure is not attained and a post-closure permit is required, then the cost is credited to the post-closure permit fee. Closure plan fees shall be charged per unit to be closed.
- (6) Fees for miscellaneous units (rule 335-14-5-.24) and for other units not specifically listed shall be assessed based on the fees established for the permit type most closely analogous to the activity in question. For example, an open burning/open detonation unit would be assessed fees for thermal treatment; a stabilization unit would be assessed fees for treatment; etc.
- (7) Fee applies to all treatment units except land treatment units and thermal treatment units.
- (8) Fee applies to incinerators, boilers, industrial furnaces, and other thermal treatment units.
- (9) Fee applies to each hazardous waste management unit which is subject to post-closure permitting requirements. Multiple units which are closed under a single (common) cap will be charged the fee for a single post-closure unit. Fee also applies to certification of post-closure plans required by order.
- (10) Fee applies to permits which include solid waste management unit (SWMU) requirements (pursuant to ADEM Admin. Code rs. 335-14-5-.06(12), 335-14-5-.19, 335-14-8-.02(5)(d), but do not include regulated hazardous waste management unit requirements. This fee applies to facilities which have completed all closure and post-closure requirements for regulated hazardous waste management units, but do not complete all SWMU requirements.
- (11) Fee applies to modifications which are not unit specific (i.e., mods not affecting the unit type, design, or configuration). Examples: contingency plan changes, transfer of ownership, personnel training plan changes, changes to groundwater monitoring system, etc.
- (12) Additive fees are levied in addition to base application fees as applicable. Total fees due are sum of base application fees and additive fees applicable to a given facility/application.
- (13) Initial fee applies to the first contaminant plume at a facility. The additional unit fee will be charged for each additional, separate plume at the same facility.

- (14) Fee applies to each trial burn performed.
- (15) Initial fee applies to the first investigation at a facility imposed by the Department under ADEM Admin. Code r. 335-14-5-.06(12). The fee is applicable at the time the investigation is imposed. The additional unit fee will be charged for each additional, separate investigation at the same facility (e.g. an investigation of a newly discovered area of contamination). This fee is also applicable to any investigation required by statute or order that is designed to assess the extent of contamination at a facility or a single unit within a facility.
- (16) Fee applies to each separate corrective action program proposal or corrective measures implementation plan submitted. CAPs which integrate multiple technologies (e.g., pump and treat, biological, chemical, physical, etc.) into a single system shall be charged a single fee for the system. Facilities which have multiple separate programs (e.g., two separate groundwater contamination plumes, one remediated using pump and treat and the other using vapor extraction) shall be charged a separate fee for each separate system. This fee is also applicable to passive corrective measures (e.g. land-use restrictions, monitored natural attenuation).
- (17) Fee applies to each separate corrective action management unit (CAMU) designated/approved at a facility. This fee is in addition to any other fees applicable to any hazardous waste management units included within a CAMU.
- (18) Fee based on type of CAMU unit proposed (Storage; Treatment [except Land Treatment]; Disposal/Land Treatment). See Closure Plan Fees for unit types above.
- (19) Fee applies to facilities which receive hazardous waste from off-site sources (e.g., commercial facilities).
- (20) Fee applies to thermal treatment units required to conduct indirect risk assessments.
- (21) Initial fee applies to the first CS work plan at a facility. The additional unit fee will be charged for each additional, separate CS workplan at the same facility.
- (22) Initial fee applies to the first IM work plan at a facility. The additional unit fee will be charged for each additional, separate IM workplan at the same facility.
- (23) Initial fee applies to the first CMS work plan at a facility. The additional unit fee will be charged for each additional, separate CMS workplan at the same facility.

- (24) Fee is charged per each RFA Report prepared for a given facility.
- (25) Landfill 5-Year Review Certification fee applies to operating hazardous waste land disposal facilities subject to 335-14-5-.05.

FEE SCHEDULE D

WATER PERMITS

<u>Type of Activity</u>	<u>Initial Registration/ Issuance Reissuance or Modification (effluent limit change) (injection zone change or compatibility study)</u>	<u>Modification (no effluent limit change) (no injection zone change or no compatibility study)</u>
Major Industrial Discharger	\$22,490	\$4,925
Minor Industrial Discharger (not subject to effluent guidelines)	\$7,020	\$3,900
Minor Industrial Discharger (subject to effluent guidelines)	\$8,775	\$4,875
Major Municipal & Private	\$8,825	\$3,925
Minor Municipal & Private & Water Treatment	\$5,365	\$2,815
Municipal Stormwater (MS-4)	\$8,825	\$4,095
Mineral/Resource Extraction Mining, Storage Transloading, Dry Processing (up to and including 5 outfalls)	\$7,275	\$4,250
Wet Preparation, Processing, Beneficiation (up to and including 5 outfalls)	\$8,575	\$4,925

FEE SCHEDULE D

WATER PERMITS

<u>Type of Activity</u>	<u>Initial Registration/ Issuance Reissuance or Modification (effluent limit change) (injection zone change or compatibility study)</u>	<u>Modification (no effluent limit change) (no injection zone change or no compatibility study)</u>
Coalbed Methane (up to and including 5 outfalls)	\$8,575	\$4,925
General Permit	\$1,730	\$1,000
No Exposure Certification	\$500	-----
Individual Permit Administrative Changes	-----	\$1,000
ADDITIVE FEES		
Modeling with Data Collection (10 Stations)	\$75,490	\$75,490
Modeling with Data Collection (5 Stations)	\$61,645	\$61,645
Modeling - desktop	\$6,800	\$6,800
Review of Model Performed by Others	\$5,800	\$5,800
Seasonal Limits	\$6,800/ additional season	\$6,800/ additional season
Biomonitoring & Toxicity Limits	\$1,270	\$1,270
316b Phase I, Phase II, and Phase III Facilities [Permit Issuance/Re-issuance Modification]	\$6,330	0

FEE SCHEDULE D

WATER PERMITS

<u>Type of Activity</u>	<u>Initial Registration/ Issuance Reissuance or Modification (effluent limit change) (injection zone change or compatibility study)</u>	<u>Modification (no effluent limit change) (no injection zone change or no compatibility study)</u>
Review of Site Specific Impingement and Entrainment Studies and/or Comprehensive Demonstration Studies	\$50,655 (1)	0
Land Application	\$1,000	-----
Financial Assurance Review	\$1,000	-----
Additional Outfalls (any after the 5th outfall) for Mineral/Resource Extraction Mining; Storage Transloading; Dry Processing; Wet Preparation, Processing, and Beneficiation; and Coalbed Methane.	\$250/proposed outfall	-----
Outfalls Discharging to an Impaired Water for NPDES Individual permits: Industrial; Municipal; Private; Water Treatment; Mineral/Resource Extraction Mining; Wet Preparation, Processing, and Beneficiation; and Coalbed Methane.	\$100/outfall	-----
SID		
Indirect Discharge (SID)	\$4,815	\$2,655

FEE SCHEDULE D

WATER PERMITS

<u>Type of Activity</u>	<u>Initial Registration/ Issuance Reissuance or Modification (effluent limit change) (injection zone change <u>or</u> compatibility study)</u>	<u>Modification (no effluent limit change) (no injection zone change or no compatibility study)</u>
Indirect Discharge with EPA Established Categorical Effluent Guidelines	\$7,225	\$3,985
UIC		
Class III Well	\$42,065	\$2,815
Class V Well	\$5,365	\$2,815
General Permit	\$1,730	\$1,000
WATER SUPPLY		
Surface Water Treatment Plant/System	\$5,745	\$2,815
Distribution System	\$3,745	\$2,450
Groundwater Supply (Well/ System)	\$4,645	\$2,450
Name Change/Permit Minor Mod	-----	\$1,000
AFO/CAFO Individual Permit	\$7,435	\$5,820
AFO/CAFO Registration		
AFO	\$450	\$150
CAFO:		

FEE SCHEDULE D

WATER PERMITS

<u>Type of Activity</u>	<u>Initial Registration/ Issuance Reissuance or Modification (effluent limit change) (injection zone change or compatibility study)</u>	<u>Modification (no effluent limit change) (no injection zone change or no compatibility study)</u>
1-999 Animal Units	\$725	\$450
1,000-1,499 Animal Units	\$1,390	\$815
1,500-1,999 Animal Units	\$2,060	\$1,175
2,000 or more Animal Units	\$2,725	\$1,550

(1) Due upon submittal of CDS

FEE SCHEDULE E

SOLID WASTE PERMITS/REGISTRATION

<u>Type of Activity</u>	<u>Initial Issuance</u>	<u>Modification</u>	<u>Reissuance</u>
Medical Waste Transfer Facility	\$2,035	\$725	\$1,330
New Technology Review	\$10,205	-----	-----
Commercial Treatment Facility	\$16,460	\$7,280	\$9,180
Commercial Transportation of Medical Waste	\$3,490	\$1,460	\$2,035
Storage of Untreated Medical Waste	\$2,630	\$665	\$1,960
Municipal Solid Waste Landfill/CCR Unit	\$83,880	-----	\$71,300
Minor Mod. (1)*	-----	\$4,095	-----
Major Mod. (2)*	-----	\$40,770	-----
Construction/Demolition Waste Landfill	\$8,930	-----	\$7,590
Minor Mod. (1)*	-----	\$1,825	-----
Major Mod. (2)*	-----	\$3,645	-----
Industrial Waste Landfill	\$15,840	-----	\$13,465

<u>Type of Activity</u>	<u>Initial Issuance</u>	<u>Modification</u>	<u>Reissuance</u>
Minor Mod. (1)*	-----	\$1,825	-----
Major Mod. (2)*	-----	\$5,470	-----
Lagoon Closure Certification (3)*	\$24,490	-----	-----
Compost Facility	\$6,075	-----	\$4,590
Minor Mod.	-----	\$1,530	-----
Major Mod		\$2,430	
Additive Fees			
Geological Review (4)*	\$6,080	\$4,095	\$4,095
Solid Waste Disposal Notification (5)*	\$270	\$270	\$270
Variance Request (6)*	\$1,825	\$1,825	\$1,825
Corrective Action Plan Certification (7)*	\$52,975	-----	-----
Minor Mod.	-----	\$3,465	-----
Major Mod.	-----	\$13,300	-----
Beneficial Use Generator	\$2,100	\$690	\$2,100
Beneficial Use Distributor	\$4,200	\$690	\$4,200

<u>Type of Activity</u>	<u>Initial Issuance</u>	<u>Modification</u>	<u>Reissuance</u>
Beneficial Use FPR Treatment Facility	\$6,315	\$690	\$6,315

(1). These are modifications as included in ADEM Admin. Code rule 335-13-5-.06(2).

(2). These are modifications as included in ADEM Admin. Code rule 335-13-5-.06(1).

(3). Fee applies to individual unit closure.

(4). Fee applies to landfill permit actions (initial issuance, reissuance, and modifications) that require geological/hydrogeological review.

(5). Minor modifications apply to changes on the FORM 300 for the following: Process Generating Waste, Waste Name, Adding an Additional Landfill, and Generator Name/Address. All other modifications are considered Major Modifications to the Solid Waste Disposal Notification.

(6). Fee applies ~~to~~ on a per application basis regardless of the number of requested Variances (as defined in ADEM Admin. Code rule 335-13-8-.01) and applies to landfill and composting permits.

(7). Fee applies to each separate corrective action program proposal or corrective measures implementation plan submitted. Corrective Action Plans (CAPs) which integrate multiple technologies (e.g., pump and treat, biological, chemical, physical, etc.) into a single system shall be charged a single fee for the system. Facilities which have multiple separate programs (e.g., two separate groundwater contamination plumes, one remediated using pump and treat and the other using vapor extraction) shall be charged a separate fee for each separate system. This fee is also applicable to passive corrective measure (e.g. land-use restrictions, monitored natural attenuation, etc.). Modification fee applies to changes of approved Corrective Measures Implementation Plans/ Corrective Action Plans.

FEE SCHEDULE F
NPDES CONSTRUCTION STORMWATER GENERAL PERMIT AUTHORIZATION

<u>Type of Activity</u>	<u>Initial Issuance and Reissuance (4)</u>	<u>Modification</u>
Construction General Permit (1)	\$1,000	\$1,000
<u>Additive Fees</u>		
Per Acre Increment (project ≥ 5 acres) (2)	\$100/acre	\$100/acre added
Priority Site Fee (3)	\$100; if ≥ 5 acres + \$10 per acre	If acreage increases: \$100 +\$10 per acre added

(1). Includes coverage for < 5 acres. A Modification Fee for change in acreage for a less than 5-acre project does not require an additional per acre fee if the additional acreage increase does not cause the project to equal or exceed 5 acres. The total permit fee for each permit action will not exceed \$10,000, including all additive fees.

(2). An Additive Per Acre Increment Fee is required for projects equal to or greater than 5 acres. The Per Acre Increment Fee is determined by the total permitted disturbance during the life of the overall project as identified by the permit boundary. Permitted disturbance acreage will not be 'moved around' within the permit boundary.

In a modification:

- if the original permit was for < 5 acres and the additional acreage increases to equal or exceed 5 acres, the additive Per Acre Incremental Fee will apply to total acreage of the project, while the initial fee did not include a per acre fee.
- if the original permit was for ≥ 5 acres, the increment fee is assessed for each additional acre not included in the previous permit coverages.

(3). A Priority Site Fee is required for all projects discharging to a waterbody which is listed on the most recently EPA approved 303(d) list of impaired waters for turbidity, siltation, or sedimentation, any waterbody for which a TMDL has been finalized or approved by EPA for turbidity, siltation, or sedimentation, any waterbody assigned the Outstanding Alabama Water use classification in accordance with ADEM Admin. Code r. 335-6-10-.09, and any waterbody assigned a special designation in accordance with ADEM Admin. Code r. 335-6-10-.10. The Priority Site Fee shall be assessed for each initial Notice of Intent (NOI). The Priority

Site Fee for equal to or greater than 5-acre projects will apply to the total acreage of the project and the Priority Site Fee will be assessed for a permit modification for each additional acre not included in the initial permit coverage.

(4). Any Permittee authorized to discharge for the current permitted project under the current NPDES Construction General Permit, shall be granted coverage under the new Construction General Permit upon submittal of a reissuance NOI as required in the Construction General Permit. There are no additional fees to extend coverage for existing permitted sites under the new general permit. If a permit modification is required under Permit Part II.E., the applicable modification fee will apply.

**FEE SCHEDULE G
VARIANCES, CERTIFICATIONS AND LICENSES**

<u>Type of Activity</u>	<u>Initial Issuance</u>	<u>Modification</u>	<u>Reissuance</u>
Well Driller's License	\$200	----	\$200
Water and Wastewater Operator Certification			
Examination Fee	\$325	----	-----
Water and Wastewater Operator Certification Issuance Fee	\$155	----	-----
Water and Wastewater Operator Certification Renewal via Internet	-----	----	\$90
Water and Wastewater Operator Certification Renewal via Mail	-----	----	\$120
Water and Wastewater Operator Certification Renewal Late Fee	-----	----	\$270 (2)
Water and Wastewater Operator Reciprocal Certification	\$225	-----	-----
Laboratory Certification			
Microbiological lab	\$450	\$150	\$450
Chemistry Lab Certification Modification	-----	\$150	-----
Metals	\$450	-----	-----
Pesticides	\$450	-----	-----

**FEE SCHEDULE G
VARIANCES, CERTIFICATIONS AND LICENSES**

<u>Type of Activity</u>	<u>Initial Issuance</u>	<u>Modification</u>	<u>Reissuance</u>
Herbicides	\$450	-----	-----
Volatile Organic Chemicals	\$450	-----	-----
Synthetic Organic Chemicals	\$675	-----	-----
Disinfection Byproducts	\$675	-----	-----
Inorganics	\$450	-----	-----
Radiologicals	\$450	-----	-----
Asbestos	\$450	-----	-----
Dioxin	\$450	-----	-----
Maximum annual chemical lab certification fee	\$1,825	-----	-----

Coastal Variance See Schedule B

(2) See ADEM Admin. Code r. 335-10-1-.11(3)

Hazardous Waste

<u>Type of Activity</u>	<u>Initial Issuance</u>	<u>Modification</u>	<u>Reissuance</u>
Disposal Certification of Waste at a Commercial Hazardous Waste Landfill	\$450	\$450	\$450
Variance from Classification as a Solid Waste Pursuant to ADEM Admin. Code r. 335-14-1-.03(10)	\$20,390	-----	\$20,390
Delisting Certification Pursuant to ADEM Admin. Code r. 335-14-1-.03(2)	\$20,390	-----	-----
Variance from a Hazardous Waste Treatment Standard Pursuant to ADEM Admin. Code r. 335-14-9-.04(5)	\$5,470	-----	\$5,470
Notification of Regulated Waste Activity	\$225	-----	\$225
Variance to be classified as a boiler pursuant to ADEM Admin. Code r. 335-14-1-. 03(12)	\$5,470	-----	\$5,470
Variance to extend the effective date of a LDR on a case-by-case basis	\$5,470	-----	\$5,470

Hazardous Waste

<u>Type of Activity</u>	<u>Initial Issuance</u>	<u>Modification</u>	<u>Reissuance</u>
Variance to allow land disposal of a prohibited waste	\$5,470	-----	\$5,470
Hazardous Waste Generator Closure Certification	\$5,470	-----	\$5,470

Solid Waste Landfill Operator Certification

<u>Type of Activity</u>	<u>Initial Issuance</u>	<u>Reissuance</u>	<u>Reissuance after Expiration</u>
Landfill Operator Certification Issuance Fee	\$155	-----	-----
Landfill Operator Certification Renewal Fee	-----	\$120	-----
Landfill Operator Certification Late Renewal Fee	-----	-----	\$390
Landfill Operator Reciprocal Certification Fee	\$225	-----	-----

VISIBLE EMISSIONS CERTIFICATIONS

<u>Type of Activity</u>	<u>Fee</u>
Lecture Certification Fee (initially and every 3 years)	\$70
Field Certification Fee (every 6 months)	\$290
Late Fee (after registration closes)	\$100

VISIBLE EMISSIONS CERTIFICATIONS

<u>Type of Activity</u>	<u>Fee</u>
On-Site Registration Fee (fee assessed in addition to the late fee when registering on the day of the field certification test)	\$50

FEE SCHEDULE H

BROWNFIELD REDEVELOPMENT AND VOLUNTARY CLEANUP PROGRAM

Non-Responsible Person Applicant

<u>TYPE OF ACTIVITY</u>	<u>REVIEW FEE</u>	<u>MINOR MODIFICATION</u>	<u>MAJOR MODIFICATION</u>
Application ⁽¹⁾	\$5,060	\$250	\$500
With Variance	\$16,855	NA	NA
Assessment Review ⁽²⁾	\$6,740	\$1,680	\$2,570
Assessment Report	\$4,260		
Cleanup Review ⁽²⁾	\$12,470	\$1,680	\$2,570
Cleanup Report	\$7,720		
Letter of Concurrence			
Unconditional	\$1,680	NA	NA
Conditional	\$4,210	NA	NA
Property Eligibility Determination ⁽³⁾	\$670	NA	NA

Responsible Person Applicant

Application ⁽¹⁾	\$5,060	\$250	\$500
With Variance	\$16,855	NA	NA
Assessment Review ⁽²⁾	\$24,470	\$2,770	\$9,840
Assessment Report	\$10,520		
Cleanup Review	\$43,065	\$2,770	\$9,840
Cleanup Report	\$17,635		

<u>TYPE OF ACTIVITY</u>	<u>REVIEW FEE</u>	<u>MINOR MODIFICATION</u>	<u>MAJOR MODIFICATION</u>
Letter of Concurrence			
Unconditional	\$1,680	NA	NA
Conditional	\$4,210	NA	NA
Property Eligibility Determination⁽²⁾	\$670	NA	NA

Additive Fees⁽⁴⁾

Public Notice⁽⁵⁾	\$800
Groundwater Monitoring⁽⁶⁾	\$1,000
Risk Management RM-1	\$1,700
Risk Management RM-2	\$4,350
Operation and Maintenance Plan⁽⁶⁾ (7)	\$1,500
Brownfield Remediation Reserve Fund Contribution⁽⁸⁾ (*)	\$500

(1) Submittal of the appropriate application fee is required prior to the review of any plans, reports, and, or certifications.

(2) An Assessment and/or Cleanup Review fee is assessed when review of a plan and report is required as determined by the Department.

(3) Property eligibility determinations are valid for a period of one year from date of issuance.

(4) Additive fees are levied on the assessment or cleanup fees as applicable. Total fees due are a sum of assessment and/or cleanup fees and additive fees applicable to a given applicant.

(5) A Public Notice fee is assessed on any Plan or Report which proposes final cleanup remedy recommendations, such as removal of contaminants and/or an Environmental Covenant.

(6) These fees are assessed annually until required activities are complete and/or terminated by the Department.

(7) Fee is added to a Cleanup Review and/or Report fee, when an Operation and Maintenance (OAM) is required as a part of the approved remedy. Modification of OAM activities would require a modification of the Cleanup Report and submittal of required fees.

(8) This fee applies only to Responsible Party Applicants and is assessed **per acre** of each qualifying property in addition to the voluntary cleanup program application and oversight fees.

* This fee is enacted by Act 2023-356 of the 2023 Alabama Legislative Session.

FEE SCHEDULE I

SCRAP TIRE PROGRAM PERMITS/REGISTRATIONS			
<u>Type of Activity</u>	<u>Initial Issuance</u>	<u>Modification</u>	<u>Reissuance</u>
Class One Processor Permit	\$3,800	\$945	\$1,890
Class Two Processor Permit	\$3,155	\$795	\$1,575
Class Three Processor Permit	\$3,155	\$795	\$1,575
Scrap Tire Transporter Permit	\$1,270	\$325	\$640
Limited-use Transporter Permit	\$325	-----	\$325
(see Note 1)			
Registration as an Exempt Processor	\$1,270	\$325	\$640
Registration for Engineered Use of Tire Materials	\$1,270	-----	-----

Note 1: A limited-use transporter permit is available to landowners or their duly authorized representatives engaged in the remediation of scrap tire piles in accordance with 335-4-1-.02(w), 335-4-2-.01(7) and 335-4-3-.05(3) (b).

See ADEM Admin. Code r. 335-4-3-.03(b) for definitions of processors

Fee Schedule J

Environmental Covenants Fees

<u>Type of Activity</u>	<u>Initial Issuance</u>	<u>Modification</u>
Processing and Review Fee		
Institutional Controls	\$4,285	\$1,070
Engineering Controls	\$6,425	\$1,610
Registry Recording Fee		
For Class 1 controls*	\$13,705	\$635
For Class 2 controls*	\$9,420	\$635
For Class 3 controls*	\$5,245	\$635

* - For classification of institutional and engineering controls, see ADEM Admin. Code Rule. 335-5-1-.03(i).

Registry Recording Fee also includes costs of performing inspections for a 30-year period.

For sites utilizing both institutional controls and engineering controls, the processing and review fees shall be the greater of the applicable fees.

For sites with more than one classification of institutional or engineering control, the registry recording fee shall be the greater of the applicable fees.

For a property or site containing multiple individually deeded parcels covered by one or more similar covenants, the owner or operator may pay all applicable fees listed in Fee Schedule J or the owner or operator or other responsible party may include a provision in an order or agreement executed between the owner or operator or other responsible person and the Department to pay fees as provided in 335-5-1-.06(6).

Fee Schedule K
NPDES SAND AND GRAVEL GENERAL PERMIT AUTHORIZATION

<u>Type of Activity</u>	<u>Initial Issuance and Reissuance</u>	<u>Modification(2)</u>
Category A: Mining General Permit less than 5 acres (1)	\$1,730	\$1,000
Category B: Mining General Permit 5 acres or greater and less than or equal to 30 acres (1)	\$4,000	\$2,000 + \$2,270 if moving from Category A to Category B
Category C: Mining General Permit greater than 30 acres (1)	\$7,000	\$3,000 + \$5,270 if moving from Category A to Category C or + \$3,000 if moving from Category B to Category C

Additive Fees

Category B Wet Preparation	\$700	-----
Category C Wet Preparation	\$700	-----
Category A Priority Site Fee (3)	\$500	\$500
Category B Priority Site Fee (3)	\$1,000	\$1,000
Category C Priority Site Fee (3)	\$1,500	\$1,500

(1). Initial Issuance/Reissuance acreage is determined by the total permitted disturbance during the life of the overall project as identified by the permit boundary. Disturbance acreage will not be 'moved around' within the permit boundary.

(2) A Modification Fee is required for a request for modification of an existing Notice of Intent (NOI) when the permitted disturbed area expands, or the permitted area is modified from an existing permitted

category through subsequent category(s) that was not identified on the current NOI upon which existing permit coverage was granted.

(3). A Priority Site Fee, required for all NOIs for projects discharging to a waterbody which is listed on the most recently EPA approved 303(d) list of impaired waters for turbidity, siltation, or sedimentation, any waterbody for which a TMDL has been finalized or approved by EPA for turbidity, siltation, or sedimentation, any waterbody assigned the Outstanding Alabama Water use classification in accordance with ADEM Admin. Code r. 335-6-10-.09, and any waterbody assigned a special designation in accordance with ADEM Admin. Code r. 335-6-10-.10 any waterbody Water, shall be submitted with each NOI request and each modification request.

Author: Marilyn Elliott, Russell A. Kelly, Brian C. Espy, Sharon Moses, Pamela W. Luckie, Lynn T. Roper

Statutory Authority: Code of Ala. 1975, §22-22A-5.

History: Effective February 13, 1985. **Amended:** Filed December 12, 1996; effective January 16, 1997. **Amended:** Filed February 24, 1999; effective March 31, 1999. **Amended:** Filed December 5, 2001; effective January 9, 2002. **Amended (Schedule H only):** Filed April 11, 2002; effective May 16, 2002. **Amended (Schedules B, C, D, E, & F only):** Filed August 29, 2002; effective October 3, 2002. **Amended (Added Schedule I only):** Filed June 30, 2004; effective August 4, 2004. **Amended (Schedules A-H only):** Filed December 6, 2005; effective January 10, 2006. **Amended (Schedules D & G only):** Filed June 6, 2006; effective July 11, 2006. **Amended (Schedules A-I only):** Filed October 10, 2006; effective November 14, 2006. **Amended (Schedules A thru I only):** Filed December 18, 2007; effective January 22, 2008. **Amended (Schedule G only):** Filed December 15, 2009; effective January 19, 2010. **Amended (Text and Schedules A thru J):** Filed October 25, 2011; effective November 29, 2011. **Amended (Schedules A thru J only):** Filed June 25, 2013; effective July 30, 2013. **Amended (Schedules A thru J only):** Filed December 21, 2016, effective January 25, 2017. **Amended (Schedule E only):** Filed April 24, 2018, effective June 8, 2018. **Amended (Schedule E only):** Filed June 25, 2019; effective August 9, 2019. **Amended (Schedules E, H, and J only):** Published February 28, 2020; effective April 13, 2020. **Amended (Schedules C and J only):** Published December 31, 2020; effective February 14, 2021. **Amended (Schedule H only):** Published April 29, 2022; effective June 13, 2022. **Amended (Fee Schedule E only):** Published December 30, 2022; effective February 13, 2023. **Amended:** Published February 29, 2024; effective April 14, 2024. **Amended:** Published December 31, 2025; effective February 14, 2026. **Amended:** Published ~~August 31, 2026~~; effective ~~October 15, 2026~~.

Attachment 5

ENVIRONMENTAL MANAGEMENT COMMISSION RESOLUTION

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to ADEM Admin. Code 335-6 of the Department's Water Division's Water Quality Program Rules and Regulations in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

WHEREAS, a public hearing was held before a representative of the Alabama Department of Environmental Management designated by the Environmental Management Commission for the purpose of receiving data, views and arguments on the amendment of such proposed rules; and

WHEREAS, the Alabama Department of Environmental Management did not receive any comments at the public hearing or during the public comment period.

NOW THEREFORE, pursuant to Ala. Code. §§ 22-22A-5, 22-22A-6, 22-22A-8 (2006 Rplc. Vol.), and Ala. Code. § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to division 335-6 [rules 335-6-15-.02/ Definitions (Amend); 335-6-15-.42/Underground Storage Tank Regulation Fee (Amend)] of the Alabama Department of Environmental Management Water Division - Water Quality Program Rules, administrative code attached hereto, to become effective forty-five days, unless otherwise indicated, after filing with the Alabama Legislative Services Agency.

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

ADEM Admin. Code division 335-6 – of the Department’s Water Division – Water Quality
Program Rules

IN WITNESS WHEREOF, we have affixed our signatures below on this 14th day of
August, 2026.

APPROVED:



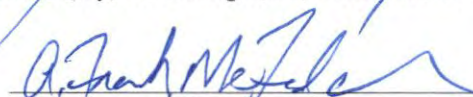
Mary J. Merritt, Commissioner



J. Patrick Tucker, Commissioner



John (Jay) H. Masingill, III, Commissioner



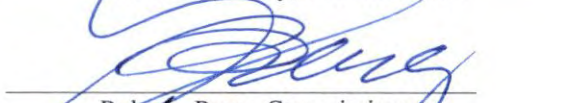
A. Frank McFadden, Commissioner



H. Lanier Brown, II, Commissioner



Kevin McKinstry, Commissioner



Ruby L. Perry, Commissioner

DISAPPROVED:

Mary J. Merritt, Commissioner

H. Lanier Brown, II, Commissioner

J. Patrick Tucker, Commissioner

Kevin McKinstry, Commissioner

John (Jay) H. Masingill, III, Commissioner

Ruby L. Perry, Commissioner

A. Frank McFadden, Commissioner

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

ABSTAINED:

Mary J. Merritt, Commissioner

H. Lanier Brown, II, Commissioner

J. Patrick Tucker, Commissioner

Kevin McKinstry, Commissioner

John (Jay) H. Masingill, III, Commissioner

Ruby L. Perry, Commissioner

A. Frank McFadden, Commissioner

This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 14th day of August 2026.



A. Frank McFadden, Chair
Environmental Management Commission
Certified this 14th day of August 2026

ATTACHMENT A

APA-1

**TRANSMITTAL SHEET FOR NOTICE
OF INTENDED ACTION**

Control: 335

Department or Agency: Alabama Department of Environmental Management Water
Division - Water Quality Program

Rule No.: 335-6-15-.02

Rule Title: Definitions

Intended Action: Amend

Would the absence of the proposed rule significantly harm or
endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police
power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available
that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly
increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm
that might result from the absence of the proposed rule? No

Are all facets of the rule-making process designed solely for the
purpose of, and so they have, as their primary effect, the
protection of the public? Yes

Does the proposed action relate to or affect in any manner any
litigation which the agency is a party to concerning the subject
matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be
accompanied by a fiscal note prepared in accordance with subsection (f) of Section
41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance
with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it
conforms to all applicable filing requirements of the Administrative Procedure
Division of the Legislative Services Agency.

Signature of certifying officer

Jeffery W. Kitchens
Jeffery W. Kitchens

Date

Friday, May 15, 2026

REC'D & FILED

MAY 15, 2026

LEGISLATIVE SVC AGENCY

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
WATER DIVISION - WATER QUALITY PROGRAM

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management

RULE NO. & TITLE: 335-6-15-.02 Definitions

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

The Department proposes amendments to 335-6-15-.02 to clarify definitions.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held at 10:00 a.m., July 7, 2026, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110. Attendance at the hearing is not necessary to present such data, views, arguments, or comments. All comments should be received by 5:00 p.m., July 7, 2026. Written submissions and other inquiries should be directed to: ADEM Hearing Officer, Office of General Counsel, Alabama Department of Environmental Management, P.O. Box 301463, Montgomery, AL 36130-1463 (street address: 1400 Coliseum Boulevard, Montgomery, AL 36110-2400) or by e-mail at hearing.officer@adem.alabama.gov.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, July 7, 2026

CONTACT PERSON AT AGENCY:

Lynn T. Roper, 334-271-7728

Jeffery W. Kitchens

Jeffery W. Kitchens

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

(a) "Aboveground release" means any release to the surface of the land or to surface water. This includes, but is not limited to, releases from the aboveground portion of an UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from an UST system.

(b) "ADEM" means the Alabama Department of Environmental Management.

(c) "Airport hydrant fuel distribution system" means an UST system which fuels aircraft and operates under high pressure with large diameter underground piping that typically terminates into one or more hydrants (fill stands). The airport hydrant fuel distribution system begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier.

(d) "Ancillary equipment" means any devices including, but not limited to, such devices as underground piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST.

(e) "Belowground release" means any release to the subsurface of the land, including releases to groundwater. This includes, but is not limited to, releases from the belowground portions of an underground storage tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

(f) "Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.

(g) "Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, an underground storage tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

(h) "Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and

underground storage tank systems. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and underground storage tank systems. Such persons must also be certified, and then recertified every 3 years, as successfully completing in-class and field training from a corrosion expert. Certification may no longer be recognized by the Department and/or the certifying organization if a certified individual is not recertified within 90 days or another time period approved by the Department after expiration of their certification, there is evidence of fraud, or the tester is determined by the Department to not be capable of properly performing cathodic protection testing. At a minimum, certification training shall encompass all of the following and recertification training shall include the training outlined in subparagraphs (h)3. through 5. of this rule, or be in accordance with NACE International certification and recertification requirements:

1. Basics of corrosion which include the following discussions:

- (i) What corrosion is;
- (ii) Significance and costs of corrosion;
- (iii) Conditions for corrosion to occur;
- (iv) Electrochemical aspects of corrosion;
- (v) Environmental effects on UST systems such as oxygen, temperature, corrosivity of the environment, concentration of corrosive element, and galvanic coupling;
- (vi) Types of corrosion;
- (vii) Galvanic series and Electromotive Force series; and
- (viii) Corrosion properties of different metals and nonmetals.

2. Underground corrosion discussion which includes the following:

- (i) Chemical and physical properties of soils;

(ii) Factors affecting underground corrosion such as:

(I) Soil particle size and composition; and

(II) Electrolyte moisture content, resistivity, and acidity/alkalinity;

(iii) Factors in underground corrosion of ferrous metals such as burial depth, area effects, and time buried; and

(iv) Behavior of coatings in soils.

3. Corrosion prevention discussion which includes the following:

(i) Impressed current cathodic protection system mechanism, economics, continuity and structure-to-soil testing, anode selection, life of anode, anode environment, design and installation of anodes;

(ii) Sacrificial anode (galvanic) cathodic protection system mechanism, economics, continuity and structure-to-soil testing, anode selection, life of anode, anode environment, design and installation of anodes;

(iii) Sources of power for cathodic protection;

(iv) When to use an impressed current cathodic protection system versus a sacrificial anode cathodic protection system;

(v) Misconceptions about cathodic protection;

(vi) Purpose of cathodic protection monitoring and testing, criterion used for monitoring steel, and criterion for monitoring other metals;

(vii) Reference cell purpose, practical test locations, test stations, and maintenance;

(viii) Stray current sources, detection, testing, and prevention;

(ix) Use of coatings in underground applications to prevent corrosion; and

(x) UST internal corrosion problems and prevention.

4. Discussion of regulatory requirements for corrosion protection as follows:

- (i) Federal and state of Alabama corrosion protection requirements;
- (ii) Qualifications required to perform corrosion protection work as a corrosion expert and cathodic protection tester;
- (iii) Integrity assessment prior to addition of cathodic protection such as internal inspection and acceptable alternatives;
- (iv) Corrosion protection upgrading options; and
- (v) Monitoring and recordkeeping requirements.

5. Discussion of standards and recommended practices such as NACE International, American Petroleum Institute, Petroleum Equipment Institute, National Fire Prevention Association, American Society for Testing and Materials, and Steel Tank Institute.

6. Hands-on field inspection and testing session featuring galvanic versus impressed current systems, reference electrodes, rectifiers, instrumentation, test stations, structure-to-soil and continuity testing, what to look for to determine compliance with cathodic requirements, cathodic protection system problems, and what to do if cathodic protection system does not meet minimum criteria.

(i) "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

(j) "Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the underground storage tank system under conditions likely to be encountered in the UST.

(k) "Connected piping" means all underground piping including valves, elbows, joints, flanges and flexible connectors attached to an underground storage tank system through which regulated substances flow. For the purpose of determining how much underground piping is connected to any individual UST system, the underground piping that joins two UST systems should be allocated equally between them.

(l) "Consumptive use" with respect to heating oil means consumed on the premises.

(m) "Containment sump" means a liquid-tight container that protects the environment by containing leaks and spills of regulated substances from underground piping, dispensers, pumps and related components in the containment area. Containment sumps may be single walled or secondarily contained and located at the top of the UST (UST top or submersible turbine pump sump), underneath the dispenser (under-dispenser containment sump), or at other points in the underground piping run (transition or intermediate sump).

(n) "Contaminant" means a regulated substance which has been released into the environment.

(o) "Continuous interstitial monitoring" means performing interstitial monitoring on an uninterrupted basis.

(p) "Corrective action limits (CAL)" means those contaminant concentrations which must be achieved in order for corrective action to be deemed complete by the Department.

(q) "Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal underground storage tanks. Such a person must be accredited or certified as being qualified by NACE International or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal underground storage tanks. Such person is qualified to test cathodic protection systems without becoming certified and recertified as defined in subparagraph (h) of this rule.

(r) "Critical junctures" means the steps taken to install, close, and repair UST systems which, if done improperly, could result in the greatest risk of a release.

(s) "Department" means the Alabama Department of Environmental Management.

(t) "Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate

portions of the UST system (e.g., underground storage tank from underground piping).

(u) "Director" means the Director of the Alabama Department of Environmental Management.

(v) "Dispenser" means equipment located aboveground that dispenses regulated substances from the UST system.

(w) "Dispenser system" means the dispenser as defined in paragraph (v) of this rule and the equipment necessary to connect the dispenser to the underground storage tank system.

(x) "Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

(y) "Excavation zone" means the volume containing the underground storage tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

(z) "Existing tank system" means an underground storage tank system used to contain an accumulation of regulated substances or for which installation has commenced before April 5, 1989. Installation is considered to have commenced if:

1. The owner or operator has obtained all federal, state of Alabama, and local approvals or permits necessary to begin physical construction of the site or installation of the underground storage tank system; and if,

2. Either a continuous on-site physical construction or installation program has begun; or,

3. The owner or operator has entered into contractual obligations--which cannot be cancelled or modified without substantial loss--for physical construction at the site or installation of the underground storage tank system to be completed within a reasonable time.

(aa) "Farm tank" is an underground storage tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

(bb) "Field-constructed tank" means a tank constructed in the field. For example, a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field is considered field-constructed.

(cc) "Flow-through process tank" is an underground storage tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process underground storage tanks do not include underground storage tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

(dd) "Free product" refers to a regulated substance that is present as a non-aqueous phase liquid (e.g., liquid not dissolved in water).

(ee) "Gathering lines" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

(ff) "Groundwater" means water below the land surface in a zone of saturation.

(gg) "Hazard quotient" means a ratio of the level of exposure of a chemical over a specified time period to a "reference dose", as defined in subparagraph (jjj) of this rule, for that chemical of concern derived for a similar exposure period.

(hh) "Hazardous substance" means a hazardous substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under Division 14 of the ADEM Administrative Code) or any mixture of such substances and petroleum, and which is not a petroleum UST system.

(ii) "Hazardous substance UST system" means an underground storage tank system that contains any substance defined as a hazardous substance in subparagraph (hh) of this rule.

(jj) "Health Advisory Level" or "(HAL)-A" means a level established by the United States Environmental Protection Agency which provides the level of a contaminant in drinking water at which adverse non-carcinogenic health effects would not be anticipated with a margin of safety.

(kk) "Heating oil" means petroleum that is No. 1, No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

(ll) "Hydraulic lift tank" means an underground storage tank holding hydraulic fluid for a closed-loop mechanical system that used compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

(mm) "Incremental Excess Lifetime Cancer Risk" or "IELCR" means the increase over background in an individual's probability of getting cancer over a lifetime due to exposure to a hazardous substances.

(nn) "Interstitial monitoring" is a method of routinely checking at regular intervals for leaks into the space between the primary wall of an UST or underground piping and an outer secondary barrier.

(oo) "Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

(pp) "Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing product.

(qq) "Maximum Contaminant Level" or "MCL" means a level established by the United States Environmental Protection Agency which is the maximum permissible level of a contaminant in drinking water that is delivered to any user of a public water system.

(rr) "Motor fuel" means a complex blend of hydrocarbons typically used for combustion in the operation of a motor or engine such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, biodiesel, or any blend containing one or more of these substances (for example: motor gasoline blended with alcohol).

(ss) "New dispenser system" is either a newly manufactured or operational dispenser and the equipment necessary to connect the dispenser to the underground storage tank system, which includes check valves, shear valves, unburred risers, flex connectors, or other transitional components which connect the dispenser to the underground piping, which is installed for the first time or at a new location on August 6, 2007 and thereafter.

(tt) "New UST system" means an underground storage tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced on or after April 5, 1989. See also "Existing tank system" in subparagraph (z) of this rule.

(uu) "Noncommercial purposes" with respect to motor fuel means not for resale.

(vv) "On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

(ww) "Operational life" refers to the period beginning when installation of the underground storage tank system has commenced until the time the underground storage tank system is properly closed under rules 335-6-15-.34 through 335-6-15-.37.

(xx) "Operator" means any person in control of, or having responsibility for, the daily operation of the UST system.

(yy) "Operator, Class A" means any person who is, or is employed by, the underground storage tank owner, underground storage tank facility owner, or lessee, who has primary responsibility to operate and maintain underground storage tank systems. The Class A operator's responsibilities include managing resources and personnel, such as establishing work assignments to achieve and maintain compliance with Department underground storage tank regulatory requirements. In general, this person focuses on the broader aspects of the regulations and standards necessary to operate and maintain underground storage tank systems in accordance with this chapter. For example, this person typically ensures that responsible person(s):

1. Are trained to operate and maintain underground storage tank systems and keep records in accordance with the requirements in this chapter;

2. Operate and maintain underground storage tank systems in accordance with the requirements in this chapter;
3. Maintain records in accordance with the requirements of this chapter;
4. Respond to emergencies caused by releases or spills from underground storage tank systems in accordance with the requirements of this chapter; and
5. Make financial responsibility documents available to the Department as required by rules 335-6-15-.13 and 335-6-15-.43.

(zz) "Operator, Class B" means any person who is, or is employed by, the underground storage tank owner, underground storage tank facility owner, or lessee, who implements underground storage tank regulatory requirements and standards in the field in accordance with this chapter. This person implements day-to-day aspects of operating, maintaining, and recordkeeping for underground storage tank systems at one or more facilities. For example, this person typically monitors, maintains, and ensures:

1. Compliance with release detection, recordkeeping, and reporting requirements;
2. Compliance with release prevention, recordkeeping, and reporting requirements;
3. Compliance with performance standards for all relevant equipment; and
4. Training of responsible persons to respond to emergencies caused by releases or spills in accordance with the requirements of this chapter.

(aaa) "Operator, Class C" means any person who is, or is employed by, the underground storage tank owner, underground storage tank facility owner, or lessee, who is generally the first line of response to events indicating emergency conditions. This person is responsible for responding to alarms or other indications of emergencies caused by spills or releases from underground storage tank systems, and for notifying the Class B or Class A operator and appropriate emergency responders when necessary. Not all employees of the facility are necessarily Class C operators. This person typically:

1. Controls or monitors the dispensing or sale of regulated substances; or
2. Is responsible for initial response to alarms or releases.

(bbb) "Overfill release" is a release that occurs when an underground storage tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

(ccc) "Owner" means: in the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use, or dispensing of regulated substances; and in the case of any UST system in use before November 8, 1984, but no longer in use on that date, the present owner of the underground storage tank and any person who owned such underground storage tank immediately before the discontinuation of its use.

(ddd) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation, state, municipality, commission, political subdivision of a state, or any interstate body. "Person" also includes a consortium, a joint venture, a commercial entity, and the United States Government.

(eee) "Petroleum" means crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), petroleum-based substances comprised of a complex blend of hydrocarbons or a mixture of petroleum with de minimis concentrations of other regulated substances such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(fff) "Petroleum UST system" means an underground storage tank system that contains "petroleum" as defined in subparagraph (eee) of this rule.

(ggg) "Pipe" or "Piping" means a hollow cylinder or tubular conduit that is constructed of non-earth materials that routinely contains and conveys regulated substances from the underground storage tank(s) to the dispenser(s) or other end-use equipment. Such "pipe" or "piping" includes any elbows, couplings, unions, valves, or other in-line fixtures that contain and convey regulated substances from the underground storage tank(s) to the dispenser(s). This definition excludes

vent, vapor recovery, or fill lines that do not routinely contain regulated substances.

(hhh) "Pipeline facilities (including gathering lines)" are new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

(iii) "Red tag" means a tamper resistant device or mechanism which can be placed on an underground storage tank's fill pipe that clearly identifies the underground storage tank as being prohibited from accepting regulated substance delivery. The device or mechanism is easily visible to the regulated substance deliverer and clearly conveys that it is unlawful to deliver to, or accept product into the underground storage tank.

(jjj) "Reference dose" means an estimate of a daily exposure to the general human population that is likely to be without an appreciable risk of deleterious effects during a lifetime of exposure.

(kkk) "Regulated substance" means any substance defined as a hazardous substance in subparagraph (hh) of this rule or any substance defined as petroleum in subparagraph (eee) of this rule.

(lll) "Regulated substance deliverer" means any person who delivers a regulated substance to an underground storage tank.

(mmm) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an UST into groundwater, surface water or subsurface soils.

(nnn) "Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

(ooo) "Repair" means to restore to proper operating condition an underground storage tank, underground pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment, or other UST system component that has caused or could cause a release of product from the UST system or has failed to function properly, that is not "routine maintenance" as defined in subparagraph (qqq) of this rule.

(ppp) "Residential tank" is an underground storage tank located on property used primarily for dwelling purposes.

(qqq) "Routine maintenance" means an activity designed to maintain an UST system that is completed without breaking concrete, asphalt, or other paved surface and/or ground, and that is not a "repair" as defined in subparagraph (ooo) of this rule, installation, or closure. This includes work on or replacing spill catchment basins, automatic line leak detectors, automatic tank gauge probes, suction or submersible pumps, overfill prevention devices, drop tubes, check valves, underground storage tank fill adaptors, caps, lids, and manhole covers, fuses, dispenser components above shear valve, all without breaking concrete, asphalt or other paved surface, and/or ground.

(rrr) "SARA" means the Superfund Amendments and Reauthorization Act of 1986.

(sss) "Secondary containment" or "Secondarily contained" means a release prevention and release detection system for an underground storage tank or underground piping. This system has an inner and outer barrier with an interstitial space that is monitored for leaks. This term includes containment sumps when used for interstitial monitoring of underground piping.

(ttt) "Septic tank" is a water-tight covered underground receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the underground tank are pumped out periodically and hauled to a treatment facility.

(uuu) "Significant noncompliance requiring delivery prohibition" means a failure of an owner or operator to comply with any of the following requirements of this chapter that will result in the Department prohibiting delivery of regulated substances to an underground storage tank facility, after being given notice: installation of spill prevention, overfill prevention, leak detection, or corrosion protection equipment on an underground storage tank system as required by rules 335-6-15-.03, 335-6-15-.04, 335-6-15-.06, 335-6-15-.07, 335-6-15-.09 through 335-6-15-.12, and 335-6-15-.14 through 335-6-15-.18.

(vvv) "Significant noncompliance subject to delivery prohibition" means a failure of an owner or operator to comply with any of the following requirements of this chapter

that may result in the Department prohibiting delivery of regulated substances to an underground storage tank facility, after being given notice and appropriate time by the Department to comply:

1. Notification requirements for an underground storage tank system with the Department in accordance with rule 335-6-15-.05;

2. Operation and/or maintenance of spill prevention, overfill prevention, leak detection, or corrosion protection equipment on an underground storage tank system as required by rules 335-6-15-.03, 335-6-15-.04, 335-6-15-.06, 335-6-15-.07, 335-6-15-.09, 335-6-15-.10, and 335-6-15-.14 through 335-6-15-.18;

3. Installation, operation and/or maintenance of under dispenser containment or submersible pump containment on an underground storage tank system as required by rules 335-6-15-.03, 335-6-15-.06, and 335-6-15-.09;

4. Compatibility, and repair requirements on an underground storage tank system as required by rules 335-6-15-.11 and 335-6-15-.12;

5. Submittal of documentation or reports relating to spill prevention, overfill prevention, leak detection, corrosion protection, under dispenser containment, submersible pump containment, compatibility and repairs for an underground storage tank system within the time frame required by this chapter or within a reasonable time frame upon request by the Department;

6. Payment of the yearly underground storage tank regulation fee in accordance with ~~rule~~rules 335-6-15-.42 and 335-1-8-.02;

7. Taking appropriate action in response to a release or suspected release of product as outlined by rules 335-6-15-.20 through 335-6-15-.25; or

8. Investigation, and/or clean up a release from an underground storage tank system in a timely manner, in accordance with rules 335-6-15-.26 through 335-6-15-.30 and 335-6-15-.35.

9. Training of operators of UST systems in accordance with rule 335-6-15-.46.

10. Use of an individual or individuals certified by a Department approved certifying organization to exercise supervisory control over installation, closure, and repair of UST systems in accordance with rule 335-6-15-.47.

(www) "Storm-water or wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

(xxx) "Surface impoundment" is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

(yyy) "Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials (e.g., concrete, steel, plastic) that provide structural support.

(zzz) "Training program" means any program that provides information to and evaluates the knowledge of a Class A, Class B, or Class C operator through testing, practical demonstration, or another approach acceptable to the Department regarding requirements for UST systems that meet the requirements of rule 335-6-15-.46.

(aaaa) "Under dispenser containment" means containment underneath a dispenser system designed to prevent leaks from the dispenser and underground piping within or above the under dispenser containment from reaching soil or groundwater.

(bbbb) "Underground area" means an underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

(cccc) "Underground release" means any belowground release.

(dddd) "Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more

beneath the surface of the ground. This term does not include any:

1. Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
2. Tank used for storing heating oil for consumptive use on the premises where stored;
3. Septic tank;
4. Pipeline facility (including gathering lines):
 - (i) Which is regulated under chapter 601 of Title 49, or
 - (ii) Which is an intrastate pipeline facility regulated under state laws as provided in chapter 601 of Title 49, and which is determined by the Secretary of Transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline, or
 - (iii) State of Alabama laws comparable to the provisions of law in subparagraph (ddd)4.(i) or (ii) above;
5. Surface impoundment, pit, pond, or lagoon;
6. Storm-water or wastewater collection system;
7. Flow-through process tank;
8. Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or
9. Storage tank situated in an underground area (such as a basement cellar, mine working, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.
10. Other tanks exempted by the administrator of the United States Environmental Protection Agency; and
11. Piping connected to any of the above exemptions.

(eeee) "Underground storage tank facility" is a single site or location containing one or more underground storage tank systems.

(ffff) "Upgrade" means the addition or retrofit of some systems such as cathodic protection, lining, or spill and overflow controls to improve the ability of an underground storage tank system to prevent the release of product.

(gggg) "UST system" or "Underground Storage Tank system" means an underground storage tank, connected to and including underground piping, underground ancillary equipment, and containment system, if any, as well as underground vent, vapor recovery, or fill lines.

(hhhh) "Wastewater treatment tank" means an underground tank that is designated to receive and treat an influent wastewater through physical, chemical, or biological methods.

(iiii) "Waters" means all waters of any river, stream, watercourse, pond, lake, coastal, ground or surface water, wholly or partially within the state of Alabama, natural or artificial. This does not include waters which are entirely confined and retained completely upon the property of a single individual, partnership or corporation unless such waters are used in interstate commerce.

Author: Sonja Massey, Curt Johnson, Lee Davis, Vernon H. Crockett, [Lynn T. Roper](#), [Stephen A. Cobb](#)

Statutory Authority: [Code of Ala. 1975, §§22-36-2, 22-36-3.](#)

History: Effective April 5, 1989. **Amended:** Filed August 28, 2003; effective October 2, 2003. **Amended:** Filed July 2, 2007; effective August 6, 2007. **Amended:** Filed March 21, 2008; effective April 25, 2008. **Amended:** Filed October 20, 2009; effective November 24, 2009. **Amended:** Filed December 12, 2011; effective January 16, 2012. **Amended:** Filed February 25, 2014; effective April 1, 2014. **Amended:** Filed October 24, 2017; effective December 8, 2017. **Amended:** Published February 28, 2022; effective April 14, 2022. [Amended: Published ; effective](#) .

APA-1

TRANSMITTAL SHEET FOR NOTICE
OF INTENDED ACTION

Control: 335

Department or Agency: Alabama Department of Environmental Management Water
Division - Water Quality Program

Rule No.: 335-6-15-.42

Rule Title: Underground Storage Tank Regulation Fee

Intended Action Amend

Would the absence of the proposed rule significantly harm or
endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police
power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available
that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly
increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm
that might result from the absence of the proposed rule? No

Are all facets of the rule-making process designed solely for the
purpose of, and so they have, as their primary effect, the
protection of the public? Yes

Does the proposed action relate to or affect in any manner any
litigation which the agency is a party to concerning the subject
matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be
accompanied by a fiscal note prepared in accordance with subsection (f) of Section
41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance
with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it
conforms to all applicable filing requirements of the Administrative Procedure
Division of the Legislative Services Agency.

Signature of certifying officer

Jeffery W. Kitchens
Jeffery W. Kitchens

Date

Friday, May 15, 2026

REC'D & FILED

MAY 15, 2026

LEGISLATIVE SVC AGENCY

APA-2

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
WATER DIVISION - WATER QUALITY PROGRAM

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management
RULE NO. & TITLE: 335-6-15-.42 Underground Storage Tank Regulation Fee
INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

The Department proposes amendments to 335-6-15-.42 to update references to Division 1.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held at 10:00 a.m., July 7, 2026, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110. Attendance at the hearing is not necessary to present such data, views, arguments, or comments. All comments should be received by 5:00 p.m., July 7, 2026. Written submissions and other inquiries should be directed to: ADEM Hearing Officer, Office of General Counsel, Alabama Department of Environmental Management, P.O. Box 301463, Montgomery, AL 36130-1463 (street address: 1400 Coliseum Boulevard, Montgomery, AL 36110-2400) or by e-mail at hearing.officer@adem.alabama.gov.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, July 7, 2026

CONTACT PERSON AT AGENCY:

Lynn T. Roper, 334-271-7728

Jeffery W. Kitchens

Jeffery W. Kitchens

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

335-6-15-.42

Underground Storage Tank Regulation Fee.

Any owner of an underground storage tank shall pay a yearly Underground Storage Tank Regulation Fee ~~of \$36.00 per regulated underground storage tank per year. Payment of the fee shall be due within 3~~in accordance with 335-1-8-.0 days of notification to the owner by the Department of the amount of such fee².

Author: Sonja Massey, Curt Johnson, Lee Davis, Vernon H. Crockett. Pamela W. Luckie, Lynn T. Roper

Statutory Authority: Code of Ala. 1975, §22-36-5, §41-1-11.

History: Effective April 5, 1989. **Amended:** Filed August 28, 2003; effective October 2, 2003. **Amended:** Filed October 24, 2017; effective December 8, 2017. **Amended:** Published April 28, 2023; effective June 12, 2023. Amended: Published ; effective .

Attachment 6

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

In the Matter of:	)	
	)	
BlackBelt Women Rising,	)	
Petitioner,	)	
	)	
vs.	)	
	)	EMC Docket No. 26-05
Alabama Department of Environmental	)	
Management,	)	
Respondent,	)	
	)	
and	)	
	)	
Perry County Associates, LLC	)	
Intervenor.	)	

ORDER

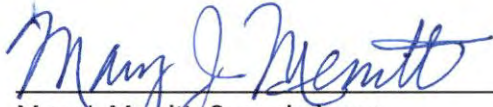
Before the Commission is the Hearing Officer's Recommendation on Motions to Dismiss in the above matter. The Commission having considered the same, along with all the submissions that have been presented to the Commission in this matter, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That the Hearing Officer's Recommendation on Motions to Dismiss is hereby adopted; and
2. That pursuant to the adoption of the Hearing Officer's "Recommendation on Motions to Dismiss," the Request for Hearing is struck, and the Request for Hearing is dismissed as a legal nullity; and
3. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below; and
4. That a copy of the Order, along with a copy of the Hearing Officer's Recommendation on Motions to Dismiss, attached hereto and made a part hereof, shall be forthwith served upon Portia Shepherd, Respondent ADEM, and Intervenor Perry County Associates, LLC.

Environmental Management Commission Order
Page 2

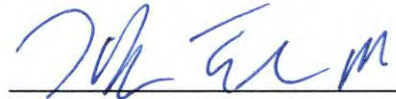
ISSUED this 14th day of August 2026.

APPROVED:



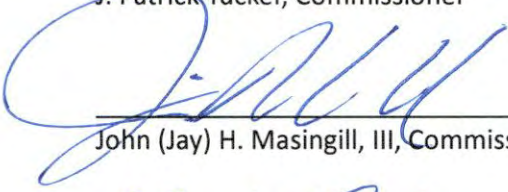
Mary J. Merritt, Commissioner

H. Lanier Brown, II, Commissioner

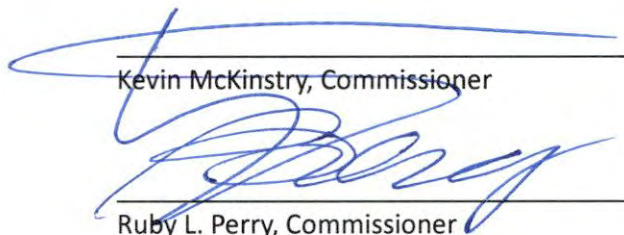


J. Patrick Tucker, Commissioner

Kevin McKinstry, Commissioner



John (Jay) H. Masingill, III, Commissioner



Ruby L. Perry, Commissioner



A. Frank McFadden, Commissioner

DISAPPROVED:

Mary J. Merritt, Commissioner



H. Lanier Brown, II, Commissioner

J. Patrick Tucker, Commissioner

Kevin McKinstry, Commissioner

John (Jay) H. Masingill, III, Commissioner

Ruby L. Perry, Commissioner

A. Frank McFadden, Commissioner

Environmental Management Commission Order
Page 3

ABSTAINED:

Mary J. Merritt, Commissioner

H. Lanier Brown, II, Commissioner

J. Patrick Tucker, Commissioner

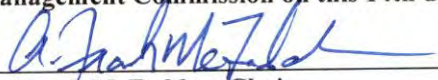
Kevin McKinstry, Commissioner

John (Jay) H. Masingill, III, Commissioner

Ruby L. Perry, Commissioner

A. Frank McFadden, 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 14th day of August 2026.**



**A. Frank McFadden, Chair
Environmental Management Commission
Certified this 14th day of August 2026**

RECEIVED

JUN 11 2026

ENV.MGMT.
COMMISSIONBEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION

BLACKBELT WOMEN RISING,

Petitioner,

v.

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT,

Respondent,

PERRY COUNTY ASSOCIATES, LLC

Intervenor.

Case No: AEMC Docket No.:
26-05

Permit No. 53-03

RECOMMENDATION ON MOTIONS TO DISMISS

Before this Hearing Officer are two Motions to Dismiss this cause. The first filed by the ADEM, to which the Petitioner has already responded. Counsel for ADEM subsequently filed a response to the Petitioner's response to the subject motion. The second was filed by the Intervenor in this cause (Perry County Associates, LLC) on May 20, 2026. Petitioner was allowed until June 1, 2026 to file an additional response, but has not filed a response to the Intervenor's Motion to Dismiss. Based on the subject motions, supplements thereto, and the Petitioner's response, this Hearing Officer finds as follows:

1. There is no evidence that the Petitioner is represented by an attorney in good-standing with the Alabama State Bar Association, or by an attorney that has been admitted to participate in this cause, *pro hac vice*. Ms. Portia Shepherd, who filed the initial petition in this cause, has submitted no evidence or information to the contrary. She does not dispute that she is not a properly licensed attorney.

2. The filing of this matter is prohibited by ADEM Admin Code r. 335-2-1-.30 and Ala. Code § 34-3-6, both of which preclude the filing of Petitions in causes such as these by individuals who are not properly licensed attorneys.

3. The Petitioner / request in this matter should be dismissed as a legal nullity and such is the recommendation of this Hearing Officer to the Commission.

DONE this 4th day of June, 2026.

/s/ Jeffrey J. Courtney
HON. JEFFREY J. COURTNEY
Hearing Officer

**Copies to: (emailed to below on June 4, 2026;
USPS on June 9, 2026)**

Alabama Environmental Management Commission
Ms. Debra S. Thomas, Executive Assistant
PO Box 301463
Montgomery, AL 36130-1463
aemc@adem.alabama.gov

Alabama Department of Environmental Management
Office of General Counsel
1400 Coliseum Boulevard
Montgomery, AL 36130-2400
ogcmail@adem.alabama.gov

Michael D. Smith, Esq.
Attorney for Perry County Associates, LLC
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msmith@smithstaggs.com

Portia Shepherd, Executive Director
Black Belt Women Rising
PO Box 464
Demopolis, AL 36732
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Anthony Todd Carter, Esq.
Paul Christian Sasser, Esq.
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Attorneys for ADEM

ENV.MGMT.
COMMISSION

BLACKBELT WOMEN RISING,

Petitioner,

v.

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT,**

Respondent,

PERRY COUNTY ASSOCIATES, LLC

Intervenor.

Permit No. 53-03

Before this Hearing Officer are two Motions to Dismiss this cause. The first filed by the ADEM, to which the Petitioner has already responded. Counsel for ADEM subsequently filed a response to the Petitioner's response to the subject motion. The second was filed by the Intervenor in this cause (Perry County Associates, LLC) on May 20, 2026. Petitioner was allowed until June 1, 2026 to file an additional response, but has not filed a response to the Intervenor's Motion to Dismiss. Based on the subject motions, supplements thereto, and the Petitioner's response, this Hearing Officer finds as follows:

Page 1 of 2

2. The filing of this matter is prohibited by ADEM Admin Code r. 335-2-1-.30 and Ala. Code § 34-3-6, both of which preclude the filing of Petitions in causes such as these by individuals who are not properly licensed attorneys.

3. The Petitioner / request in this matter should be dismissed as a legal nullity and such is the recommendation of this Hearing Officer to the Commission.

DONE this 4th day of June, 2026.

/s/ Jeffrey J. Courtney

HON. JEFFREY J. COURTNEY

Hearing Officer

Copies to: (emailed to below on June 4, 2026;

USPS on June 9, 2026)

Alabama Environmental Management Commission
Ms. Debra S. Thomas, Executive Assistant
PO Box 301463
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aemc@adem.alabama.gov

Alabama Department of Environmental Management
Office of General Counsel
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Anthony Todd Carter, Esq.
Paul Christian Sasser, Esq.
Steven Andrew Phillips, Esq.
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drew.phillips@adem.alabama.gov
Attorneys for ADEM