

2/19/25

**Minutes  
Environmental Management Commission Meeting  
Alabama Department of Environmental Management Building  
1400 Coliseum Boulevard  
Montgomery, Alabama 36110-2400  
December 13, 2024**

This is to certify that the Minutes contained herein are a true and accurate account of actions taken by the Alabama Environmental Management Commission on December 13, 2024.

A handwritten signature in black ink, appearing to read "A. Frank McFadden", written over a horizontal line.

A. Frank McFadden, Chair

Alabama Environmental Management Commission

Certified this 14th day of February 2025.

**Environmental Management Commission Meeting  
Alabama Department of Environmental Management Building  
1400 Coliseum Boulevard  
Montgomery, Alabama 36110-2400  
December 13, 2024**

**Convened: 11:00 a.m.  
Adjourned: 12:32 p.m.**

**Part A**

**Transcript  
Word Index**

**Part B**

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## Part A



ALABAMA ENVIRONMENTAL  
MANAGEMENT COMMISSION

LOCATION: ALABAMA DEPARTMENT OF  
ENVIRONMENTAL  
MANAGEMENT (ADEM) BUILDING  
ALABAMA ROOM  
1400 COLISEUM BOULEVARD  
MONTGOMERY, ALABAMA 36110-2400

**Date:** December 13, 2024

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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 DECEMBER 13, 2024  
 TIME: 11:00 A.M.

\*\*\*\*\*

REPORTED BY: JAMIE McCracken, CCR, ABCR #451  
 Commissioner for the  
 State of Alabama at Large

1 APPEARANCES  
 2 COMMISSION MEMBERS PRESENT:  
 3 A. FRANK McFADDEN, P.E., CHAIR  
 4 KEVIN MCKINSTRY, VICE CHAIR  
 5 H. LANIER BROWN, II, ESQ.  
 6 JOHN (JAY) H. MASINGILL, III  
 7 J. PATRICK TUCKER, M.D.  
 8  
 9 COMMISSION MEMBERS NOT PRESENT:  
 10 MARY J. MERRITT  
 11 RUBY L. PERRY, D.V.M.  
 12  
 13 ALSO PRESENT:  
 14 ROBERT D. TAMBLING, ESQ.,  
 15 EMC LEGAL COUNSEL  
 16 LANCE LEFLEUR, ADEM DIRECTOR  
 17 DEBI THOMAS, EMC EXECUTIVE ASSISTANT  
 18  
 19  
 20  
 21  
 22  
 23

1 CHAIR MCFADDEN: Okay. Assuming  
 2 all audio and video stuff is up and  
 3 running, we'll call the meeting to  
 4 order. And acknowledge that we do  
 5 have a quorum; two members are out  
 6 but we do have a quorum.  
 7 And welcome, everyone,  
 8 full-house, standing room only,  
 9 almost, today, so, glad you're here.  
 10 We'll start with Agenda  
 11 Item Number 1, and that's  
 12 consideration of the minutes of the  
 13 Commission held on October 11, 2024.  
 14 And I'll entertain a motion regarding  
 15 those minutes.  
 16 MR. BROWN: I move to adopt and  
 17 approve.  
 18 MR. MASINGILL: Second.  
 19 CHAIR MCFADDEN: Second. Any  
 20 discussion on that?  
 21 (No response).  
 22 CHAIR MCFADDEN: Hearing none  
 23 called into question, all in favor,

1 raise your right hand.  
 2 (Commission Members raising  
 3 hands).  
 4 CHAIR MCFADDEN: And all  
 5 opposed, same.  
 6 (No response).  
 7 CHAIR MCFADDEN: Motion carries.  
 8 Agenda Item Number 2, report from the  
 9 Director, Director LeFleur.  
 10 MR. LEFLEUR: Okay. Good  
 11 morning and welcome to the second  
 12 meeting of the Alabama Environmental  
 13 Management Commission for FY 2025.  
 14 Before I begin my report, I would  
 15 like to honor Ron Gore, who recently  
 16 passed away. I would like to honor  
 17 both his work with the Alabama  
 18 Department of Environmental  
 19 Management on behalf of the people of  
 20 Alabama and the man that he was.  
 21 Ron's wife, Allison, is  
 22 with us today. I received a written  
 23 commendation from the Governor --

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1 from Governor Ivey honoring Ron Gore,  
 2 and I believe the Commission will  
 3 consider a resolution highlighting  
 4 how he earned the respect of those in  
 5 Alabama, the Southeastern United  
 6 States, and many other parts of the  
 7 nation during his 50 years at ADEM.  
 8 Chair McFadden, I'll pause  
 9 for the Commission to consider the  
 10 resolution.  
 11 CHAIR MCFADDEN: Okay. All  
 12 right. We have a resolution that --  
 13 from the Commission concerning Ron's  
 14 tenure here and the good work. And  
 15 y'all all have seen that previously  
 16 so we -- we're going to read it later  
 17 but you've already seen it and read  
 18 it so --  
 19 MR. BROWN: I move to adopt the  
 20 resolution for posthumous recognition  
 21 of Ronald W. Gore.  
 22 CHAIR MCFADDEN: Do we have a  
 23 second?

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1 University of Alabama in 1974 with a  
 2 degree in Metallurgical Engineering;  
 3 and, whereas, upon graduation he  
 4 began work with the Alabama Air  
 5 Pollution Control Commission as a  
 6 public health engineer; and, whereas,  
 7 in 1978, he earned a Master's Degree  
 8 in Environmental Engineering from the  
 9 University of Florida; and, whereas,  
 10 in 1982 when the Alabama Air  
 11 Pollution Control Commission became  
 12 part of the newly formed Alabama  
 13 Department of Environmental  
 14 Management, he assumed the duties of  
 15 Senior Public Health Engineer; and,  
 16 whereas, he held the position of  
 17 Chief of the Engineering Branch  
 18 before becoming the Chief of the Air  
 19 Division of the Alabama Department of  
 20 Environmental Management in 1996;  
 21 and; whereas, he faithfully served  
 22 the State of Alabama and its citizens  
 23 for 50 years and; whereas, he earned

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1 DR. TUCKER: Second.  
 2 CHAIR MCFADDEN: All favor,  
 3 raise your right hand.  
 4 (Commission Members raising  
 5 hands).  
 6 CHAIR MCFADDEN: All opposed?  
 7 (No response).  
 8 CHAIR MCFADDEN: Motion carries.  
 9 Thank you.  
 10 MR. LEFLEUR: Chair, if you  
 11 would, I'd like --  
 12 CHAIR MCFADDEN: Yeah, Lance,  
 13 you can go ahead with the Governor's  
 14 Proclamation.  
 15 MR. LEFLEUR: Allison, would you  
 16 please come up and allow me to read  
 17 the Governor's commendation.  
 18 And I believe that the  
 19 Chair would like to read the  
 20 resolution.  
 21 This is commendation by the  
 22 Governor of Alabama: Whereas, Ronald  
 23 Wayne Gore graduated from the

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1 the respect of his co-workers, as  
 2 well as colleagues in all Southern  
 3 United States and many other states  
 4 throughout the nation; and, whereas,  
 5 on November 15, 2024, he passed away  
 6 less than seven weeks before his  
 7 planned retirement; and, whereas, he  
 8 is survived by Allison, his wife of  
 9 46 years; their son, Thomas; his  
 10 wife, Cameron; and their daughter,  
 11 Madeline; I, Kay Ivey, Governor of  
 12 Alabama, hereby commend Ronald Wayne  
 13 Gore for his extraordinary dedication  
 14 and service he has provided to the  
 15 State of Alabama and her people.  
 16 Given under my hand, on the great  
 17 Seal of the Office of Governor of the  
 18 State at the State Capitol, City of  
 19 Montgomery, 10th day of December,  
 20 2024. Signed Kay Ivey, Governor.  
 21 The Governor, like all of  
 22 us, commends his service and our  
 23 hearts go out to his family on this

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1 occasion. We thank you.  
 2 CHAIR MCFADDEN: We have one  
 3 more. First off, I came to work at  
 4 AEMC back then in 1973. Ron had been  
 5 here and was well known and well  
 6 respected. There are some here in  
 7 the room Marilyn, Debi Thomas, and JP  
 8 back there some others I don't know  
 9 if you were here that early you're a  
 10 young guy -- but there are others  
 11 that worked with -- with Ron and just  
 12 respected him for what he did and his  
 13 institutional knowledge as Director  
 14 as pointed out is just phenomenal.  
 15 So, the Commission has a resolution.  
 16 I'll read it:  
 17 Whereas, Ronald W. Gore  
 18 dedicated public servant with 50  
 19 years of service to the State of  
 20 Alabama. Among his areas of State  
 21 service were the Alabama Department  
 22 of Environmental Management during  
 23 its entire time of existence and the

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1 Alabama Air Pollution Control  
 2 Commission, ADEM's predecessor air  
 3 pollution management agency; and,  
 4 whereas, Mr. Gore served as Chief of  
 5 the Air Division of the Alabama  
 6 Department of Environmental  
 7 Management for 28 years; and,  
 8 whereas, Mr. Gore was highly  
 9 respected by his counterparts in the  
 10 southeastern states, as well as other  
 11 states throughout the nation, also  
 12 highly respected by his co-workers  
 13 and many within other governmental,  
 14 regulated and environmental  
 15 communities. Now, therefore, be it  
 16 resolved that the Alabama Management  
 17 Commission expresses appreciation for  
 18 Mr. Gore's contribution and  
 19 dedication and offers its condolences  
 20 for his loss to his family done this  
 21 13th day of December, 2024.  
 22 MR. LEFLEUR: Allison, thank you  
 23 very much.

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1 CHAIR MCFADDEN: Okay. Director  
 2 LeFleur, go ahead.  
 3 MR. LEFLEUR: All right. Moving  
 4 on. Today's report will be an update  
 5 on what we anticipate from the new  
 6 federal administration in the  
 7 environmental arena. As we close out  
 8 the calendar year and face a new  
 9 federal administration, today's  
 10 report will also cover some of the  
 11 significant issues currently facing  
 12 the agency.  
 13 As we all know, elections  
 14 have consequences. We are still a  
 15 little over five weeks from the  
 16 beginning of a new federal  
 17 administration but there are some  
 18 indications of what to expect. In  
 19 the area of leadership, the  
 20 President-elect has nominated Lee  
 21 Zeldin to become the new EPA  
 22 Administrator. The nomination is  
 23 subject to Senate confirmation.

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1 Mr. Zeldin is a 44-year-old  
 2 attorney. He served eight years in  
 3 the U.S. House of Representatives  
 4 representing an area in Long Island,  
 5 New York. He ran for governor of New  
 6 York State in 2022 and lost to the  
 7 current governor by five percentage  
 8 points, which was the best a  
 9 Republican has performed there since  
 10 2002. He has little executive branch  
 11 or environmental oversight  
 12 experience.  
 13 No Deputy Administrator has  
 14 been nominated, nor have any of the  
 15 12 Assistant Administrators been  
 16 nominated, all of which are subject  
 17 to Senate confirmation.  
 18 The 10 Regional  
 19 Administrators -- EPA Regional  
 20 Administrators, which are not subject  
 21 to Senate approval, have not yet been  
 22 named.  
 23 The new administration has



<p style="text-align: right;">Page 13</p> <p>1 stated that significant deregulation  2 should be expected. Recent EPA  3 rule-making is likely to be revisited  4 and those to be overturned can be  5 addressed in several ways, including:  6 Rescinded under the Congressional  7 Review Act; new rule-making, which is  8 a long process; and, for those being  9 challenged in court, having EPA  10 forego a defense and allowing courts  11 to rule in favor of those challenging  12 the rule.</p> <p>13 All of this is developing  14 and the final outcome of the new  15 administration's deregulation  16 activities may have a material impact  17 on many of the significant issues  18 facing our air, land, and water  19 programs that we will be reviewing in  20 today's report.</p> <p>21 In the area of policy  22 emphasis, the President-elect has  23 also stated EPA will seek: Reduced</p>	<p style="text-align: right;">Page 14</p> <p>1 emphasis on climate change and on  2 non-core programs such as: E.J. Core  3 programs are air, land, and water  4 quality protection.</p> <p>5 There will also be reduced  6 emphasis on new federal regulations  7 and mandates. This includes reduced  8 emphasis on new and novel  9 interpretations of longstanding  10 regulations.</p> <p>11 In contrast with the  12 current administration, we anticipate  13 the new administration to have a  14 greater emphasis on State authority  15 versus Federal authority, as was the  16 case in the previous Trump  17 administration. It was previously  18 expressed as rebalancing the  19 Federal/State relationship. I would  20 note that the states provide more  21 than 95% of the environmental  22 oversight in the nation.</p> <p>23 Operationally, it is</p>
<p style="text-align: right;">Page 15</p> <p>1 anticipated that EPA will be  2 significantly downsized with greatly  3 reduced head-count and budget. Among  4 the efficiency and modernization  5 initiatives anticipated are:  6 Streamlining of the National  7 Environmental Policy Act, or NEPA,  8 which was undertaken during the  9 previous Trump administration but  10 rescinded under the Biden  11 administration.</p> <p>12 It has also been indicated  13 that stringent reviews of new  14 chemicals will continue but on a  15 timelier basis. If EPA budget cuts  16 reduce EPA funding to the states, it  17 very well may require increases from  18 permit fees or the Alabama General  19 Fund because, despite rescinding  20 recent regulations, states' workloads  21 will not be appreciably reduced. I  22 would remind you that, with  23 exceptionally low funding, ADEM has</p>	<p style="text-align: right;">Page 16</p> <p>1 little or no ability to absorb  2 federal or other budget cuts and  3 continue to provide high quality  4 environmental oversight.</p> <p>5 Moving on to a review of  6 the significant issues facing our  7 air, land, and water programs, you  8 will note some common themes such as:  9 EPA's new interpretations of existing  10 rules and EPA's newly promulgated  11 rules, in addition to other issues  12 involving modernization within the  13 Department, environmental threats  14 from emerging contaminants of  15 concern, and decreasing departmental  16 efficiency.</p> <p>17 The current significant  18 issues for the Air Program relate to  19 an EPA disapproval of the ozone state  20 -- ozone transport state  21 implementation plan and several new  22 rules recently adopted by EPA. EPA's  23 disapproval of our ozone transport</p>

<p style="text-align: right;">Page 17</p> <p>1 state implementation plan is a  2 significant issue for at least three  3 reasons: A logical rationale for a  4 new interpretation of data was not  5 provided; the process utilized by EPA  6 for the disapproval was not in  7 keeping with established rules or  8 longstanding interpretations of those  9 rules and would set a harmful  10 precedent if allowed to stand; and  11 the proposed federal implementation  12 plan to replace the State  13 implementation plan would have an  14 unnecessary and significant harmful  15 economic impact on Alabama with no  16 measurable environmental benefit.  17 ADEM and the Alabama  18 Attorney General have appealed the  19 EPA disapproval in the Eleventh  20 Circuit Court of the U.S. Court of  21 Appeals. EPA disapproved SIPs for a  22 total of 20 states, including  23 Alabama, and the appeals are pending</p>	<p style="text-align: right;">Page 18</p> <p>1 in eight U.S. Circuit Courts.  2 The Eleventh Circuit Court  3 has stayed the federal implementation  4 plan. The venue and the merits for  5 the case are under submission in the  6 Eleventh Circuit but consideration  7 has been stayed while the U.S.  8 Supreme Court considers the question  9 of venue.  10 Several new Federal air  11 rules with national applicability  12 have recently been finalized by EPA  13 that present -- present significant  14 issues for Alabama:  15 One is the new PM 2.5 fine  16 particle standard. The new standard  17 reduces the attainment level from 12  18 micrograms per cubic meter to 9  19 micrograms per cubic meter, a 25%  20 reduction. The new standard is very  21 close to background. Many areas  22 across the nation and several in  23 Alabama may be severely limited in</p>
<p style="text-align: right;">Page 19</p> <p>1 the ability to locate new industry.  2 This new rule is being appealed in  3 federal court by multiple states and  4 industries based on the costs  5 outweighing the benefit to human  6 health. This new standard may be  7 opposed by the new Federal  8 administration.  9 Another new set of rules is  10 the EPA power plant greenhouse gas  11 rules. A primary concern is that it  12 sets an aggressive date to shut down  13 coal fired power plants by 2039  14 unless they can reduce greenhouse gas  15 emissions 90% by 2032. The technical  16 challenges and costs associated with  17 achieving the 90% reduction will  18 essentially shut down nearly all coal  19 fired facilities, resulting in  20 increased electricity rates for all  21 users. This new rule is also under  22 appeal in federal court by multiple  23 states and industries and is likely</p>	<p style="text-align: right;">Page 20</p> <p>1 to be opposed by the new federal  2 administration. A request to stay  3 the rules, pending the outcome of the  4 litigation, was denied by the U.S.  5 Supreme Court.  6 A third new set of rules is  7 the EPA methane rules for oil and  8 gas. There are approximately 6,900  9 operating and uncapped abandoned oil  10 and gas wells in Alabama. These will  11 take an estimated 20 work-years to  12 initially address under the rules, in  13 addition to the resources necessary  14 to undertake the required ongoing new  15 monitoring of operating wells.  16 Again, this new set of rules is under  17 appeal in federal court by multiple  18 states, as well as oil and gas  19 interests, and is likely to be  20 opposed by the new federal  21 administration. Parties requested  22 that this set of rules be stayed by  23 the U.S. Supreme Court, pending the</p>

<p style="text-align: right;">Page 21</p> <p>1 outcome of the litigation, at the  2 same time as the power plant  3 greenhouse gas rules and, likewise,  4 the request was denied.</p> <p>5 On to the Land Program  6 significant issues. A significant  7 issue for the Land Program, like the  8 Air Program, relates to an EPA  9 disapproval, in this case, the  10 disapproval of the ADEM Coal  11 Combustion Residuals Program, or CCR  12 Program. EPA's disapproval of the  13 Coal Combustion Residuals Program is  14 a significant issue for several  15 reasons: The disapproval relied on  16 new and novel interpretations of  17 longstanding regulations. This  18 undermines the predictability of  19 environmental regulation and is a  20 harmful precedent. As was the case  21 with the Air SIP disapproval, the CCR  22 program disapproval would have an  23 unnecessary and significant harmful</p>	<p style="text-align: right;">Page 22</p> <p>1 economic impact on Alabama with no  2 measurable environmental benefit.</p> <p>3 The CCR program disapproval  4 action by EPA is subject to appeal,  5 although an appeal has not been  6 filed. The Alabama CCR program is in  7 full effect and is resulting in the  8 permitting and cleanup of CCR  9 impoundments at a rate that leads the  10 nation.</p> <p>11 Another significant issue  12 is the ongoing -- is the ongoing  13 modernization of the Land Program.  14 Rule-making is a major part of the  15 modernization. The Land Program has  16 had more rule-making in recent years  17 than any other program in the  18 Department. A recap of some of those  19 recent rules includes: The ability  20 to provide incentives to private  21 sector processors of scrap tires, as  22 well as public sector processors;  23 banning whole tires in landfills,</p>
<p style="text-align: right;">Page 23</p> <p>1 like all our neighboring states, now  2 that the development of both supply  3 and demand for scrap tires is well  4 underway. Numerous upgrades to the  5 recycling rules include incorporating  6 needed upgrades to the State Solid  7 Waste Management Plan, providing for  8 multi-year recycling projects and  9 clarifying ownership reversion for  10 grant-funded equipment; an updated  11 provision to prevent delayed  12 underground storage tank emergency  13 response due to payment  14 authorization; and rules to implement  15 legislation removing the covenant  16 requirements where underground  17 storage tank releases have been  18 remediated; and then, finally, rules  19 to implement legislation to promote  20 voluntary cleanup of large brownfield  21 sites.</p> <p>22 The rule-making to  23 modernize the Land Program will</p>	<p style="text-align: right;">Page 24</p> <p>1 continue with upcoming rule-making.  2 Today you will be considering an  3 initial update to the medical waste  4 rules that have been -- not been  5 updated since they were first  6 promulgated 34 years ago. A second  7 phase of medical waste rule-making  8 with follow in June of 2025 to  9 complete the updates and, at the June  10 Commission meeting, further recycling  11 rule updates will also be presented  12 for consideration. Those affected by  13 the updated rules have been heavily  14 involved in vetting them before they  15 are proposed to the Commission by the  16 Department.</p> <p>17 The Land Division has also  18 undertaken other steps to modernize.  19 Scrap tire and unauthorized dump  20 cleanup partnerships have been  21 created where counties are provided  22 funds from dedicated scrap tire and  23 unauthorized dump cleanup funds. The</p>

<p style="text-align: right;">Page 25</p> <p>1 counties provide additional eyes to  2 find and additional hands to do the  3 cleanup work more quickly and  4 efficiently. The statewide recycling  5 goal was reset from 25%, which was  6 met two years ago, to 40%. New  7 procedures have been put in place for  8 tracking activities to make sure that  9 Alabama properly accounts for and  10 gets credit for recycling that is  11 taking place in the state.  12 There are several  13 significant issues facing the Water  14 Program. These include EPA delaying  15 the issuance of State permits by  16 extending reviews of and comments  17 related to permits. EPA is currently  18 extending reviews of some State draft  19 and proposed permits for quarry,  20 mining, and NPDES activities that  21 previously were acted upon without  22 delay. And, without changing rules  23 or guidance, EPA has been proposing</p>	<p style="text-align: right;">Page 26</p> <p>1 conditions not previously required in  2 such permits.  3 As with several others,  4 these issues may be resolved in the  5 new federal administrations. A  6 significant issue involving the Water  7 Program that leans heavily on the  8 Permits and Services Division to  9 implement is the ongoing American  10 Rescue Plan Act and Bipartisan  11 Infrastructure Law, BIL, and State  12 Revolving Funds, SRF, initiatives of  13 the last few years. Permit  14 violations by drinking water and  15 wastewater systems can stem from  16 outdated infrastructure. The  17 critical nature of drinking water and  18 wastewater services can make  19 enforcement actions challenging.  20 Since 2022, the Permits and Services  21 Division, in an ongoing program, has  22 distributed more than 1.2 billion  23 dollars of funding to upgrade</p>
<p style="text-align: right;">Page 27</p> <p>1 drinking water and wastewater  2 treatment systems on the basis of  3 need, as determined in cooperation  4 with the Water Division. This is  5 important because the infrastructure  6 upgrades are expected to help avoid  7 permit violations and reduce  8 necessary enforcement actions caused  9 by poor infrastructure.  10 Future BIL and SRF funding  11 that we have been planning to use for  12 project inflation-related cost  13 overruns, unanticipated change  14 orders, and additional worthy  15 projects, may not be available if  16 previously proposed BIL funding is  17 withdrawn and SRF funding continues  18 to be reduced due to Congressionally  19 Directed Spending from these funds --  20 from the SRF funds. If the  21 reductions do occur, it may require  22 substantial reworking of the drinking  23 water and wastewater funding</p>	<p style="text-align: right;">Page 28</p> <p>1 initiatives.  2 Another significant issue  3 that faces all media, but especially  4 the Water and Land Programs, is per  5 and polyfluoroalkyl substances, PFAS,  6 which are emerging contaminants of  7 concern. As noted in past reports,  8 PFAS are long-lived chemicals that  9 can accumulate in humans. They have  10 been widely used for decades and, in  11 recent years, have been determined to  12 have adverse effects on humans, which  13 has prompted many new and proposed  14 regulatory actions that present  15 challenges. Because they are so  16 widely used and extremely stable,  17 PFAS are present throughout the  18 environment. They have been likened  19 to a glitter bomb.  20 This chart shows many of  21 the pathways for human exposure:  22 From agricultural soil to food  23 products, food packaging, cookware,</p>

<p style="text-align: right;">Page 29</p> <p>1 clothing, drinking water, 2 firefighting, wastewater treatment 3 and the list goes on. PFAS is a 4 significant issue because of the 5 wide-ranging challenges to 6 understanding health impacts and for 7 monitoring, controlling, and cleaning 8 up these materials. 9         The current status is: EPA 10 has set new maximum contaminant 11 levels, MCLs, for drinking water, 12 which are being appealed based upon 13 the science supporting the new 14 standards, which of the thousands of 15 PFAS are addressed, and the process 16 EPA utilized in arriving at the new 17 standards. EPA actions under CERCLA 18 and RCRA to designate or proposed to 19 designate certain PFAS as hazardous 20 substances or hazardous constituents 21 may have far-reaching impacts. There 22 are currently no cleanup standards, 23 which leave many open questions about</p>	<p style="text-align: right;">Page 30</p> <p>1 what actions can and should be taken. 2 Many studies are underway to do risk 3 assessments to determine water 4 quality criteria to protect human 5 health, and on where and how best to 6 monitor and control PFAS in the 7 environment. 8         The bottom line is, PFAS is 9 an emerging issue with potentially 10 significant impacts and many 11 scientific and regulatory unknowns, 12 in addition to the unknown of where 13 the new federal administration will 14 go with the issue. 15         With demonstrably high 16 performance and exceptionally low 17 funding, ADEM is arguably one of the 18 most, if not the most, efficient 19 environmental regulatory programs in 20 the nation. 21         A final significant issue 22 is the implementation of the Alabama 23 Environmental Permitting and</p>
<p style="text-align: right;">Page 31</p> <p>1 Compliance System, AEPACS, a 2 multi-year project to further improve 3 efficiency through stepped up 4 automation that has also been 5 addressed in past reports. It is 6 significant because it will affect 7 nearly every regulated industry in 8 Alabama. It affects the entire 9 Department: Underground storage 10 tanks, unauthorized dump cleanup, 11 recycling, beneficial use, scrap 12 tire, NPDES, State indirect 13 discharges, coastal, concentrated 14 animal feeding operations, and the 15 401 water quality certification 16 applications are already complete. 17         The Air, Solid Waste, and 18 RCRA applications will round out the 19 implementation by year-end 2025. 20         AEPACS's entire purpose is 21 to keep costs down and performance up 22 for both the Department and regulated 23 entities. As you can see, there are</p>	<p style="text-align: right;">Page 32</p> <p>1 numerous significant issues facing 2 the Department in the coming years, 3 not the least of which is the new 4 federal administration. I am 5 confident that our personnel are up 6 to the challenge. 7         This report began with sad 8 news about the passing of our 9 dedicated ADEM employee and public 10 servant, Ron Gore. In anticipation 11 of his planned retirement at year-end 12 2024, he had begun mentoring his 13 replacement, who I am pleased to 14 introduce today. Aubrey White is the 15 new Air Division Chief. He has been 16 with the Department for 34 years and 17 served previously in the Air 18 Division, as well as the Permits and 19 Services Division, and, most 20 recently, as the Chief of the 21 Drinking Water Branch in our Water 22 Division. 23         Aubrey, where are you?</p>

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1 Please stand up and stay standing for  
 2 just a moment.  
 3 Now, replacing Aubrey as  
 4 the Drinking Water Branch Chief is  
 5 Emily Anderson, who has been with the  
 6 Department 18 years, most recently as  
 7 Chief of the Municipal Section of the  
 8 -- of the Water Division. Emily is  
 9 out-of-state at an EPA meeting and  
 10 unable to be here.  
 11 But, congratulations,  
 12 Aubrey. Okay. You can sit. I'll  
 13 close this report with one final  
 14 matter: I joined ADEM on May 1,  
 15 2010. And on May 1, 2025, after 15  
 16 years, it's with a grateful heart  
 17 that I plan to retire from my duties  
 18 as the Director, with the  
 19 understanding that I will be  
 20 available for a limited time, if  
 21 needed, to facilitate a smooth  
 22 transition to a new director. I will  
 23 provide additional thoughts and

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1 that. But I am sure we will, you've  
 2 got a good team behind you and so we  
 3 appreciate all that.  
 4 We'll say more about this  
 5 in a future meeting.  
 6 MR. LEFLEUR: I doubt I'll get a  
 7 gig on ESPN.  
 8 CHAIR MCFADDEN: Maybe. Maybe  
 9 -- Well, I won't say that.  
 10 MR. LEFLEUR: Thank you.  
 11 CHAIR MCFADDEN: Okay. Thank  
 12 you, Lance. Yeah, and that -- it --  
 13 you know, it's sort of some changing  
 14 times around here because, as part of  
 15 the item three in my report -- I  
 16 don't have a report but just a few  
 17 comments -- in the interest of time,  
 18 since we have, you know, some other  
 19 business here but, you know, we've  
 20 lost a -- as Lance said, Ron Gore,  
 21 institutional knowledge for 50 years  
 22 is hard to replace. We lost Sam  
 23 Miller just a year or so ago, one of

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1 observations in the reports in the  
 2 upcoming February and April  
 3 Commission meetings, but this is my  
 4 end -- end date is identified now.  
 5 So, with that, that closes  
 6 today's report and I'll be happy to  
 7 answer any questions.  
 8 CHAIR MCFADDEN: Do we need a  
 9 motion to not accept that  
 10 resignation?  
 11 MR. LEFLEUR: You'll have to  
 12 talk to my wife.  
 13 CHAIR MCFADDEN: Elaine may not  
 14 agree with that. Any other questions  
 15 for Lance?  
 16 MR. MASINGILL: You've done a  
 17 great job, you really have.  
 18 CHAIR MCFADDEN: It's sort of  
 19 like -- as an Auburn person I hate to  
 20 use this analogy -- you're going to  
 21 be like following Nick Saban, so I  
 22 hope -- you have big shoes to fill  
 23 and it's going to be difficult to do

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1 the Commission members with a long  
 2 tenure. We've had Ms. Elliott  
 3 retiring on us, back there, as Deputy  
 4 Director, been here a long time. Was  
 5 it 46 -- 48 years? Yeah. So, time  
 6 flies when you're having fun. And  
 7 now with Lance's retirement, which  
 8 he's certainly earned and happy for  
 9 you, Lance, that you and Elaine will  
 10 be able to do some traveling and do  
 11 whatever is on that list she's going  
 12 to give you, so. So, that's Item  
 13 Number 3.  
 14 We'll go on to Agenda Item  
 15 Number 4, consideration of the  
 16 proposed amendments to ADEM  
 17 Administrative Code Division 335-17,  
 18 the Medical Waste Program  
 19 Regulations. And I'll have Mr. Cobb  
 20 come and give us a review of that.  
 21 MR. COBB: Thank you, Mr.  
 22 Chairman. And good morning,  
 23 Commissioners. I'm Stephen Cobb,

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1 Chief of the Land Division. And I'm  
 2 here today to recommend the  
 3 Commission adopt amendments to the  
 4 Department's Division 17, Medical  
 5 Waste Program Regulations.  
 6 Amendments were proposed to Chapters  
 7 One through Five, Eight and Nine, to  
 8 improve the organization and clarity  
 9 of the existing regulatory  
 10 requirements. Specifically, changes  
 11 were proposed to Chapter One to  
 12 combine and revise select definitions  
 13 related to the State and County  
 14 Health Departments.  
 15 Chapter Two revisions,  
 16 including relocating generator  
 17 storage and transportation  
 18 requirements from Chapters Three and  
 19 Four, along with relocating liquid  
 20 medical waste disposal provisions  
 21 from Chapter Three.  
 22 Chapter Five revisions  
 23 included relocating transportation

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1 requirements from Chapter Four.  
 2 Chapters Three and Four  
 3 were renumbered to reflect the  
 4 relocation of changes in Chapter Two  
 5 and Five, and the Chapter Eight  
 6 regulations were moved to a new  
 7 Chapter Nine. And Chapter Eight was  
 8 reserved for future use.  
 9 The proposed revisions were  
 10 the subject of a public comment  
 11 period, which ran from August 21st to  
 12 October 10th. A public hearing was  
 13 held at the Department on October  
 14 10th. No oral comments were received  
 15 during the hearing and one set of  
 16 written comments were received during  
 17 the public comment period.  
 18 Based on the comments  
 19 received, Rule 335-17-2-.01(3)(b) was  
 20 removed for better clarity since that  
 21 provision was also included in  
 22 335-17-5-.01(16). These changes are  
 23 included and described in the

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1 reconciliation package before the  
 2 Commission. The proposed regulations  
 3 are presented today for your  
 4 consideration and the Department asks  
 5 that you adopt these proposed  
 6 revisions to the Division 17 Medical  
 7 Waste Program.  
 8 And I'm happy to answer any  
 9 questions that you might have.  
 10 CHAIR MCFADDEN: Any questions  
 11 for Mr. Cobb?  
 12 Okay. I'll entertain a  
 13 motion regarding the proposed  
 14 amendments.  
 15 DR. TUCKER: Move to adopt the  
 16 amendments.  
 17 MR. MASINGILL: Second.  
 18 CHAIR MCFADDEN: Any further  
 19 discussion?  
 20 (No response).  
 21 CHAIR MCFADDEN: All in favor,  
 22 raise your right hand.  
 23 (Commission Members raising

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1 hands).  
 2 CHAIR MCFADDEN: Those opposed?  
 3 (No response).  
 4 CHAIR MCFADDEN: Motion carries.  
 5 Thank you.  
 6 MR. COBB: Thank you.  
 7 CHAIR MCFADDEN: Okay. We'll  
 8 move on to Agenda Item 5. Chair  
 9 notes that Agenda Item 5 is  
 10 acknowledgement of Petitioner Valicor  
 11 Environmental Services, LLC. Their  
 12 withdrawal -- it was a request for  
 13 hearing.  
 14 I also note that on August  
 15 30, 2024, the Petitioner filed with  
 16 the Commission a request for hearing  
 17 and motion to stay regarding the  
 18 State Indirect Discharge, or (SID),  
 19 permit, permit number IU084500552  
 20 re-issued by ADEM on August 30, 2024,  
 21 to the Petitioner, a centralized  
 22 waste treatment facility located at  
 23 107 Von Braun Drive, Huntsville,

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1 Alabama. On December 6, 2024, the  
 2 Petitioner filed with the Commission  
 3 a notice of withdrawal of request for  
 4 a hearing. So the withdrawal of that  
 5 request is just duly noted here, for  
 6 your information.

7 Okay. All right. Agenda  
 8 Item Number 6. The Chair notes that  
 9 this agenda item is Mitchell-Frazier  
 10 Farms Limited Partnership,  
 11 Petitioner, versus ADEM, Respondent,  
 12 and Grayson Carter and Son, Inc., and  
 13 Stoned, LLC, Intervenor; EMC Docket  
 14 Number 25-01, in which the  
 15 Petitioner, Mitchell-Frazier Farms  
 16 Limited Partnership, filed with the  
 17 Commission an application for a stay  
 18 of action pending the Commission's  
 19 issuance of its final order in the  
 20 appeal of Air Facility permit number  
 21 708-0036-X001 and NPDES permit number  
 22 AL0084480, issued by ADEM on November  
 23 6, 2024, to Grayson Carter and Son

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1 Contracting, Inc., and Stoned, LLC,  
 2 respectively. Both permits pertain  
 3 to and authorize the operation of a  
 4 limestone rock quarry associated rock  
 5 crusher in the Belle Mina, Limestone  
 6 County, Alabama, community.

7 Chair notes that the  
 8 Petitioner also filed supplementation  
 9 of record in support of pending  
 10 hearing and Petitioner's application  
 11 for stay with exhibits, and yesterday  
 12 filed a motion for oral argument  
 13 requesting that the oral argument be  
 14 heard by the Commission.

15 Chair notes that the  
 16 Respondent ADEM filed objection to  
 17 application for a stay with exhibits.  
 18 Intervenor Grayson Carter and Son,  
 19 Inc., filed opposition to  
 20 Mitchell-Frazier Farms motion to stay  
 21 with exhibits and Intervenor Stoned,  
 22 LLC filed objection to Petitioner's  
 23 application for a stay of action with

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1 exhibits.

2 Chair notes that first --  
 3 that first from the Commission is to  
 4 consider the Petitioner's request for  
 5 oral arguments. So I need to know,  
 6 is there a representative for the  
 7 Petitioner here?

8 MR. NOLES: Yes, sir. Jim  
 9 Noles, yes, sir.

10 CHAIR MCFADDEN: Okay. Mr.  
 11 Noles. And for Grayson Carter and  
 12 Son?

13 MR. HEAD: Yes, sir, Jonathan  
 14 Hadden.

15 CHAIR MCFADDEN: Okay. And for  
 16 Stoned, LLC?

17 MR. PITTMAN: Yes, sir. Timothy  
 18 Pittman from Stoned.

19 CHAIR MCFADDEN: Okay. Thank  
 20 you. And, of course, for ADEM.

21 MS. BLANTON: Good morning.  
 22 Carrie Blanton for ADEM.

23 CHAIR MCFADDEN: Okay. So we

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1 have those folks here. And I'll note  
 2 -- Chair notes we will entertain a  
 3 motion from the Commission regarding  
 4 Petitioner's request for oral  
 5 argument and suggests that a motion  
 6 include the number of minutes to be  
 7 allotted to each side in the oral  
 8 argument. And the way I'd like to do  
 9 this, we'll have -- unless you all  
 10 see otherwise, just give me a number  
 11 of minutes, 10 minutes, for instance,  
 12 for the Petitioner; ten for the --  
 13 for ADEM; and ten total for the  
 14 Intervenor, so they'll have to split  
 15 their time in their section. So, do  
 16 I have a motion to grant oral  
 17 arguments with the allotment of 10  
 18 minutes or any other timeframe you  
 19 all think is appropriate?

20 DR. TUCKER: I move to grant the  
 21 Petitioner's request for oral  
 22 argument with the allotment of ten  
 23 minutes per section.



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1 MR. MCKINSTRY: Second.  
 2 CHAIR MCFADDEN: We have a  
 3 motion and a second; any further  
 4 discussion?  
 5 (No response).  
 6 CHAIR MCFADDEN: Okay. Not  
 7 hearing any, Chair calls for  
 8 question, all in favor of hearing the  
 9 oral arguments, raise your right  
 10 hand.  
 11 (Commission Members raising  
 12 hands).  
 13 CHAIR MCFADDEN: All opposed?  
 14 (No response).  
 15 CHAIR MCFADDEN: Motion carries.  
 16 Okay. So, while that's getting  
 17 circulated, I will ask each attorney  
 18 to address the Commission by begin  
 19 stating your name and the party they  
 20 represent. And we'll do it in the  
 21 order of Petitioner, first;  
 22 Intervenor for Grayson Carter,  
 23 second; Intervenor for Stoned, LLC,

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1 home to three federally endangered  
 2 species, I mean, that stretch is home  
 3 to three federally endangered  
 4 species. You can see the other  
 5 residences; church down here;  
 6 railroad; gas transmission line; two  
 7 county -- two-lane county road;  
 8 two-lane county road right there.  
 9 That's where the center of mass,  
 10 that's the quarry.  
 11 So, I -- I guess the point  
 12 I would like to make to you today,  
 13 please, is that, here we are twelve  
 14 days from Christmas. And we're not  
 15 asking for a partridge in a pear tree  
 16 here. I'm just asking you all to  
 17 take a look at the forest, but for  
 18 the trees. My client has appealed  
 19 the NPDES permit and the Air permit.  
 20 And in the course of doing so, is  
 21 asking you all to please stay those  
 22 two permits so that the appeal can be  
 23 heard.

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1 third; and then from ADEM attorneys  
 2 as the fourth.  
 3 MR. NOLES: I'm Jim Noles,  
 4 representing Mitchell-Frazier Farms.  
 5 CHAIR MCFADDEN: Mr. Noles, wait  
 6 one second here. Let's see, did I  
 7 skip over a section here? No, I did  
 8 not. Okay. I'm sorry. Go right  
 9 ahead. Just checking my math up  
 10 here.  
 11 MR. NOLES: All right. Thank  
 12 you, sir. Thank you all for your  
 13 time. Like I said, my name is Jim  
 14 Noles and represent Mitchell Frazier  
 15 Farms, which is located in Belle  
 16 Mina, Alabama. In fact, if you look  
 17 at the map, you can see where my  
 18 client, Sam Frazier, lives right  
 19 there. This is the quarry. In fact,  
 20 you know, you can also see, come to  
 21 think of it, how the quarry is laid  
 22 out here: This being the quarry;  
 23 this being Limestone Creek, which is

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1 Now, not surprisingly, the  
 2 two permittees are appealing this  
 3 request for a stay. I mean, of  
 4 course they are. But what surprises  
 5 me, frankly, is that ADEM is opposing  
 6 this stay. We've already been in  
 7 court once before related to this  
 8 permit action, twice before I  
 9 suppose, when the Circuit Court of  
 10 Limestone County issued a TRO against  
 11 ADEM. That TRO forced ADEM to  
 12 temporarily extend the permits  
 13 comment period beyond ADEM's closure  
 14 over our request of the comment  
 15 period. Let me read to you, though,  
 16 a statement one of ADEM's attorneys  
 17 made to the court at that time as  
 18 ADEM argued against closing the  
 19 comment period -- against the comment  
 20 period remaining open.  
 21 Quote, also under the  
 22 Environmental Management Act,  
 23 Petitioner, Mitchell Frazier Farms,

<p style="text-align: right;">Page 49</p> <p>1 can apply for a stay of the  2 Department's permit decision with the  3 administrative appeal. Along with  4 the administrative appeal, they can  5 also request a stay. Reassuring.  6 But here we are with ADEM standing  7 alongside the permittees, opposing  8 the kind of stay that it assured  9 Judge Huggins of the Circuit Court of  10 Limestone County it could request.  11 And with respect to those two  12 Permittees, Stoned, makes the same  13 arguments that ADEM makes, the main  14 thrust of Stoned's argument is that  15 Mitchell Frazier Farms is "unlikely  16 to succeed on the merits" and that  17 no, quote, irreparable harm will  18 occur if these defective permits --  19 as the products of a defective  20 permitting process are allowed to  21 remain in force."  22 So, regarding the latter  23 argument of Stoned that we're</p>	<p style="text-align: right;">Page 50</p> <p>1 unlikely to succeed on the merits,  2 we'd ask that the Commission just  3 please consider the allegations  4 within the four corners of the  5 request for hearing and our exhibits  6 attached to it. Such allegations are  7 all based on facts presented in the  8 administrative record. And for such  9 reason, we believe that we are, not  10 only likely to succeed but  11 substantially likely to prevail in  12 this matter.  13 And I'll add this, I mean,  14 the fact that we have an ongoing EPA  15 Title Six Environmental Justice  16 investigation occurring, we've got a  17 60-day notice of intent to sue  18 letter, not we but another group has  19 filed a 60-day notice of intent to  20 sue letter under the Endangered  21 Species Act, that is pending right  22 now. And there's the ongoing efforts  23 to try to determine if this quarry</p>
<p style="text-align: right;">Page 51</p> <p>1 should have been included pursuant to  2 the National Environmental Policy Act  3 within Redstone Arsenal's  4 Environmental assessment of the FBI's  5 New South Campus since the dirt from  6 this quarry is going to that campus,  7 apparently. All of these suggest to  8 us that there is something rotten in  9 Denmark here.  10 Now, regarding the former,  11 if it's the Commission's opinion that  12 the improperly permitted excavation  13 of a limestone quarry and the  14 operation of a rock crusher at that  15 particular location would not cause  16 irreparable harm to Sam Frazier and,  17 for that matter, Alabama's  18 environment, then I suppose that's  19 just going to have to be y'all's  20 decision and your stated position at  21 the end of the day. Respectfully, we  22 think that's wrong on its face.  23 Now, Grayson Carter and Son</p>	<p style="text-align: right;">Page 52</p> <p>1 also opposes this application. We  2 think that its arguments fail on the  3 face, particularly with regard to any  4 notion that Mitchell-Frazier Farms  5 lacks standing. Mitchell-Frazier  6 Farms across the road from the quarry  7 and, in fact, owns property  8 downstream, literally downstream, on  9 -- property downstream of the quarry.  10 Or that it will somehow be less  11 harmed that Mitchell-Frazier Farms  12 will be less harmed by the -- the  13 stay, than Grayson Carter -- well, by  14 the permit, than Grayson Carter will  15 be by the stay of the permit.  16 Grayson Carter has been in operation  17 since 1995. It has not needed this  18 quarry for the past three decades and  19 it does not need this quarry in the  20 time that it'll take to resolve this  21 appeal. I mean, there are two other  22 quarries, limestone quarries, within,  23 I think, five miles of where this</p>

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1 quarry is proposed. There's no  
 2 pressing need for this -- for this  
 3 quarry.  
 4 But I mentioned looking to  
 5 see the forest for the trees. Let me  
 6 get back to that. I know that the  
 7 wrote reply to permit challenges is  
 8 that this is simply an NIMBY action  
 9 or that ADEM does not take a role in  
 10 land use decisions or that ADEM's  
 11 mandate only extends to the specifics  
 12 or air emissions and water  
 13 discharges, and that's probably why  
 14 the Commission, to the best of my 26  
 15 years of experience up here and best  
 16 of my firm's research, has never ever  
 17 once in its 42-year history ever,  
 18 ever ruled to stay a permit that is  
 19 being appealed. I'm open to being  
 20 corrected on that if I'm wrong but I  
 21 don't think that's going to be the  
 22 case. So 42 years, 42 years of trees  
 23 here before us. Look at the forest.

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1 You're enabling legislation,  
 2 respectfully, the Alabama  
 3 Environmental Management Act makes  
 4 statements like, quote, the resources  
 5 of the state must be managed in a  
 6 manner compatible with the  
 7 environment and the health and  
 8 welfare of the citizens of the state;  
 9 that's -- that's your legislative  
 10 charge and ADEM's legislative charge.  
 11 In short, a balance is  
 12 expected of ADEM. It's a balance  
 13 between industry and the environment,  
 14 between business owners in the local  
 15 community, between what a quarry will  
 16 bring to Belle Mina and Alabama and  
 17 what it will take away from it. So  
 18 it's a balance, right. We're not  
 19 getting that balance. Sam Frazier's  
 20 not getting that balance, Belle  
 21 Mina's not getting that balance.  
 22 We're not even getting support for  
 23 the permit to be paused long enough

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1 for that balance to be checked.  
 2 That's bad enough, but this  
 3 is happening twelve days before  
 4 Christmas. Even as we prepare for  
 5 this hearing, quarry prep-work is  
 6 continuing out there across the road  
 7 from people's homes. So I guess what  
 8 I'm asking y'all to do here, please,  
 9 on behalf of Sam Frazier is, as a  
 10 Commission, step up and tell ADEM  
 11 that you know they try hard and they  
 12 work hard and they do good work, and  
 13 I believe that. And that 41 out of  
 14 42 times they get it right. But that  
 15 just this one time we need to hit  
 16 pause. And if we need -- And here's  
 17 the thing, if we need to revisit this  
 18 pause come the Commission's meeting  
 19 in February, we can certainly do so.  
 20 But that's my request I certainly  
 21 appreciate your time. Thank you very  
 22 much, gentlemen.  
 23 CHAIR MCFADDEN: Mr. Noles, was

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1 it?  
 2 MR. NOLES: Yes, sir. Yes, sir.  
 3 CHAIR MCFADDEN: Couple of  
 4 questions here.  
 5 And if anyone else on the  
 6 Commission, we can, I think, ask him  
 7 here rather than have him come back  
 8 up later.  
 9 I was looking at the  
 10 document that's amended request for a  
 11 hearing and paragraph 96 states that:  
 12 Property values will be adversely  
 13 affected; roads will be damaged and  
 14 congested and made more dangerous;  
 15 blasting will damage structures and  
 16 associated infrastructure; church  
 17 services and practices will be  
 18 curtailed; crops will be impacted;  
 19 groundwater will be drained;  
 20 sinkholes will form; noise will be  
 21 suffered; and the cultural fabric of  
 22 Belle Mina community will be ripped  
 23 apart. And I'm not a lawyer but

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1 "will" is a pretty strong word. Do  
 2 you have any data or evidence that  
 3 all those things will occur?  
 4 MR. NOLES: Yes, sir. And  
 5 that's a very fair question. And  
 6 we've been subjected to some very  
 7 strong verbiage and words being  
 8 thrown back at us as -- as well.  
 9 Yes, I think if you look in the  
 10 course of substantial comments that  
 11 have been submitted over this, all of  
 12 those kind of allegations were made,  
 13 all of those allegations were  
 14 supported through the comments. I  
 15 mean, you have the comments of the  
 16 Auburn University Tennessee Valley  
 17 Research and Extension Center, which  
 18 is one mile -- no, about -- yeah,  
 19 about a mile-and-a-half up here.  
 20 They were very concerned about the  
 21 impacts of this quarry. And they  
 22 submitted a very detailed report on  
 23 the karst topography and development

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1 likely," will you buy that.  
 2 CHAIR MCFADDEN: Well, maybe.  
 3 The other thing -- other comment I  
 4 had, a lot of these issues you're  
 5 talking about really fall under other  
 6 agencies. You mentioned that. For  
 7 instance -- Are there any zoning  
 8 requirements from this community  
 9 relative to this?  
 10 MR. NOLES: No, sir, there are  
 11 not.  
 12 CHAIR MCFADDEN: So would -- How  
 13 does that contrast with land rights?  
 14 MR. NOLES: That's a great  
 15 question. It doesn't -- We have  
 16 rights to our land and we have rights  
 17 and expectation with respect to  
 18 Alabama's environment. Stoned, LLC,  
 19 has rights that it -- it expects to  
 20 be honored with respect to its  
 21 property. But I think that's where  
 22 the Commission entrusted by the  
 23 Legislature to look out for the

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1 of sinkholes impacts to surface  
 2 water. You've got numerous citizens  
 3 that have complained about their  
 4 concerns and -- and supported those  
 5 complaints with citations to studies  
 6 about the effect that blasting will  
 7 impact infrastructure. And I know  
 8 that ADEM doesn't regulate blasting  
 9 but it does regulate water quality  
 10 and what happens when septic tanks  
 11 and waterlines are damaged by  
 12 blasting, hasn't even been analyzed  
 13 in this particular case, but we all  
 14 know what happens in that. So, I  
 15 guess what I'm trying say is the  
 16 answer to your question is, all of  
 17 that is in the record.  
 18 CHAIR MCFADDEN: Yeah. We've  
 19 looked at a lot of the record and I  
 20 -- you know, maybe the word "may" do  
 21 all those things instead of will made  
 22 a better word but --  
 23 MR. NOLES: How about "will

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1 resources of the state compatible  
 2 with the environment and the health  
 3 and welfare of the citizens of the  
 4 state, does that regardless of  
 5 whether or not zoning is present.  
 6 May I say one more thing, please?  
 7 CHAIR MCFADDEN: Sure.  
 8 MR. NOLES: A point of  
 9 clarification, I think, for  
 10 everybody's benefit, which is the  
 11 reason why I'm mentioning it. One of  
 12 the issues we did, since you  
 13 mentioned the -- the request for a  
 14 hearing, one of the things we argued  
 15 previously was that this isn't even a  
 16 legally permitted site for a quarry  
 17 in the sense that Limestone County  
 18 has -- has local -- there's local  
 19 legislation at a state level that is  
 20 related to Limestone County regarding  
 21 public schools and the TVA industrial  
 22 mega site, which we had argued was  
 23 the Mazda Toyota site, which is a

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1 mile up here; that was subject to a  
 2 declaratory judgment action. And the  
 3 judge decided that, no, the Tennessee  
 4 Valley Research and Extension Center  
 5 is not a public school and decided  
 6 that the Mazda Toyota plant is not a  
 7 TBA industrial mega site, so mega  
 8 culpa on that, we've -- we're not  
 9 pursuing that in front of y'all right  
 10 now.  
 11 CHAIR MCFADDEN: Yeah, because  
 12 you -- I'm sure you're aware that the  
 13 permit, NPDES permit and the air  
 14 permit, those stay with -- it does  
 15 not supercede any local or regional  
 16 other requirements by the State or  
 17 Cities or Counties, so they have --  
 18 MR. NOLES: Right. But at the  
 19 same time, y'all wouldn't want ADEM  
 20 wasting its time if I came in here  
 21 and was saying I want a permit for an  
 22 oil well out there on ADEM's  
 23 property, you know.

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1 sure the process, itself, was even  
 2 good. And we're particularly  
 3 concerned that the outcome was not  
 4 good as far -- if we had, had -- Mr.  
 5 Commissioner, if we had, had a permit  
 6 that had different conditions in  
 7 there with respect to protection of  
 8 the creek that had addressed, at  
 9 least analyzed some of these other  
 10 issues, I think -- who knows, who  
 11 knows what we would do. Let just --  
 12 But to that point, there is a  
 13 requirement that ADEM -- I'm glad you  
 14 mentioned this. There is a  
 15 requirement under ADEM's water  
 16 regulations with respect to something  
 17 called the Anti-degradation Policy.  
 18 And it requires that if you are going  
 19 to -- if ADEM is going to discharge  
 20 -- permit -- permit discharges into a  
 21 stream such as Limestone Creek and  
 22 its tributaries, it must conduct an  
 23 analysis -- it must conduct an

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1 CHAIR MCFADDEN: Depends on how  
 2 much oil we get out of it. Does  
 3 anyone else have any questions for  
 4 Mr. Noles?  
 5 MR. BROWN: You know, I kind of  
 6 went back to what you said, Mr.  
 7 Chair, at the beginning about the  
 8 "will likely" or "will" cause these  
 9 problems. I guess it's your position  
 10 that there can never be a safely  
 11 operated quarry.  
 12 MR. NOLES: No, not necessarily.  
 13 I -- I think that -- Let's step back  
 14 away from that. I mean, that was  
 15 some phraseology in the -- in the --  
 16 in the -- the appeal but we've  
 17 complained about a couple of  
 18 overarching things here. One is that  
 19 we're not even sure the permit was  
 20 the beneficiary of a proper process  
 21 which could have received more  
 22 comments and questions and studies  
 23 through the course of that; we're not

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1 analysis that decides whether or not  
 2 those discharges serve an important  
 3 social and economic -- I'm  
 4 paraphrasing here -- benefit. So,  
 5 you'd be absolutely right if you just  
 6 said, we're just supposed to be  
 7 looking at water discharges; we're  
 8 just supposed to be looking at air  
 9 discharges. But, boy, when you pull  
 10 in that Anti-degradation Policy, I'm  
 11 afraid it puts you guys into the  
 12 business of considering social and  
 13 economic pros and cons, benefits and  
 14 costs. And that was not done here.  
 15 I mean, if I had to hang my hat on  
 16 one thing occurring at all, that did  
 17 not occur. All that occurred is,  
 18 pursuant to the -- the requirements  
 19 and the regs, they received a  
 20 fill-in-the-blank collection of  
 21 answers with respect to the benefits  
 22 that Stoned, LLC, and Grayson Carter  
 23 said who this community was going to

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1 receive. And I think ADEM took that  
 2 at face value. There was no  
 3 discussion as to whether or not there  
 4 was any analysis of the cost that  
 5 came with that.  
 6 And if -- if you're  
 7 supposed to be conducting -- And we  
 8 all know this, right, if you're -- if  
 9 you're supposed to be conducting an  
 10 analysis, you've gotta look at the  
 11 costs and benefits, and not just take  
 12 one side's fill-in-the-blank  
 13 assurances of benefits and proceed.  
 14 But that's my thought there.  
 15 CHAIR MCFADDEN: Yeah. Okay.  
 16 Anyone else have any questions?  
 17 Thank you, Mr. Noles.  
 18 MR. NOLES: No, thank you, sir.  
 19 I appreciate it.  
 20 CHAIR MCFADDEN: Sure. Okay.  
 21 We'll hear from the attorney for the  
 22 Intervenor Grayson Carter and Son.  
 23 State your name one more

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1 you is evidence. You've got a lot of  
 2 magic words here but you don't have a  
 3 lot of evidence. When the magic  
 4 words work, it's because the  
 5 painstaking job of putting proof  
 6 together, logical inferences from  
 7 facts.  
 8 You know, at root, this is  
 9 a science and engineering decision  
 10 that has been reviewed very  
 11 thoroughly by ADEM. This -- This  
 12 permit took more than a year, the  
 13 public comment period was more than  
 14 five times what is required. Magic  
 15 words aren't good enough. You need  
 16 proof, and you don't have it in front  
 17 of you. You don't have the proof to  
 18 shut down a legally permitted,  
 19 legally operating business that is  
 20 going to serve to break what is an  
 21 effective monopoly in the limestone  
 22 rock market in -- in this area.  
 23 They talk about another

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1 time just for the record.  
 2 MR. HEAD: Good morning. Again,  
 3 my name is Jonathan Head with the  
 4 firm Weinberg, Wheeler, Hudgins, Gunn  
 5 & Dial. And I represent Grayson  
 6 Carter. If it please the Chair,  
 7 Stoned and Grayson Carter have agreed  
 8 that I will have eight minutes and  
 9 Stoned will have two.  
 10 Magic words, lawyers tend  
 11 to believe in them. I don't mean to  
 12 besmirch my tribe, including the  
 13 distinguished lawyers that are on the  
 14 Commission as well. And we tend to  
 15 believe in them, especially when we  
 16 speak them. I'm sorry. We tend to  
 17 believe them when we speak them.  
 18 But one of the most  
 19 important things I was taught as a  
 20 young lawyer and I was taught it when  
 21 a judge was addressing the jury. He  
 22 looks at the jury and he says:  
 23 Nothing that lawyer is about to tell

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1 quarry or two; they are owned by the  
 2 same source. The prices in those  
 3 quarries have gone up 80% since 2020.  
 4 All of that is before you as part of  
 5 our motion and our submission.  
 6 There are several other  
 7 things that Mr. Noles' presentation,  
 8 you might imagine, we take issue  
 9 with. He did mention that the --  
 10 there was a brief TRO for the public  
 11 comment period in Limestone County  
 12 when -- when it was time for a stay  
 13 to be issued to keep the quarry from  
 14 operating; that was denied and it was  
 15 denied for good reason.  
 16 The fact that ADEM said  
 17 that a stay was available before this  
 18 Commission certainly didn't mean that  
 19 anybody said it was going to be  
 20 granted or that it was due to be  
 21 granted and it's not. When -- When  
 22 you're pointed to supposed facts in  
 23 the record, what you're really

<p style="text-align: right;">Page 69</p> <p>1 pointed to is a bunch of complaints.  2 A bunch of people who said, I don't  3 want this; I don't like this. This  4 could be a problem; not, this will be  5 a problem.  6 Frankly, the retreat at the  7 podium from "will happen," to "will  8 likely happen." You know, maybe it  9 turns into "may happen," "might  10 happen," "could happen," but that's  11 not proof. And that's not the kind  12 of business that -- that you guys  13 should be in here.  14 You know, these supposedly  15 ongoing investigations, more  16 complaints, more arm waiving, not  17 proof. If those investigations turn  18 up something, maybe they should show  19 up then, but not now.  20 The -- The only standing  21 argument we have complained about,  22 that Mitchell-Frazier Farms is when  23 it's attempting to speak for third</p>	<p style="text-align: right;">Page 70</p> <p>1 parties. It wants to claim the  2 mantel of community. Well, first of  3 all, there is no wholesale monolithic  4 community. We've got people in the  5 community who want to buy rock from  6 us and they want that effective  7 monopoly to go away. And we're part  8 of the community too. We live there,  9 we work there. We have no intention  10 to treat our neighbors badly. And  11 have been in business for a long  12 time, thankfully, not subject to the  13 whim of somebody else deciding when  14 we do or don't need to run a  15 business. I don't think that's  16 within their purview or, frankly, the  17 Commission's.  18 There are a number of  19 things in the Petitioner's motion for  20 stay that you should just frankly  21 ignore because they're outside of  22 your purview. You've already noted  23 several of them. A quick -- A quick</p>
<p style="text-align: right;">Page 71</p> <p>1 hit-list of them is: Harm to third  2 parties. I mean, they're complaining  3 about contracts they're not even  4 party to, mortgage argument they  5 make; pre-permit analysis and  6 behavior by ADEM, actions that aren't  7 done and that aren't required by law.  8 You know, when -- when I -- when I  9 read the Petitioner's motion, I kept  10 thinking about former Secretary  11 Rumsfeld saying, you don't go to war  12 with the Army you've -- you want; you  13 go to war with the Army you've got.  14 Well, you don't come to the  15 Commission with the regulations you  16 want. You come to the Commission  17 with the regulations you've got. And  18 that's why ADEM is charged with --  19 with monitoring and with  20 administering. And that's what it  21 did, it followed the rules that were  22 on the books; not made up rules, not  23 aspirational rules, you know, not a</p>	<p style="text-align: right;">Page 72</p> <p>1 wish list.  2 Local law and land use and  3 zoning, you already mentioned that,  4 that doesn't belong here. Federal  5 statutory requirements when EPA  6 didn't issue the permit. Speculation  7 on whether the permit -- whether the  8 complaints for the permits as written  9 won't be sufficient to protect, not  10 for the Commission. You have previous  11 decisions that we have cited in the  12 record where the Commission has held  13 that is simply not your -- not your  14 purview. Emissions from haul roads,  15 they complained about that; EPA has  16 specifically chosen not to regulate  17 those and they're not regulated by  18 ADEM either.  19 And, lastly, they've made  20 some arguments about the inadequacy  21 of certain topo maps that were used.  22 That's just simply -- all of that is  23 not properly before the Commission.</p>

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1                   So, you know, I think you  
 2                   have to look at -- look at that and  
 3                   start carving it up and saying,  
 4                   what's left. You don't have proof  
 5                   and you're being asked to disapprove  
 6                   these permits on a bunch of arguments  
 7                   that aren't even within your  
 8                   jurisdiction.

9                   The operators have also  
 10                  exceeded minimum design requirements  
 11                  in a number of areas. This was not a  
 12                  fill-in-the-blank exercise or where  
 13                  the first draft sailed through. We  
 14                  take absolute objection to that. We  
 15                  located the pit further away from our  
 16                  neighbors than was required to help  
 17                  attenuate sound. We are building  
 18                  gigantic berms that are going to be  
 19                  15 feet high. It's going to be  
 20                  approximately two-million dollars  
 21                  worth of dirt that we could take off  
 22                  that site and sell if -- if placed  
 23                  elsewhere. And -- And we're not

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1                   to -- to -- to address these issues.  
 2                   CHAIR MCFADDEN: Okay. Mr.  
 3                   Head, I think you've got someone else  
 4                   that is going to share this time.  
 5                   MR. HEAD: I think that's right.  
 6                   I think I'm about -- I think I'm  
 7                   about --  
 8                   MR. LEFLEUR: He's got about 20  
 9                   seconds.  
 10                  MR. HEAD: Yeah, I'm happy to  
 11                  yield my last 20 seconds. If the  
 12                  Chair is done with me, I'll step  
 13                  aside. If there are any questions,  
 14                  I'll be happy to address them.  
 15                  CHAIR MCFADDEN: I'll have a  
 16                  question for one or the other but  
 17                  maybe I'll just ask it now, if you  
 18                  can answer it, fine.  
 19                  MR. HEAD: Yes, sir.  
 20                  CHAIR MCFADDEN: So where the  
 21                  actual rock excavation part of the  
 22                  projects and property's going to  
 23                  occur --

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1                   doing that. We're doing that to be  
 2                   good neighbors, that's not in our  
 3                   permits. We're doing it because it  
 4                   is a good neighbor policy. It's a  
 5                   way to try and protect the folks  
 6                   around us.  
 7                   We located the initial pit  
 8                   500 feet further north than was  
 9                   required. We place -- placed it 800  
 10                  feet from the gas line that they  
 11                  complain about. By the way, we've  
 12                  been working with the gas company  
 13                  hand and glove. We've got a  
 14                  seismograph on top of the gas line,  
 15                  it's -- it is not a problem, it's not  
 16                  in danger.  
 17                  We did a -- Stoned did a  
 18                  phase-one cultural historical  
 19                  analysis that wasn't technically  
 20                  required. And even though a wetland  
 21                  designation isn't required, we asked  
 22                  for one of those too. The -- The  
 23                  operators have gone out of their way

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1                   MR. HEAD: Yes, sir.  
 2                   CHAIR MCFADDEN: -- is it  
 3                   totally contained, as far as storm  
 4                   water is concerned? I know you have  
 5                   storm water retention basins located,  
 6                   but is it, you know, such that it  
 7                   would -- that part of the storm water  
 8                   would not run off or where?  
 9                   MR. HEAD: Yeah, as part of the  
 10                  NPDES permit that was required, there  
 11                  was a comprehensive storm water  
 12                  design that was submitted. You know,  
 13                  it -- it's -- it's interesting to me,  
 14                  I'm one of the unusual engineers that  
 15                  had a technical background. I was a  
 16                  civil engineer before going to law  
 17                  school. And the -- the complaints  
 18                  about flooding being supposedly  
 19                  exacerbated when you're putting large  
 20                  sedimentation basins on the property,  
 21                  that's -- that's not how any of this  
 22                  works. Sedimentation basins capture  
 23                  water, hold it, let the sediment fall



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1 out of it and the water is released  
 2 more solely, so some fairly  
 3 fundamental misinformation and  
 4 misunderstanding obviously --  
 5 CHAIR MCFADDEN: I just didn't  
 6 know, some -- some quarries and some,  
 7 you know, dirt-pits they're totally  
 8 contained where the rain that  
 9 actually falls on that particular  
 10 part of it, you know, is not directly  
 11 running off somewhere else, it's  
 12 infiltrating, whatever --  
 13 MR. HEAD: You know, I -- I -- I  
 14 would not want to -- I would not want  
 15 to speak outside my own knowledge and  
 16 tell you that absolutely no water's  
 17 going to come off this site over land  
 18 but I do know that there was a lot of  
 19 control discharge that has gone  
 20 through the MPDS process.  
 21 CHAIR MCFADDEN: Okay. Thank  
 22 you. Who do we have now? You're  
 23 going to have to speak about like Jim

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1 tell you all the reasons why this  
 2 particular appeal seeks to challenge  
 3 something that's not challengeable  
 4 before this Board. Procedurally,  
 5 they are aiming at a target that  
 6 doesn't exist in this room. Your  
 7 task, as I see it, is basically to  
 8 decide whether this is one of two  
 9 kinds of cases, a good one or a bad  
 10 one. Are they likely going to win  
 11 this thing? It looks like, no,  
 12 they're not and, therefore, they're  
 13 not entitled to the stay. They're  
 14 aiming in the wrong direction.  
 15 They are saying that there  
 16 was no analysis. You have the  
 17 analysis in the packets that you've  
 18 received. We certainly did not  
 19 ignore the EPA. In our exhibit two  
 20 you have correspondence between our  
 21 engineer, who was already studying  
 22 the water before EPA even came on the  
 23 scene; back and forth with EPA

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1 Carrey does in his movies.  
 2 MR. PITTMAN: That's a complaint  
 3 I've received a lot so, hopefully, it  
 4 won't be a problem. I'll see what I  
 5 can do.  
 6 All right. I'm Timothy  
 7 Pittman. I'm from the firm of Wolfe,  
 8 Jones in Huntsville, Alabama. I  
 9 represent Stoned, LLC. My client  
 10 owns the actual dirt. Grayson  
 11 Carter's going to be doing the  
 12 mining. Answer your question, yes, I  
 13 fully enclosed no rainwater that  
 14 falls into the pit will leave. We  
 15 brought with us today Mr. McGehee,  
 16 who is the engineer and kind of  
 17 architect behind this. And I wish he  
 18 was up here talking instead of me,  
 19 you'd probably get some better  
 20 information.  
 21 Very briefly, you're going  
 22 to hear from ADEM in a minute.  
 23 Carrie is going to come up here and

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1 satisfying them to the point where  
 2 they ultimately agreed to the permit.  
 3 I want to point out that  
 4 the Petitioner suggests that they're  
 5 going to do discovery here in this  
 6 body, such that the stay that they're  
 7 requesting would be of an extended  
 8 duration; it's not going to be 45  
 9 days, we're talking months,  
 10 potentially years of a stay is what  
 11 they're asking you for. So if you  
 12 have qualms about it, just know this  
 13 is a very important decision.  
 14 The other thing I would  
 15 point out is that during their  
 16 presentation the Petitioner mentioned  
 17 there would be no harm to Grayson  
 18 Carter but what about Stoned? My  
 19 clients are going to suffer harm too.  
 20 If this quarry is shut down, that  
 21 affects the -- the profitability of  
 22 our relationship here on this  
 23 property as well. We're a separate

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1 entity with separate harm.  
 2 And I suppose that's my  
 3 time. If you'll permit me to say one  
 4 final thing, the permit is what gives  
 5 ADEM oversight over this property.  
 6 If a stay is entered, ADEM would have  
 7 no oversight. This is not  
 8 hypothetical quarry, it's an active,  
 9 ongoing quarry today. So if you were  
 10 to grant that stay and pull those  
 11 permits for a year, six months,  
 12 whatever, you would also be pulling  
 13 ADEM's ability to oversee the site  
 14 and to maintain and monitor what's  
 15 going on there.  
 16 Thank you very much. If  
 17 you've got any questions, I'm happy  
 18 to --  
 19 MR. BROWN: You say an active,  
 20 ongoing quarry, I mean, are we  
 21 blasting and mining? Rock crusher  
 22 running?  
 23 MR. PITTMAN: I believe so.

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1 remind you is an extraordinary  
 2 remedy.  
 3 In fact, it's so  
 4 extraordinary, that the Commission  
 5 has no discretion to grant a stay if  
 6 the necessary factors have not been  
 7 proven. Among those factors the  
 8 Commission must believe that  
 9 Mitchell-Frazier is substantially  
 10 likely to prove the permits are  
 11 invalid and that the issuance of a  
 12 stay would not harm the public.  
 13 Mitchell-Frazier has  
 14 advanced such a quantity and breadth  
 15 of issues, I would urge you not to  
 16 get caught up in their arguments  
 17 meant to confuse you. This case is  
 18 very, very simple and I am here to  
 19 explain to you why it is simple.  
 20 This appeal is a de novo appeal.  
 21 That means the Commission substitutes  
 22 its judgment for that of the  
 23 Department and must find that a term

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1 We're certainly blasting and mining.  
 2 Quarry -- You know, there's crushers.  
 3 Yes.  
 4 MR. HEAD: At this point there  
 5 has been one preliminary blast. The  
 6 blasts would occur about every two  
 7 weeks.  
 8 CHAIR MCFADDEN: Anybody else?  
 9 Thank you very much.  
 10 MR. PITTMAN: Thank you.  
 11 CHAIR MCFADDEN: Okay. We'll  
 12 hear from the Department.  
 13 MS. BLANTON: Good morning,  
 14 Chair McFadden and Commissioners. My  
 15 name is Carrie Blanton, and I have  
 16 had the pleasure of representing the  
 17 Department for about the last 10  
 18 years, primarily working with the  
 19 Water Division.  
 20 Mitchell-Frazier has asked  
 21 you for a stay of water and air  
 22 permits we issued to a limestone  
 23 quarry in Limestone County, which I

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1 or condition in the final permit  
 2 violates a statute or regulation in  
 3 order to revoke or modify the permit.  
 4 What that also means is  
 5 that procedural matters prior to  
 6 permit issuance are irrelevant to  
 7 this appeal, even though the  
 8 Department committed no such pre  
 9 issuance error. Similarly, concerns  
 10 regarding land use, nuisance,  
 11 mortgage encumbrances, changes to  
 12 community characters, blasting,  
 13 groundwater withdrawals, and volume  
 14 of flow to surface waters are all  
 15 outside the Commission's  
 16 jurisdictional umbrella it can  
 17 consider. This case is simple: Do  
 18 the permit terms violate a statute or  
 19 regulation? And the answer is, no.  
 20 The truth is, this quarry is not  
 21 unique. Its operation and its  
 22 accompanying permits are consistent  
 23 with the other 97 permitted quarries

<p style="text-align: right;">Page 85</p> <p>1 in the state. And as this Commission  2 is well aware from its prior  3 experience, it's not uncommon for  4 ADEM to receive a not in my backyard  5 permit appeal with a request for a  6 stay that attempts to halt the  7 operation of a neighboring quarry.  8 I'll tell you what is  9 exceptional about this case, though.  10 These are the requests for hearing  11 that we received from Mitchell-  12 Frazier that just initiate this  13 appeal. This appeal is one of maybe  14 seven or eight current, pending,  15 concluded, or threatened legal  16 actions attempting to halt the  17 operation of the quarry. And this  18 complaint against the Department is  19 the very definition of a shotgun  20 complaint. It sets forth an  21 excessive number of facts and  22 allegations and asserts those must  23 describe a cause of action, but it</p>	<p style="text-align: right;">Page 86</p> <p>1 does not.  2 The first request for a  3 hearing package was well over 600  4 pages and I could not find in it a  5 short and plain statement of what the  6 Department did wrong. We filed a  7 notice of defect and Mitchell-Frazier  8 submitted an amended request, which  9 was supposed to be a clarification,  10 although, in almost 600 pages, still  11 fails to plainly state any permit  12 error that could hypothetically serve  13 as a basis for permit revocation.  14 Again, this is aimed to  15 confuse and delay. And although I  16 hated to add to your stack of reading  17 this week, I hope that our objection  18 to the stay we filed helped to answer  19 any questions you might have about  20 the Department's specific responses  21 to those allegations.  22 But the case remains, this  23 case is simple. The truth is that</p>
<p style="text-align: right;">Page 87</p> <p>1 because of the attention this site  2 garnered, those permits went through  3 a much lengthier public comment  4 period, more scrutiny and interagency  5 consultation, and, ultimately,  6 contained more stringent terms and  7 conditions than permits for other  8 quarries in the state. Even though  9 this site is not special or unusual  10 compared to those other facilities,  11 its permits not only meet the minimum  12 statutory requirements but exceed  13 them. It should be clear to the  14 Commission that Mitchell-Frazier is  15 not entitled to a stay because it's  16 not likely to succeed on the merits  17 of its appeal.  18 But I would also ask the  19 Commission to consider one more  20 thing; and that is, the practical  21 affect a stay of the permits would  22 have. ADEM's mission is to assure  23 for all citizens a safe, helpful, and</p>	<p style="text-align: right;">Page 88</p> <p>1 productive environment. These  2 permits were developed to be  3 protective of water and air quality,  4 to human health in the environment in  5 accordance of all applicable laws and  6 regulations.  7 But if the Commission  8 grants a stay, the protections  9 afforded by the permits go away. The  10 Permittee would have to stop work and  11 it would be as if the permits don't  12 exist. As we've talked about,  13 there's already disturbed land and an  14 active outfall at the site.  15 But all permit conditions  16 require the proper operation, limits  17 on discharges, and all the monitoring  18 and reporting are done away with.  19 The oversight and enforcement  20 mechanisms available to ADEM are  21 dramatically reduced absent the  22 operation of the permits, which  23 enable us to hold a facility's feet</p>

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1 to the fire to protect human health  
 2 in the environment during the  
 3 pendency of this appeal.  
 4 If a stay is denied,  
 5 however, the protections of the  
 6 permits remain in place while the  
 7 appeal goes forward. Through the  
 8 appeal process, whether there are any  
 9 relevant technical aspects to this  
 10 appeal, can be considered by the  
 11 hearing officer and presented to you  
 12 later in a recommendation that's  
 13 supported by a fully developed  
 14 record. The Department asks the  
 15 Commission to deny the stay so that  
 16 it can continue to fulfill its  
 17 statutorily mandated duty to protect  
 18 public health and the environment.  
 19 Thank you.  
 20 CHAIR MCFADDEN: Okay. Does  
 21 anyone have any questions for Ms.  
 22 Blanton?  
 23 (No response).

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1 CHAIR MCFADDEN: I have a  
 2 couple.  
 3 MS. BLANTON: Okay.  
 4 CHAIR MCFADDEN: EPA, the  
 5 original draft permit was reviewed by  
 6 the EPA, as well as Fish and Wildlife  
 7 and others.  
 8 MS. BLANTON: Correct.  
 9 CHAIR MCFADDEN: EPA had some  
 10 comments that they -- the original  
 11 permit or the initial draft did not  
 12 -- you know, they -- they wanted some  
 13 more comments for that permit. Do  
 14 you know what those are, by chance?  
 15 This may be too granular at this  
 16 level, it may be somebody at the  
 17 Department, but do you know what EPA  
 18 commented back on to revise the draft  
 19 permit?  
 20 MS. BLANTON: I know that Fish  
 21 and Wildlife submitted comments which  
 22 are represented with -- through EPA's  
 23 oversight --

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1 CHAIR MCFADDEN: Okay.  
 2 MS. BLANTON: -- or their  
 3 memorandum of agreement that EPA has  
 4 with Fish and Wildlife. And we also  
 5 have a memorandum of agreement with  
 6 EPA that essentially says that any  
 7 comments we receive from EPA or Fish  
 8 and Wildlife on a permit, we have a  
 9 duty to consult with them in an  
 10 attempt to resolve those. And if  
 11 those are not resolved at the end of  
 12 the consultation process, EPA has an  
 13 ability to make further comment or to  
 14 file an objection to the permit. And  
 15 if EPA files an objection to the  
 16 permit, then we are not allowed to  
 17 issue it.  
 18 So, at the end of that  
 19 consultation process, the Department  
 20 had with EPA and Fish and Wildlife,  
 21 there were no further comments and  
 22 there was no objection to the  
 23 issuance of these permits.

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1 CHAIR MCFADDEN: Okay. So, the  
 2 permit was not issued in a vacuum  
 3 without due oversight from others.  
 4 MS. BLANTON: Correct. And, as  
 5 I said earlier, this permit probably  
 6 received a more thorough consultation  
 7 and scrutiny from all of those  
 8 agencies.  
 9 CHAIR MCFADDEN: One more  
 10 question: Do you agree with the  
 11 anti-degradation summary statement  
 12 made by Mr. Noles? And, if not,  
 13 where do you disagree?  
 14 MS. BLANTON: No, I do not  
 15 agree with his characterization of  
 16 what ADEM's duty is in our  
 17 performance of the anti-deg analysis.  
 18 There's Commission precedent that  
 19 essentially says that the Department  
 20 does not have to engage in this  
 21 independent weighing of economic  
 22 benefit and harm. It does require  
 23 the Permittee, when there is a

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1 proposed discharge to a tier-two  
 2 water body, the Permittee to complete  
 3 in its application a submission  
 4 showing an economic benefit. And we  
 5 did find that, that part of the  
 6 permit application was complete.  
 7 Just as a matter of  
 8 interest, normally we see this in a  
 9 more, I would say, complex type  
 10 facilities. But operation of a  
 11 quarry is pretty standard, fairly  
 12 simple between sites. Anti-deg  
 13 analysis usually looks at a -- there  
 14 are several different options to  
 15 treat this wastewater.  
 16 If there is an alternative  
 17 that is within 110% of the cost of  
 18 what the proposed preferred method of  
 19 treatment is and we find that, that  
 20 alternative is a better alternative,  
 21 then that is when that anti-deg 110%  
 22 cost analysis comes into play.  
 23 Here the sediment is

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1 likelihood Petitioner will prevail on  
 2 the merits.  
 3 Number two, the movant will  
 4 suffer irreparable harm if not  
 5 granted injunctive relief.  
 6 Three, the benefits the  
 7 stay will provide the movant outweigh  
 8 the harm that will cause the opposing  
 9 parties.  
 10 And, four, the issuance of  
 11 the stay will not harm the public  
 12 interests. And all four of those  
 13 have to be in the affirmative to  
 14 grant the stay, the way I understand  
 15 the regulations.  
 16 So, we have -- Do we have a  
 17 motion for granting a stay? The two  
 18 options would be: Move to grant the  
 19 Petitioner's application for a stay  
 20 pending issuance of a final order; or  
 21 move to deny the Petitioner's  
 22 application for stay pending the  
 23 issuance of a final order?

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1 appropriately treated through  
 2 sediment basins, and so there's not  
 3 this grand scope of alternatives  
 4 analysis you might see at a different  
 5 site.  
 6 CHAIR MCFADDEN: Okay. So the  
 7 creek is meeting its use  
 8 classification and there's, I'm  
 9 assuming, no T-N-V-L associated with  
 10 the creek.  
 11 MS. BLANTON: Correct.  
 12 CHAIR MCFADDEN: That's all I  
 13 had unless anybody has anything else.  
 14 Thank you very much.  
 15 MS. BLANTON: Thank you.  
 16 CHAIR MCFADDEN: Okay. Before  
 17 we vote on this, it's been pointed  
 18 out, too -- just want to reiterate  
 19 the requirements for a stay, and this  
 20 is by paraphrasing, but they're in  
 21 your materials there if you need to  
 22 look more closely.  
 23 Number one, a substantial

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1 MR. MASINGILL: I move to deny  
 2 the Petitioner's application for stay  
 3 pending the issuance of a final  
 4 order.  
 5 CHAIR MCFADDEN: Okay. We have  
 6 a motion; do we have a second?  
 7 MR. MCKINSTRY: Second.  
 8 CHAIR MCFADDEN: We have a  
 9 second. Any discussion on this?  
 10 Anymore questions or --  
 11 (No response).  
 12 CHAIR MCFADDEN: Okay. All  
 13 right. I call for the question: All  
 14 those in favor of denying the  
 15 Petitioner's request for a stay,  
 16 raise your right hand.  
 17 (Commission Members raising  
 18 hands).  
 19 CHAIR MCFADDEN: Those opposed,  
 20 same sign.  
 21 (No response).  
 22 CHAIR MCFADDEN: Everybody voted  
 23 in the affirmative and hearing no

1 opposition, the motion carries.  
 2 Okay. While that's getting  
 3 circulated, item -- Agenda Item  
 4 Number 7, is there any other business  
 5 before the Commission?  
 6 (No response).  
 7 CHAIR MCFADDEN: Hearing none,  
 8 we'll go to Agenda Item Number 8,  
 9 future business. The Chair notes  
 10 that the proposed date for the  
 11 Commission meetings in calendar year  
 12 2025 have been circulated to the  
 13 Commission with a proposed start time  
 14 of the meetings, as we've always had,  
 15 11:00 a.m.; the location is in this  
 16 room, ADEM main conference room, also  
 17 referred to as "The Alabama Room."  
 18 Those dates are February 14th; April  
 19 11th; June 13th; August 8th; October  
 20 10th; and December 12th, all of 2025,  
 21 of course.  
 22 So, I'll entertain a motion  
 23 from the Commission regarding

1 adopting the proposed meeting dates.  
 2 DR. TUCKER: I move to adopt the  
 3 Commission meeting dates for calendar  
 4 year 2025.  
 5 CHAIR MCFADDEN: Second?  
 6 MR. BROWN: Here.  
 7 CHAIR MCFADDEN: A motion and a  
 8 second. Any discussion?  
 9 (No response).  
 10 CHAIR MCFADDEN: All in favor,  
 11 raise your right hand.  
 12 (Commission Members raising  
 13 hands).  
 14 CHAIR MCFADDEN: All opposed?  
 15 (No response).  
 16 CHAIR MCFADDEN: Okay. Motion  
 17 carries.  
 18 Enter the public comment  
 19 period now.  
 20 Did anybody sign up to --  
 21 MS. THOMAS: No, sir.  
 22 CHAIR MCFADDEN: -- speak? So  
 23 no one signed up to address the

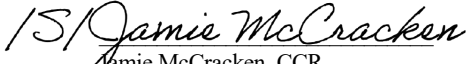
1 Commission. And so, other than that,  
 2 we certainly wish everybody a merry  
 3 Christmas, happy holidays, and be  
 4 safe out there. I'll entertain a  
 5 motion to adjourn.  
 6 MR. BROWN: So moved.  
 7 MR. MASINGILL: Second.  
 8 CHAIR MCFADDEN: Second. All  
 9 those in favor, raise your right  
 10 hand.  
 11 (Commission Members raising  
 12 hands).  
 13 CHAIR MCFADDEN: Opposed?  
 14 (No response).  
 15 CHAIR MCFADDEN: Motion carries.  
 16 Y'all have a good day.  
 17  
 18 (WHEREUPON, the meeting of  
 19 the Board of Commissioners  
 20 was concluded at 12:32 p.m.)  
 21  
 22 \* \* \* \* \*  
 23

1 \* \* \* \* \*  
 2 REPORTER'S CERTIFICATE  
 3 \* \* \* \* \*  
 4 STATE OF ALABAMA  
 5 TALLAPOOSA COUNTY  
 6 I, Jamie McCracken, Certified  
 7 Professional Reporter and Notary Public in and for  
 8 the State of Alabama at Large, do hereby certify on  
 9 Friday, December 13th, 2024, that I reported the  
 10 meeting in the 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 99 computer-printed  
 20 Pages contain a true and correct transcript of the  
 21 meeting set out herein. I further certify that I am  
 22 neither of relative, employee, attorney or counsel  
 23 of any of the parties, nor am I a relative or

1 employee of such attorney or counsel, nor am I  
2 financially interested in the results thereof. All  
3 rates charged are usual and customary.

4 I further certify that I am duly licensed  
5 by the Alabama Board of Court Reporting as a  
6 Certified Court Reporter as evidenced by the ABCR  
7 number following my name found below.

8 This 10th day of February, in the year of  
9 our Lord, 2025.

10   
11 Jamie McCracken, CCR  
12 ACCR NO. 451, Exp 9/30/2024  
13 Certified Court Reporter and  
14 Notary Public  
15 Commission expires: 10/9/2027

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**Part B**

## **Attachment Index**

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<b>Attachment 2</b>	<b>Resolution for posthumous recognition of former ADEM Air Division Chief Ronald W. Gore (Agenda Item 2)</b>
<b>Attachment 3</b>	<b>Director's Slides (Agenda Item 2)</b>
<b>Attachment 4</b>	<b>Resolution adopting amendments to ADEM Administrative Code Division 335-17, Medical Waste Program Regulations, and Attachment A, Final Proposed Rules (Agenda Item 4)</b>
<b>Attachment 5</b>	<b>Order granting Petitioner's request for oral argument (Agenda Item 6)</b>
<b>Attachment 6</b>	<b>Order denying Petitioner's Application for Stay (Agenda Item 6)</b>

**Attachment 1**

AGENDA\*  
MEETING OF THE  
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

DATE: December 13, 2024

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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5. <u>Valicor Environmental Services, LLC, Petitioner v. ADEM, Respondent, and The City of Huntsville, Alabama, Intervenor</u> EMC Docket No. 24-02 (NPDES Related Matter)	2
6. <u>Mitchell-Frazier Farms Limited Partnership, Petitioner v. ADEM, Respondent, and Grayson Carter and Son, Inc. and Stoned LLC, Intervenor</u> EMC Docket No. 25-01 (Air and NPDES Related Matters)	2
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\* The Agenda for this meeting will be available on the ADEM website, [www.adem.alabama.gov](http://www.adem.alabama.gov), under Environmental Management Commission.

\*\* The Minutes for this meeting will be available on the ADEM website under Environmental Management Commission.

1. CONSIDERATION OF MINUTES OF MEETING HELD ON OCTOBER 11, 2024
2. REPORT FROM THE ADEM DIRECTOR
3. REPORT FROM THE COMMISSION CHAIR
4. CONSIDERATION OF PROPOSED AMENDMENTS TO ADEM ADMINISTRATIVE CODE DIVISION 335-17, MEDICAL WASTE PROGRAM REGULATIONS

The Commission will consider proposed amendments to ADEM Administrative Code Division 335-17, Medical Waste Program Regulations. Revisions to Division 17 are being proposed to update rules to improve clarity and organization of existing rules by better grouping and consolidation of various regulatory components through the Chapters including Chapter 335-17-1 General Provisions, Chapter 335-17-2 Medical Waste Generators, Chapter 335-17-3 Collection of Medical Waste, Chapter 335-17-4 Storage of Medical Waste, Chapter 335-17-5 Transportation of Medical Waste, Chapter 335-17-6 Treatment of Medical Waste, Chapter 335-17-7 Disposal of Medical Waste, and Chapter 335-17-9 Procedures for Variances. The Department held a public hearing on the proposed amendments on October 10, 2024.

5. VALICOR ENVIRONMENTAL SERVICES, LLC, PETITIONER V. ADEM, RESPONDENT, AND THE CITY OF HUNTSVILLE, ALABAMA, INTERVENOR, EMC DOCKET NO. 24-02 (NPDES RELATED MATTER)

The Commission will acknowledge for the record Petitioner Valicor Environmental Services, LLC's withdrawal of its request for hearing in the above matter.

On August 30, 2024, the Petitioner filed with the Commission a Request for Hearing and Motion to Stay regarding the State Indirect Discharge (SID) Permit No. IU084500552 reissued by ADEM on August 30, 2024, to Valicor Environmental Services, LLC, a centralized waste treatment facility located at 107 Von Braun Drive, Huntsville, Alabama. On December 6, 2024, the Petitioner filed with the Commission a Notice of Withdrawal of Request for Hearing.

6. MITCHELL-FRAZIER FARMS LIMITED PARTNERSHIP, PETITIONER V. ADEM, RESPONDENT, AND GRAYSON CARTER AND SON, INC. AND STONED LLC, INTERVENORS, EMC DOCKET NO. 25-01 (AIR AND NPDES RELATED MATTERS)

Petitioner Mitchell-Frazier Farms Limited Partnership filed with the Commission a Request for Hearing and Application for Stay of Action Pending Issuance of Order regarding Air Facility Permit No. 708-0036-X001 and NPDES Permit No. AL0084480 issued by ADEM on November 6, 2024, to Grayson Carter and Son Contracting, Inc. and Stoned LLC, respectively. Both permits pertain to, and authorize the operation of, a limestone rock quarry and associated rock crusher in Belle Mina, Limestone County, Alabama. The Commission will consider the Petitioner's application for a stay of the referenced Air and NPDES permits.

7. OTHER BUSINESS

8. FUTURE BUSINESS SESSIONS

PUBLIC COMMENT PERIOD

BRIEF STATEMENTS BY MEMBERS OF THE PUBLIC REGISTERED TO SPEAK

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

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

**Attachment 2**

# State of Alabama



## RESOLUTION

*WHEREAS, Ronald W. Gore was a dedicated public servant with fifty years of service to the state of Alabama. Among his areas of state service were the Alabama Department of Environmental Management during the entire time of its existence and the Alabama Air Pollution Control Commission, ADEM's predecessor air pollution management agency; and*

*WHEREAS, Mr. Gore served as Chief of the Air Division of the Alabama Department of Environmental Management for twenty-eight years; and*

*WHEREAS, Mr. Gore was highly respected by his counterparts in the southeastern states as well as other states throughout the nation; and*

*WHEREAS, Mr. Gore was also highly respected by his co-workers and many within other governmental, regulated, and environmental communities; now*

*THEREFORE, be it resolved that the Alabama Environmental Management Commission expresses appreciation for Mr. Gore's contributions and dedication and offers its condolences for his loss to his family.*

*DONE this 13th day of December 2024.*

\_\_\_\_\_  
*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 13th day of December 2024.

\_\_\_\_\_  
*A. Frank McFadden, Chair*  
Environmental Management Commission  
Certified this 13th day of December 2024



**Attachment 3**

## **NEW FEDERAL ADMINISTRATION**

1

### **New Federal Administration**

- New EPA Administrator Lee Zeldin:
  - Attorney, 44 yr old
  - US House 2015-2023 – Long Island
  - NY Governor candidate
  - Limited managerial experience
- No indication of 12 Assistant Administrators
- No indication of 10 Regional Administrators

2

**New Federal Administration**

- Expect significant changes - deregulation
- Recent rules likely to be revisited
  - Congressional Review Act
  - Rulemaking to change / rescind
  - Forego defense on appeals
- Deregulation may have significant impact on Air, Land, Water programs

3

**New Federal Administration**

- Expect reduced emphasis on:
  - Climate change
  - Non-core programs
  - Federal regulation and mandates
- Expect greater emphasis on State authority

4

**New Federal Administration**

- Expect downsized EPA w/ reduced headcount and budget
- Efficiency and Modernization initiatives:
  - NEPA updates reinstated
  - New chemicals review
- Possible reduced Federal funding to states

5

**AIR PROGRAM SIGNIFICANT  
ISSUES**

6

**Air Program Significant Issues**

- Ozone Transport SIP Disapproval
  - New interpretation w/o rationale
  - Failed to follow required process
  - Material adverse economic impact w/o benefit
- Ozone Transport SIP Disapproval Appeal
  - Appeals in 8 US District Court of Appeals
  - FIP Stayed
  - Venue & Merits Under Submission 11<sup>th</sup> Circuit

7

**Air Program Significant Issues**

- New PM<sub>2.5</sub> Standards
  - Reduced from 12 ug/m<sup>3</sup> to 9 ug/m<sup>3</sup>
  - Near background
  - Limits new industry
  - Currently under appeal questioning health benefit

8

**Air Program Significant Issues**

- EPA Power Plant GHG rules
  - Stringent Greenhouse Gas reduction requirements
  - Likely Coal-fired Power Plants Shutdown
  - Appealed
  - No stay

9

**Air Program Significant Issues**

- New EPA Methane Rules for Oil & Gas
  - Large number of Facilities
  - Large resource requirements >20 work years
  - Appealed
  - No stay

10

## **LAND PROGRAM SIGNIFICANT ISSUES**

11

### **Land Program Significant Issues**

- CCR Program Disapproval
  - New interpretation w/o rationale
  - Material adverse economic impact w/o benefit
  - Subject to appeal
  - Alabama leads nation in CCR cleanups

12

**Land Program Significant Issues**

- Recent Rulemaking
  - Scrap Tires (incentives)
  - Solid Waste (whole tire ban)
  - Recycling (SWMP, grants)
  - UST (emergency response payment)
  - Uniform Covenants (remove UST requirement)
  - Brownfield VCP (conform to 2023 legislation)

13

**Land Program Significant Issues**

- Upcoming Rulemaking:
  - Med Waste phase 1– December 2024 (update)
  - Med Waste phase 2 – June 2025 (final update)
  - Recycling – June 2025 (procedures, reporting & technical)
- Other Modernization:
  - Scrap Tire & UAD Partnerships
  - Reset Recycling Goal to 40% & better reporting

14



## **WATER PROGRAM SIGNIFICANT ISSUES**

15

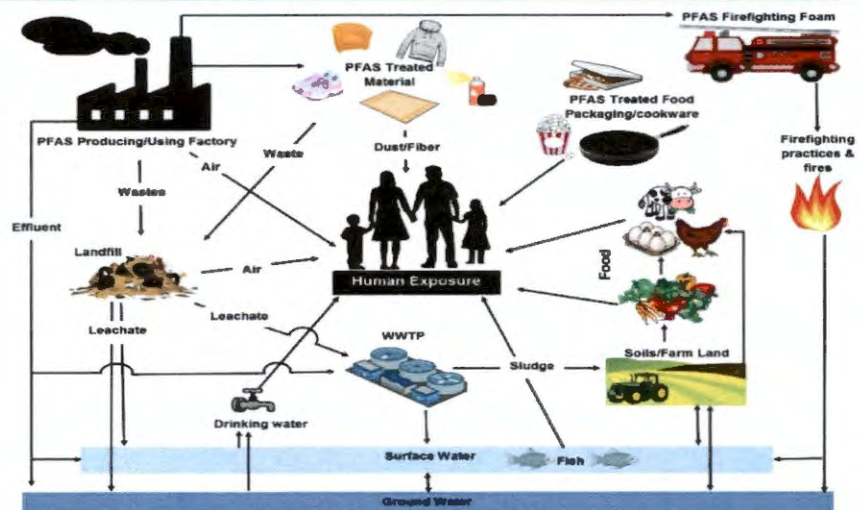
### **Water Program Significant Issues**

- Delayed EPA reviews & expanded comments
  - Quarry, Mining, and NPDES permit delays
  - Proposing unusual permit conditions
- ARPA / BIL / SRF Water & Sewer Funding
  - \$1.2 Billion need-based
  - Potential BIL & SRF funding cuts

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## PFAS SIGNIFICANT ISSUES

17



Human Exposure and sources of PFAS  
Image: DWP, adapted from Oliaei et al. 2013.

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**PFAS Issues**

- MCLs final (appeals based on science, which PFAS, rulemaking process)
- CERCLA final hazardous substance & RCRA proposed hazardous constituents
- No cleanup standards
- Studies for Risk Assessments, WQ criteria, Monitoring, Controlling

19

**ALABAMA ENVIRONMENTAL  
PERMITTING AND COMPLIANCE  
SYSTEM (AEPACS)**

20

**Modernization AEPACS Automation**

- Will affect nearly every regulated entity
- Affects the entire Department:
  - UST, UAD, Recycling, Beneficial Use, Scrap Tire, NPDES, SID, Coastal, CAFO, 401 WQC, complete
  - Air, Solid Waste, RCRA coming
- All complete in 2025
- Keeps cost down & performance up

21

**Personnel Changes**

- Aubrey White – New Air Div Chief
- Emily Anderson – New Drinking Water Branch Chief

22

**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 335-17 of the Department's Land Division – Medical Waste 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 the oral and written 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 oral and written 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 335-17 [rules 335-17-1-.02/ Definitions (Amend); 335-17-1-.07/ Repealer (Amend); Chapter 335-17-2/ Medical Waste Generators (Amend); Chapter 335-17-3/ Collection of Medical

Waste (Amend); 335-17-4-.01/ Storage Of Untreated Waste (Amend); 335-17-5-.01/  
Transportation Of Untreated Waste (Amend); Chapter 335-17-8/ Procedures for Variances  
(Amend); Chapter 335-17-9/ Procedures for Variances (New)] of the Department's Land Division  
– Medical Waste Program rules, administrative code attached hereto, to become effective forty-  
five days, unless otherwise indicated, after filing with the Alabama Legislative Services Agency.

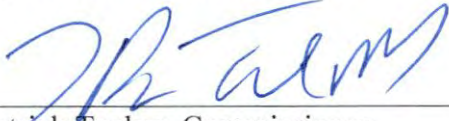
Environmental Management Commission Resolution  
Page 3

ADEM Admin. Code division 335-17 – Medical Waste Program

IN WITNESS WHEREOF, we have affixed our signatures below on this 13th day of  
December, 2024.

APPROVED:

\_\_\_\_\_  
Mary J. Merritt, Commissioner



\_\_\_\_\_  
J. Patrick Tucker, Commissioner



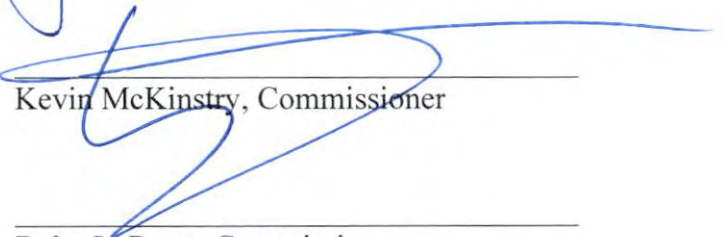
\_\_\_\_\_  
John (Jay) H. Masingill, III, Commissioner



\_\_\_\_\_  
A. Frank McFadden, Commissioner



\_\_\_\_\_  
H. Lanier Brown, II, Commissioner

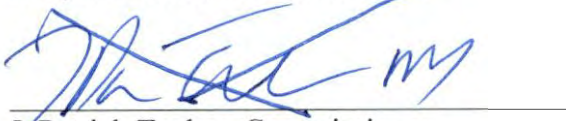


\_\_\_\_\_  
Kevin McKinstry, Commissioner

\_\_\_\_\_  
Ruby L. Perry, Commissioner

DISAPPROVED:

\_\_\_\_\_  
Mary J. Merritt, Commissioner



\_\_\_\_\_  
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



Environmental Management Commission Order  
Page 4

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 13th day of December 2024.



\_\_\_\_\_  
A. Frank McFadden, Chair  
Environmental Management Commission  
Certified this 13th day of December 2024

**335-17-1-.02            Definitions.**

For the purpose of these rules and regulations, the following words and phrases shall have the meanings ascribed to them in this Rule and as ascribed by law unless the context of the regulations indicate differently.

(1) Act - the "Solid Wastes and Recyclable Materials Management Act", Act No. 151, Regular Session 2008 (formerly the "Solid Waste Disposal Act, Act No. 771 Regular Session, 1969, as amended by Act No. 2247 Regular Session, 1971) Code of Ala. 1975, §22-27-1 et. seq. the Alabama Solid Wastes and Recyclable Materials Management Act, Code of Ala. 1975, Section 22-27-1, et seq.

(2) Animal Waste - carcasses and body parts of animals exposed to human infectious agents as a result of the animal being used for the production and/or testing of biologicals and pharmaceuticals or in research. Bulk blood, blood components and potentially infectious body fluids from these animals shall be handled as specified in (b) for human blood and body fluids. All materials discarded from surgical procedures involving these animals which are grossly contaminated with bulk blood, blood components, or body fluids shall be treated as specified for surgical waste.

(3) Bladeable - the physical condition of a sludge or similar waste. Physical conditions include, but are not limited to, the absence of free liquids and of a consistency that can be easily managed by heavy equipment normally utilized at a landfill unit.

(4) Blood and Body Fluids - all human bulk blood, bulk blood components (serum and plasma, for example), and bulk laboratory specimens of blood, tissue, semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, and amniotic fluid. Precautions do not apply to feces, nasal secretions, sputum, sweat, tears, urine or vomitus unless they contain visible blood. Free-flowing material or items saturated to the point of dripping liquids containing visible blood or blood components would be treated/handled as bulk blood and bulk blood components.

(5) Commercial Medical Waste Treatment Facility - a facility, other than an incinerator, used to treat more than 220 pounds of medical waste per month.

(6) Container - any portable device in which a material is stored, transported, treated, disposed of or otherwise handled. The term container, when describing the packaging requirements, does not include items that are classified as medical waste.

(7) Contingency Plan - a document setting out an organized, planned and coordinated course of action to be followed in

case of a fire, explosion or release of medical waste which could threaten human health or the environment.

(8) Decontamination - a process of reducing or eliminating the presence of harmful substances, such as infectious agents, so as to reduce the likelihood of disease transmission from those substances.

(9) Department or ADEM - the Alabama Department of Environmental Management as established by Code of Ala. 1975, §22-22A-4.

(10) Director - the Director of the Alabama Department of Environmental Management, appointed pursuant to Code of Ala. 1975, §22-22A-4, or his or her designee.

(11) Facility - all contiguous land, structures and other appurtenances used for the processing, treatment, storage or disposal of medical waste.

(12) Facility Structures - any buildings and sheds or utility or drainage lines on the facility.

(13) Free Liquids - liquids which readily separate from the solid portion of a waste under ambient temperature and pressure as determined by the Paint Filter Test referenced in USEPA Publication SW-846, Method 9095.

(14) Generation - the act or process of producing medical waste. Medical waste shall be considered to be generated at the point that waste materials are first discarded or collected.

(15) Health Department - an approved county or district health department, including the ~~Alabama State Department of Public Health~~ State Health Department as defined by Code of Alabama 1975 §22-1-1, as amended, and the affected state and county health department.

(16) Health Officer - the State Health Officer for the State of Alabama as set out in Code of Alabama 1975 §22-2-8, as provided by law or affected county health officer or his or her designee.

(17) Incinerator or Combustion Unit - a device designed to burn that portion of medical waste which will be consumed at temperatures generally ranging 1600 degrees Fahrenheit or over. The unburned residue from an incinerator, including metal, glass, and the like shall be called ashes.

(18) Infectious Agent - any organism (such as a virus or a bacterium) that is capable of causing disease or adverse health impacts in humans by invasion and multiplication in body tissues, fluids or secretions.

(19) International Biological Hazard Symbol - the symbol that conforms to the design shown in 29 Code of Federal Regulations 1910.1030(g)(1)(i)(B).

(20) Medical Waste - A solid waste or combination of solid wastes which because of its infectious characteristics may either cause, or significantly contribute to, an increase in

mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present hazard or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.

(21) Medical Waste Facility - all contiguous land and structures, other appurtenances, and improvements on the land used for treating, destroying, or storing of medical waste. A facility may consist of several treatment, destruction, or storage units.

(22) Medical Waste Generator - a medical facility or person who produces or generates medical waste. The term includes, but is not limited to hospitals, nursing or convalescent facilities, intermediate care facilities, clinics, dialysis clinics, blood banks, dental offices, surgical clinics, medical buildings, health maintenance organizations, home health agencies, physicians offices, laboratories, emergency medical services, veterinary clinics, research and manufacturing facilities, and funeral homes. In the case where more than one person (e.g., doctors with separate medical practices) is located in the same building, each individual business entity is a separate generator. In no case shall a person be classified as a medical waste generator if those wastes are generated from a single-family residential dwelling by someone other than a health care professional.

(23) Medical Waste Storage - the containment of medical waste at the generating facility or some alternative place for a temporary or extended period of time at the end of which the waste is treated or stored elsewhere. Placing waste in a container at the point of generation such as a patient's room, operating room, or laboratory would not be considered as storage.

(24) Medical Waste Storage Facility - a facility or part thereof at which medical waste is placed in storage. The storage facility includes loading docks and parking areas where shipments of medical waste are held during the normal course of transportation.

(25) Medical Waste Transportation - the movement of medical waste after leaving the generator's building to any intermediate transfer points, and finally to the landfill unit. The mode of transport may be by air, highway, rail, or water.

(26) Medical Waste Transporter - a person engaged in the off-site transportation of medical waste. A medical waste generator who generates less than 220 pounds (100 kilograms) of medical waste per month and transports his/her own waste is exempt from the transporter requirements.

(27) Medical Waste Transport Vehicle - a motor vehicle, barge, airplane or rail car used for the transportation of medical waste by any mode. Each cargo-carrying body (trailer, railroad car, etc.) is a separate transport vehicle. A vehicle used to transport less than 220 pounds of medical waste per month is exempt.

(28) Medical Waste Treatment - any process, including incineration or steam sterilization, which changes the character or composition of medical waste in order for decontamination to take place. Additional treatment measures may include melting, shredding, grinding, tearing, or breaking, so that it is no longer generally recognizable as medical waste.

(29) Medical Waste Treatment Facility - a location at which medical waste is subjected to treatment.

(30) Microbiological Waste - discarded cultures and stocks of human infectious agents and associated microbiologicals; human and animal cell cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; waste from the production of biologicals; discarded live and attenuated vaccines; culture dishes and devices used to transfer, inoculate and mix cultures. Only those animal vaccines which are potentially infectious to humans (Strain 19 Brucellosis Vaccine, Feline Pneumonitis Vaccine, contagious Eczema Vaccine for Sheep, Newcastle Disease Vaccine, Anthrax Spore Vaccine, and Venezuelan Equine Encephalitis Vaccine) shall be considered microbiological waste.

(31) Municipal Solid Waste Landfill (MSWLF) - a discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile. A municipal solid waste landfill may also receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, industrial solid waste, construction/demolition waste, and rubbish. A municipal solid waste landfill is a sanitary landfill. Such a landfill may be publicly or privately owned.

(32) Off-site - not a part of what is defined as on-site.

(33) On-site - the same or geographically contiguous property which may be divided by public or private right-of-way. Non-contiguous properties owned by the same person or entity connected by a right-of-way which he controls and to which the public does not have access, is also considered on-site property.

(34) Owner - the person(s) who owns a facility or part of a facility.

(35) Pathological Waste - all discarded human tissues, organs, and body parts which are removed during surgery, obstetrical procedures, autopsy, laboratory, embalming, or other medical procedures, or traumatic amputation. Extracted teeth are not included in this definition.

(36) Permit - written authorization granted to a person by the Department to operate a medical waste facility or to transport medical waste.

(37) Permittee - any person possessing a valid permit issued by the Department to manage or transport medical waste. This person is responsible for the overall operation of a medical waste facility or transportation facility.

(38) Person - any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, any interstate body, or any other private or public legal entity.

(39) Renal Dialysis Waste - all liquid waste from renal dialysis contaminated with peritoneal fluid or with human blood visible to the human eye. Solid renal dialysis waste is considered medical waste if it is saturated, having the potential to drip or splash regulated blood or body fluids.

(40) Sanitary Sewer - any device or system used in the treatment of municipal sewage or industrial waste of a liquid nature. This includes sewers, pipes or other conveyances only if they convey wastewater to a facility providing treatment.

(41) Sharps - any used or unused discarded article that may cause punctures or cuts and which has been or is intended for use in animal or human medical care, medical research, or in laboratories utilizing microorganisms. Such waste includes, but is not limited to, hypodermic needles, IV tubing with needles attached, scalpel blades, and syringes (with or without a needle attached). Items listed above that have been removed from their original sterile containers are included in this definition. Glassware, blood vials, pipettes, and similar items are to be handled as sharps if they are contaminated with blood or body fluids.

(42) Special Waste - those wastes requiring specific processing, handling or disposal techniques as determined necessary by the Department which are different from the techniques normally utilized for handling or disposal. Examples of such waste types may include, but are not limited to: mining waste; fly ash; bottom ash; sludges; friable asbestos; industrial waste; liquid waste; large dead animals or large quantities of dead animals and residue, medical waste, foundry waste, petroleum contaminated wastes, municipal solid waste ash, or contaminated soil and water from the cleanup of a spill.

(43) Spill - the unplanned, accidental or unpermitted discharge, deposit, injection, leaking, pumping, pouring, emitting, dumping, placing or releasing of solid or medical waste, or materials which when spilled become solid or medical waste, into or on the land, the air or the water.

(44) State - the State of Alabama.

~~(45) State Health Department - the Alabama Department of Public Health as defined by §22-2-1, Code of Ala. 1975.~~

~~(46) State Health Officer - the Health Officer for the State of Alabama as set out in §22-2-8, Code of Ala. 1975, or his designee provided by law.~~

~~(47) Surgical Waste - all materials discarded from surgical procedures which are contaminated with human bulk blood, blood components, or body fluids, including but not limited to, disposable gowns, dressings, sponges, lavage tubes, drainage sets, underpads, and surgical gloves. Discarded surgical material is considered medical waste if it is saturated, having the potential to drip or splash regulated blood or body fluids ~~contained in (b) above~~. Extracted teeth are not included in this definition.~~

**Author:** James L. Bryant, Ashley S. Powell

**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.

**History:** **New Rule:** Filed December 12, 2011; effective January 16, 2012. **Amended:** Published ; effective .

335-17-1-.07

~~Repealer~~Reserved.

~~All rules and regulations promulgated and adopted by the Department which are in conflict with this Division or any provision thereof is hereby expressly repealed. This Division is intended to be comprehensive and include all the regulations of the Department dealing with medical waste management as enforced by the Land Division.~~

**Author:** James L. Bryant. Ashley S. Powell

**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.

**History:** **New Rule:** Filed December 12, 2011; effective January 16, 2012. **Amended:** Published ; effective .



APA-3

**CERTIFICATION OF ADMINISTRATIVE RULES  
FILED WITH THE LEGISLATIVE SERVICES AGENCY  
OTHNI LATHRAM, DIRECTOR**

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on Friday, December 13, 2024, and filed with the agency secretary on Tuesday, December 17, 2024.

**AGENCY NAME:** Alabama Department of Environmental Management Land  
Division - Medical Waste Program

**INTENDED ACTION:** Amend

**RULE NO.:** Chapter 335-17-2  
(If amended rule, give specific paragraph, subparagraphs, etc., being amended) **335-17-2-.01(3)(b)**

**RULE TITLE:** Medical Waste Generators

**ACTION TAKEN:** State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

**Adopted with changes.** Comments were received requesting clarification on the movement of Rule 335-17-4-.01(11)(b) to 335-17-2-.01(3)(b). Based on these comments, the requirements in 335-17-2-.01(3)(b) will be removed.

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XLII, ISSUE NO. 11, AAM,  
DATED FRIDAY, AUGUST 30, 2024.

**STATUTORY RULEMAKING AUTHORITY:** Ala. Code §§ 22- 22A- 5, 22- 22-A 6,  
22- 22A-8, 22 -28 -14, (as amended)  
and Ala. Code §§ 41-22-4 and 41-22-5  
(as amended)

(Date Filed)  
(For LRS Use Only)

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Certifying Officer or his or her  
Deputy

**APA-3**

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.)

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION -  
MEDICAL WASTE PROGRAM  
ADMINISTRATIVE CODE

CHAPTER 335-17-2  
MEDICAL WASTE GENERATORS

TABLE OF CONTENTS

335-17-2-.01           **Generators**

335-17-2-.01           **Generators.**

(1) Within 90 days from the effective date of this Division, each generator shall prepare, maintain and update as necessary a written plan to ensure proper management of medical waste. This plan must be made available to the Department upon request. This plan shall address the following if applicable to the generators:

- (a) The type of medical waste generated;
- (b) Proper segregation, packaging and labeling procedures of untreated medical waste intended for off-site transportation;
- (c) Treatment method to be utilized on-site;
- (d) Transporter of any untreated medical waste transported off-site;
  - 1. Name, address and telephone number of a responsible person;
  - 2. ADEM permit number;
- (e) Storage facilities utilized both on-site and off-site;
  - 1. Name, address and telephone number of a responsible person for all off-site storage facilities.
  - 2. ADEM permit number for all off-site facilities.
- (f) All treatment/processing facilities utilized;
  - 1. Name, address and telephone number of all facilities.
  - 2. ADEM permit number for all off-site facilities.
- (g) All disposal facilities utilized;

1. Name of disposal facility as it appears on their permit;
2. Permittee of disposal facility;
3. ADEM permit number.

(h) Frequency medical waste is removed off-site from medical waste generator's facility.

(i) Training of employees

1. Steps that will be taken to minimize the exposure of their employees to infectious agents.

2. Name of the individual who is responsible for training.

(2) Each generator shall notify the Department in writing, within 90 days from the effective date of this Division. This notification shall address the following:

(a) Name and mailing address of generator;

(b) Name and telephone number of responsible person;

(c) Street address, including nearest city, of generator's facility.

A person who will begin the generation of medical waste after the effective date of this Division must submit the above notification and prepare a written Medical Waste Management Plan prior to initiating any waste generation, treatment, transportation or disposal activity.

(3) Storage of untreated medical waste shall meet the following criteria:

(a) Storage as used in this rule would begin after a shipping container is prepared for shipment to a storage or treatment facility. Storage of medical waste by the generator shall not exceed seven calendar days from the date initial storage begins unless waste is refrigerated at a temperature less than 45 degrees Fahrenheit. This requirement shall not apply to generators who generate less than 220 pounds per month of medical waste.

~~(b) Transportation of medical waste and subsequent storage prior to treatment shall be at temperatures less than 45 degrees Fahrenheit unless said transportation can be accomplished within less than four hours.~~

(4) Medical waste, such as liquids which are amenable to disposal by sanitary sewer, may be discharged subject to the following conditions:

(a) Sanitary sewer system must provide secondary treatment;

(b) Solid and liquid waste removed from systems which do not provide secondary treatment (e.g., holding tanks) must be further processed in a sanitary sewer system that provides secondary treatment. Prior approval for sewer systems not regulated by the Water Division of the Department must be obtained from the Local Health Officer.

(c) Sanitary sewer system shall be operated in such a manner that medical waste will not bypass the treatment facility during normal operating conditions.

**Author:** James L. Bryant. Ashley S. Powell

**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.

**History: New Rule:** Filed December 12, 2011; effective January 16, 2012. **Amended:** Published ~~\_\_\_\_\_~~; ~~effective \_\_\_\_\_~~ December 31, 2024; effective February 14, 2025.

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION -  
MEDICAL WASTE PROGRAM  
ADMINISTRATIVE CODE

CHAPTER 335-17-3  
COLLECTION OF MEDICAL WASTE

TABLE OF CONTENTS

335-17-3-.01	Collections Of Untreated Waste
335-17-3-.02	Collection Of Treated Waste

335-17-3-.01      Collections Of Untreated Waste.

Collection of untreated medical waste intended for transport off-site, except where interment will be utilized, shall be packaged and maintained in the following manner:

(1) The outermost layer of packaging for medical waste shall be packaged in containers which have either a red background color or utilize red lettering with contrasting background color and conspicuously labeled with either the words "Infectious" or "Medical Waste" or "Biohazardous" and/or contain the International Biological Hazard Symbol.

(a) The wording shall be either printed on the container or securely attached by label on two or more sides. The wording shall utilize letters two inches or larger in size, and the International Biological Hazard Symbol, must be six inches or larger in diameter. The wording and symbol, if utilized, must be in a contrasting color to the background color.

(b) The ink utilized must be indelible and considered permanent when exposed to the environment under normal weather conditions.

(2) Containers shall be impermeable to moisture and shall have a strength which prevents ripping, tearing, or bursting under normal conditions of use.

(3) Sharps shall be placed directly into leak proof, rigid, puncture-resistant containers and sealed to prevent loss of contents under normal handling procedures. These containers shall be clearly labeled as described in (1) above unless placed in rigid shipping containers that meet this requirement.

(4) Small containers used to collect untreated medical waste placed inside larger containers to better facilitate storage, transportation, or disposal. Small containers that will be placed into larger shipping containers shall meet the following requirements:

(a) Containers used for sharps shall meet the requirements in paragraph 335-17-3-.01(3).

(b) All other containers shall utilize either a red background color or red lettering or Symbol which contrast with adjacent colors.

(c) Wording utilized in paragraph 335-17-3-.01(1) shall be utilized. The wording shall be either printed on the container or securely attached by label on two or more sides. The wording shall utilize letters one inch or larger in size, and the International Biological Hazard Symbol must be three inches or larger in diameter.

(5) The outermost layer of packaging must be properly identified with the following information. This information shall be securely attached or permanently printed and shall be clearly legible. Indelible ink shall be used to print the information on the label or container.

(a) The name and address;

(b) The date the waste was packaged in its outermost container;

(c) One of the following words or phrases used in conjunction with the International Biological Hazard Symbol: "Medical Waste" or "Biohazardous" or "Infectious."

(6) Containers of medical waste must remain intact without signs of leakage until treatment.

(7) Containers of medical waste shall be handled in a manner that does not affect the integrity of the packaging.

(8) Disposable single use containers used for the storage and transportation of untreated medical waste shall be rigid, leak resistant, puncture resistant, burst resistant, and tear resistant under normal conditions of handling and use. Reusable containers shall meet the preceding requirements in addition to being constructed of smooth, easily cleanable, impermeable materials and resistant to corrosion. If a fiberboard container is used, it shall meet the standards of

49 CFR 178.210 of the Code of Federal Regulations for a classified strength of at least 200 pound test and be marked DOT-12A65. All containers must be sealed prior to shipment. The maximum gross weight of fiberboard containers shall be 65 pounds.

(9) Containers utilized for collection, storage and transportation shall be constructed of materials that are compatible with the treatment method to be utilized.

(a) Single-use containers destined for incinerators shall be burnable.

(b) Containers destined for steam sterilizers shall allow the waste to be treated at required temperature and pressure.

(c) Reusable containers shall be decontaminated after each use with an approved treatment method.

(d) Reusable containers shall not be used for other purposes unless the following conditions are met:

1. Containers shall be decontaminated by a method approved by the Department;

2. All labeling, symbols or other identifications normally used to identify medical waste shall be removed.

~~(10) Medical waste, such as liquids which are amenable to disposal by sanitary sewer, may be discharged subject to the following conditions:~~

~~(a) Sanitary sewer system must provide secondary treatment\_;~~

~~(b) Solid and liquid waste removed from systems which do not provide secondary treatment (e.g., holding tanks) must be further processed in a sanitary sewer system that provides secondary treatment. Prior approval for sewer systems not regulated by the Water Division of the Department must be obtained from the Local Health Officer.~~

~~(c) Sanitary sewer system shall be operated in such a manner that medical waste will not bypass the treatment facility during normal operating conditions.~~

**Author:** James L. Bryant, [Ashley S. Powell](#)

**Statutory Authority:** [Code of Ala. 1975, §§22-27-9, 22-27-12.](#)



**History:** **New Rule:** Filed December 12, 2011; effective January 16, 2012. **Amended:** Published ; effective .

**335-17-3-.02**            **Collection Of Treated Waste.**

The collection of treated medical waste intended for transport off-site shall comply with the following requirements:

(1) All containers shall not be red in color, and display the International Biological Hazard Symbol or display one of the following phrases:

(a) "Medical Waste";

(b) "Infectious" or "Infectious Waste";

(c) "Bio Hazardous";

(d) Any other identification normally used to indicate medical waste as being untreated.

~~(e)~~ (2) Containers which cannot meet the above requirements shall be further processed by incineration, grinding, shredding, or some other means to achieve this requirement.

(3) Containers which are treated but did not lose their identity as untreated medical waste shall not be placed into a container used for shipment of treated medical waste.

(4) Containerized treated medical waste may be mixed with other solid waste for transportation to an approved disposal facility in vehicles where compaction of the waste will take place.

(5) Treated medical waste shall be delivered to an approved sanitary landfill for disposal.

(6) Written certification, to the effect that all treatment requirements contained in this Chapter have been met, shall be provided to the permittee of the disposal facility utilized at least on an annual basis or as specified by the Department or the permittee of the disposal facility being utilized. When written certification is required on a per load basis, transporters shall deliver the certification, provided by the person who treated the waste, to the permittee or his designee of the disposal facility utilized at the time of disposal. Appropriate documentation to confirm

this certification may be required from the treatment facility.

(7) Pursuant to the provisions of Code of Ala. 1975, §22-22A-4(i), additional regulations addressing the storage of solid waste remain within the function of the State Health Department pursuant to Code of Ala. 1975, §22-22A-5 and §22-22A-8.

**Author:** James L. Bryant. Ashley S. Powell

**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.

**History:** **New Rule:** Filed December 12, 2011; effective January 16, 2012. **Amended:** Published ; effective .

335-17-4-.01

Storage Of Untreated Waste.

Persons engaged in the storage of untreated medical waste shall comply with the following. ~~Storage as used in this rule would begin after a shipping container is prepared for shipment to a storage or treatment facility.~~

- (1) No person shall operate or maintain a facility for storage of untreated medical waste without a valid permit granted by the Department. Storage facilities that are an integral part of the generator's facility will not be required to obtain a permit.
- (2) Storage facilities shall be fully enclosed.
- (3) Designated storage facilities shall not be utilized for other purposes.
- (4) Surfaces of storage facilities which may come into contact with medical waste shall be constructed of smooth, easily cleanable materials that are impervious to liquids.
- (5) Storage facilities must be conspicuously identified with signs which contain either the phrase "Medical Waste," "Infectious Waste," "Biohazardous," or display the International Biological Hazard Symbol.
- (6) Storage facilities must be adequately secured to prevent entry of unauthorized persons.
- (7) Storage facilities must be operated in such a manner to minimize entry by rodents and vectors.
- (8) The operation of storage facilities must minimize or prevent objectionable odors as determined by the Department from migrating off-site.
- (9) If a container is damaged or leaking or improperly labeled, the storage facility may accept the container provided the damaged container is overpacked into another container or is properly labeled in accordance with the requirements of 335-17-3-.01(1).
- (10) Persons manually handling untreated medical waste at the storage facility shall wear impermeable gloves and protective clothing to minimize exposure.
- (11) ~~Storage of untreated medical waste shall meet the following criteria:~~

~~(a) Storage of medical waste by the generator shall not exceed seven calendar days from the date initial storage begins unless waste is refrigerated at a temperature less than 45 degrees Fahrenheit. This requirement shall not apply to generators who generate less than 220 pounds per month of medical waste.~~

~~(b) Transportation of medical waste and subsequent storage prior to treatment shall be at temperatures less than 45 degrees Fahrenheit unless said transportation can be accomplished within in less than four hours.~~

~~(12)~~—The permittee or his designee shall allow inspection of the storage facility by Department Personnel during normal working hours.

~~(13)~~ (12) The permittee shall maintain records as required by the Department for a period of three years. Records shall contain the following as minimum requirements:

(a) The name and location of any generator or transporter who utilize the storage facility.

1. Generators shall provide name and street address of business, name and telephone number of a contact person.

2. Transporters shall provide name and street address of business, name and telephone number of a contact person and list of any permits obtained for the transportation of untreated medical waste from a regulatory agency or.

(b) The quantity of medical waste stored from each generator or transporter per month. The quantity may be recorded in tons, pounds, cubic yards, cubic feet, or gallons.

(c) The date the waste was accepted from the generator or transporter for storage and the date it was removed from the storage facility.

(d) The name and telephone number of a contact person for the transporter removing the waste to another facility and any permits which have been issued to that transporter.

(e) The quantity of medical waste removed from the storage facility. The quantity may be recorded in tons, pounds, cubic yards, cubic feet, or gallons.

~~(14)~~ (13) The Permittee of a medical waste storage facility shall prepare a Management Plan for the medical waste handled and stored at their facility. Multiple locations covered by a single permit may be included in one overall plan if each facility is adequately addressed.

(a) The Management Plan must address to the extent the information is applicable to the storage facility:

1. The types of medical waste handled;

2. Storage procedures that will be followed;

3. Treatment facilities that will be utilized;

4. Steps that will be taken to minimize the exposure of employees to untreated medical waste;

5. Name of the individual responsible for the storage facility.

(b) The Management Plan must be kept at the permittee's principal place of business;

(c) The Management Plan must be made available to the Department upon request;

(d) The Management Plan must be updated as needed.

**Author:** James L. Bryant. Ashley S. Powell  
**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.  
**History: New Rule:** Filed December 12, 2011; effective January  
16, 2012. Amended: Published ; effective .

335-17-5-.01

Transportation Of Untreated Waste.

Untreated medical waste transported off-site from the medical facility generating the waste, shall comply with the following requirements.

(1) No medical waste transporter shall accept untreated medical waste which contains hazardous waste or radioactive waste, for transportation to a medical waste treatment facility.

(2) No medical waste transporter shall transport untreated medical waste in the same transport vehicle with other solid waste unless all the waste in the vehicle is managed as untreated medical waste.

(3) No medical waste transporter shall accept any container of untreated medical waste for transport which shows visible signs of leakage, or which is not properly sealed and labeled.

(4) No medical waste transporter shall compact untreated medical waste in a transport vehicle.

(5) No medical waste transporter shall allow untreated medical waste to escape from a transport vehicle into the environment. All vehicles utilized must be enclosed.

(6) No medical waste transporter shall deliver untreated medical waste to an unapproved storage, treatment, or disposal facility in Alabama. All out-of-state shipments should be coordinated with the appropriate regulatory authority of the receiving State.

(7) Persons manually loading or unloading containers of untreated medical waste from a medical waste transport vehicle must wear impermeable gloves and protective clothing to help minimize exposure.

(8) Surfaces of medical waste transport vehicles which may come into contact with medical waste must be constructed of durable, easily cleanable materials.

(9) Surfaces of medical waste transport vehicles which have been in contact with untreated medical waste shall be decontaminated.

(10) All owners of medical waste transport vehicles shall apply within 90 days from the effective date of this Division for a permit to transport untreated medical waste in Alabama.

(11) All medical waste transport vehicles shall be identified with the following information.

(a) The business name of the permitted transporter;

(b) The telephone number of a contact person for the transporter;

(c) One or more of the following phrases or symbols: "Medical Waste" or "Infectious Waste" or the International Biological Hazard Symbol; and

(d) The ADEM permit number.

(12) Each medical waste transporter shall allow the following at reasonable times and locations:

(a) The inspection of vehicles by Department Personnel; and

(b) The inspection of all documents required by this Division.

(13) All medical waste transport vehicles shall be fully enclosed and secured when unattended.

(14) All medical waste transporters shall notify the Solid Waste Program of the Department immediately by telephone if a spill of occurs. A written report addressing how the spill occurred, what impact if any it had on the environment, any injury to individuals, method of clean-up, and final disposition of the waste. In addition, the transporter must address what steps will be taken in the future to minimize a similar occurrence. This report shall be filed with the Department within seven calendar days from the date the spill occurred.

(15) All medical waste transporters shall maintain records for a period of at least three years regarding the following:

(a) The quantity of untreated medical waste transported from each generator or storage facility per month. The quantity may be recorded in tons, pounds, cubic yards, cubic feet, or gallons.

(b) The name and location of any storage facilities MWSF utilized by the transporter prior to delivery to a treatment facility and the period of time the waste remained in storage.

(c) The date the waste was accepted from the generator or storage facility, and the date it was delivered to a treatment facility or another storage facility.

(16) Transportation of medical waste and subsequent storage prior to treatment shall be at temperatures less than 45 degrees Fahrenheit unless said transportation can be accomplished in less than four hours. All medical waste transport vehicles shall be equipped with refrigeration if necessary to comply with ~~335-17-4-.01(11)~~ this rule.

(17) Each medical waste transporter shall prepare a Management Plan for the medical waste they handle.

(a) The Management Plan must address to the extent the information is applicable to the transporter:

1. The types of medical waste handled;
2. Transportation procedures;
3. Storage, treatment and disposal facilities that will be utilized;
4. Steps that will be taken to minimize the exposure of employers to untreated medical waste throughout the process of transporting and handling the waste;
5. The name of the individual responsible for the transportation and management of medical waste.

(b) The Management Plan must be kept at the permittee's principal place of business.

(c) The Management Plan must be made available to the Department upon request.

(d) The Management plan must be updated as needed.

(18) All medical waste transporters shall notify the Solid Waste Branch of the Department immediately by telephone when untreated

medical waste has been or is anticipated to be out of compliance with the refrigeration requirement as contained in paragraph 335-17-3-~~.01(11)~~2-.01(3) while in their possession. A written report addressing why the waste was kept longer than seven days, without refrigeration being provided, what impact, if any, it had on the environment, how the occurrence was corrected, and what steps will be taken in the future to minimize a similar occurrence. This report shall be filed with the Department within seven calendar days from the date noncompliance was noted.

**Author:** James L. Bryant. Ashley S. Powell

**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.

**History: New Rule:** Filed December 12, 2011; effective January 16, 2012. Amended: Published ; effective .



ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION -  
MEDICAL WASTE PROGRAM  
ADMINISTRATIVE CODE

CHAPTER 335-17-8  
~~PROCEDURES FOR VARIANCES~~RESERVED

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335-17-8-.02	<del>Petition For Variance</del> <u>Reserved</u>
335-17-8-.03	<del>Extension of Prior Or Existing</del> <del>Variance</del> <u>Reserved</u>
335-17-8-.04	<del>Department Action On Petitions For</del> <del>Variance</del> <u>Reserved</u>
335-17-8-.05	<del>Termination Of Variance</del> <u>Reserved</u>
335-17-8-.01	<del>Variances</del> <u>Reserved</u> .

~~The Department may grant individual variances from the specific provisions of Division 17 based upon the procedures of 335-17-8-.02 through 335-17-8-.05 whenever it is found by the Department, upon presentation of adequate proof, that non-compliance with Division 17 will not threaten the public health or unreasonably create environmental pollution. Variances per se are not favored by the Department.~~

**Author:** James L. Bryant. Ashley S. Powell  
**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.  
**History:** **New Rule:** Filed December 12, 2011; effective January 16, 2012. **Amended:** Published ; effective .

335-17-8-.02 ~~Petition For Variance~~Reserved.

~~(1) Applicability. Any person may request a variance from specific provisions of Division 17 by filing a Petition for Variance with the Department.~~

~~(2) Petition Requirements. To enable the Department to rule on the Petition for Variance, the following information, where determined applicable by the Department, shall be included in the petition:~~

~~(a) A clear and complete statement of the precise extent of the relief sought including specific identification of the particular provisions of the regulations from which the variance is sought;~~

~~(b) An assessment, with supporting factual information, of the impact that the variance will impose on the public health and the environment in the affected area.~~

~~(c) Any additional information requested by the Department as necessary to evaluate the variance request.~~

~~(d) A concise factual statement of the reasons the petitioner believes that non-compliance with the particular provisions of Division 17 will not threaten the public health or unreasonably create environmental pollution.~~

~~(e) Applicable fees in accordance with Division 1.~~

**Author:** James L. Bryant. Ashley S. Powell

**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.

**History: New Rule:** Filed December 12, 2011; effective January 16, 2012. **Amended:** Published \_\_\_\_\_ ; effective \_\_\_\_\_ .

335-17-8-.03

~~**Extension of Prior Or Existing  
Variance**~~Reserved.

~~A petition to extend a prior or existing variance granted by the Department shall be commenced by filing a Petition for Variance with the Department in accordance with the requirements of 335-17-8-.02.~~

~~(1) To the extent that the information required by 335-17-8-.02 has been included in the prior Petition for Variance for which extension is sought, a submission of that information shall not be required provided that the petition shall request the incorporation of the record, opinion and order in the prior proceeding into the new petition.~~

~~(2) A petition to extend a prior or existing variance shall be a new petition for Variance before the Department and shall be subject to all of the requirements of this Division except as provided in 335-17-8-.03(1).~~

**Author:** James L. Bryant. Ashley S. Powell

**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.

**History:** **New Rule:** Filed December 12, 2011; effective January 16, 2012. **Amended:** Published ; effective .

335-17-8-.04 ~~Department Action On Petitions For Variance~~Reserved.

~~On receipt of a Variance Petition the Department will authorize one of the following actions, as they shall determine:~~

~~(1) The petition may be dismissed if the Department determines that it is not adequate under 335-17-8-.02.~~

~~(2) The Department may grant the variance as petitioned or by imposing such conditions as this Division may require, including the establishment of schedules of compliance and monitoring requirements.~~

~~(3) The Department may deny the petition. If such a denial is made, the Department shall notify the petitioner in writing the reasons for denial and outline procedures for appeal.~~

**Author:** James L. Bryant. Ashley S. Powell

**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.

**History:** **New Rule:** Filed December 12, 2011; effective January 16, 2012. **Amended:** Published ; effective .

335-17-8-.05 ~~Termination Of Variance~~Reserved.

~~Any variance granted by the Department may be terminated by the Department whenever the Department finds, after notice and opportunity for hearing, that the petitioner is in violation of any requirement, condition, schedule, limitation or any other provision of the variance or that operation under the variance does not meet the minimum requirements established by state and federal laws and regulations or is unreasonably threatening the public health.~~

**Author:** James L. Bryant. Ashley S. Powell

**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.

**History:** **New Rule:** Filed December 12, 2011; effective January 16, 2012. **Amended:** Published ; effective .

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION -  
MEDICAL WASTE PROGRAM  
ADMINISTRATIVE CODE

CHAPTER 335-17-9  
PROCEDURES FOR VARIANCES

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335-17-9-.01	Variances
335-17-9-.02	Petition for Variance
335-17-9-.03	Extension of Prior or Existing Variance
335-17-9-.04	Department Action on Petition for Variance
335-17-9-.05	Termination of Variance

335-17-9-.01 Variances.

The Department may grant individual variances from the specific provisions of Division 17 based upon the procedures of 335-17-9-.02 through 335-17-9-.05 whenever it is found by the Department, upon presentation of adequate proof, that non-compliance with Division 17 will not threaten the public health or unreasonably create environmental pollution. Variances per se are not favored by the Department.

**Author:** James L. Bryant. Ashley S. Powell

**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.

**History: New Rule:** Published \_\_\_\_\_; effective \_\_\_\_\_.

335-17-9-.02 Petition for Variance.

(1) Applicability. Any person may request a variance from specific provisions of Division 17 by filing a Petition for Variance with the Department.

(2) Petition Requirements. To enable the Department to rule on the Petition for Variance, the following information, where determined applicable by the Department, shall be included in the petition:

(a) A clear and complete statement of the precise extent of the relief sought including specific identification of the particular provisions of the regulations from which the variance is sought;

(b) An assessment, with supporting factual information, of the impact that the variance will impose on the public health and the environment in the affected area.

(c) Any additional information requested by the Department as necessary to evaluate the variance request.

(d) A concise factual statement of the reasons the petitioner believes that non-compliance with the particular provisions of Division 17 will not threaten the public health or unreasonably create environmental pollution.

(e) Applicable fees in accordance with Division 1.

**Author:** James L. Bryant. Ashley S. Powell

**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.

**History: New Rule:** Published \_\_\_\_\_; effective \_\_\_\_\_.

**335-17-9-.03      Extension of Prior or Existing Variance.**

A petition to extend a prior or existing variance granted by the Department shall be commenced by filing a Petition for Variance with the Department in accordance with the requirements of 335-17-9-.02.

(1) To the extent that the information required by 335-17-9-.02 has been included in the prior Petition for Variance for which extension is sought, a submission of that information shall not be required provided that the petition shall request the incorporation of the record, opinion and order in the prior proceeding into the new petition.

(2) A petition to extend a prior or existing variance shall be a new petition for Variance before the Department and shall be subject to all of the requirements of this Division except as provided in 335-17-9-.03(1).

**Author:** James L. Bryant. Ashley S. Powell

**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.

**History: New Rule:** Published \_\_\_\_\_; effective \_\_\_\_\_.

**335-17-9-.04      Department Action on Petition for Variance.**

On receipt of a Variance Petition the Department will authorize one of the following actions, as they shall determine:

(1) The petition may be dismissed if the Department determines that it is not adequate under 335-17-9-.02.

(2) The Department may grant the variance as petitioned or by imposing such conditions as this Division may require, including the establishment of schedules of compliance and monitoring requirements.

(3) The Department may deny the petition. If such a denial is made, the Department shall notify the petitioner in writing the reasons for denial and outline procedures for appeal.

**Author:** James L. Bryant. Ashley S. Powell

**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.

**History: New Rule:** Published \_\_\_\_\_; effective \_\_\_\_\_.

### 335-17-9-.05      Termination of Variance.

Any variance granted by the Department may be terminated by the Department whenever the Department finds, after notice and opportunity for hearing, that the petitioner is in violation of any requirement, condition, schedule, limitation or any other provision of the variance or that operation under the variance does not meet the minimum requirements established by state and federal laws and regulations or is unreasonably threatening the public health.

**Author:** James L. Bryant. Ashley S. Powell

**Statutory Authority:** Code of Ala. 1975, §§22-27-9, 22-27-12.

**History: New Rule:** Published \_\_\_\_\_; effective \_\_\_\_\_.

**Attachment 5**

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

In the Matter of:	)	
	)	
Mitchell-Frazier Farms Limited Partnership,	)	
Petitioner,	)	EMC Docket No. 25-01
	)	[ADEM Administrative Action: ADEM’s
v.	)	issuance of Air Facility Permit No.
	)	708-0036-X001 and NPDES Permit No.
Alabama Department of Environmental	)	AL0084480 on November 6, 2024, to
Management,	)	Grayson Carter and Son Contracting, Inc.
Respondent,	)	and Stoned LLC, respectively, for the
	)	operation of a limestone rock quarry
and	)	and an associated rock crusher to be
	)	located in Belle Mina, Limestone County,
Grayson Carter and Son, Inc.,	)	Alabama]
Intervenor,	)	
	)	
and	)	
	)	
Stoned LLC,	)	
Intervenor.	)	

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ORDER

This cause having come before the Environmental Management Commission pursuant to Petitioner Mitchell-Frazier Limited Partnership’s motion requesting oral argument, and the Commission having considered the same, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That the Petitioner’s request for oral argument is hereby granted, and
2. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below; and
3. That a copy of this Order shall be forthwith served upon each of the parties hereto either personally, or by certified mail, return receipt requested.



Environmental Management Commission Order  
Page 2

ISSUED this 13th day of December 2024.

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

\_\_\_\_\_  
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

Environmental Management Commission Order  
Page 3

ABSTAINED:

\_\_\_\_\_  
Mary J. Merritt, Commissioner

\_\_\_\_\_  
H. Lanier Brown, II, Commissioner

\_\_\_\_\_  
J. Patrick Tucker, Commissioner

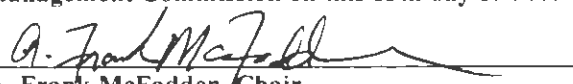
\_\_\_\_\_  
Kevin McKinstry, Commissioner

\_\_\_\_\_  
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 13th day of December 2024.

  
\_\_\_\_\_  
A. Frank McFadden, Chair  
Environmental Management Commission  
Certified this 13th day of December 2024

**Attachment 6**

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

In the Matter of:	)	
	)	
Mitchell-Frazier Farms Limited Partnership,	)	
Petitioner,	)	
	)	EMC Docket No. 25-01
v.	)	[ADEM Administrative Action: ADEM's
	)	issuance of Air Facility Permit No.
Alabama Department of Environmental	)	708-0036-X001 and NPDES Permit No.
Management,	)	AL0084480 on November 6, 2024, to
Respondent,	)	Grayson Carter and Son Contracting, Inc.
	)	and Stoned LLC, respectively, for the
and	)	operation of a limestone rock quarry
	)	and an associated rock crusher to be
Grayson Carter and Son, Inc.,	)	located in Belle Mina, Limestone County,
Intervenor,	)	Alabama]
	)	
and	)	
	)	
Stoned LLC,	)	
Intervenor.	)	

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ORDER

This cause having come before the Environmental Management Commission pursuant to Petitioner, Mitchell-Frazier Farms Limited Partnership's Application for Stay; Petitioner, Mitchell-Frazier Farms Limited Partnership's Supplementation of Record in Support of Pending Hearing on Petitioner's Application for Stay with Exhibits; Respondent, ADEM's Objection to Application for Stay with Exhibits; Intervenor, Grayson Carter and Son, Inc.'s Opposition to MFF's Motion to Stay with Exhibits; and Intervenor, Stoned LLC's Objection to Petitioner's Application for Stay of Action with Exhibits and the Commission having considered the same, including oral arguments presented by the Parties, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That Petitioner's Application for Stay is hereby denied, and
2. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below; and
3. That a copy of this Order shall be forthwith served upon each of the parties hereto either personally, or by certified mail, return receipt requested.

Environmental Management Commission Order  
Page 2

ISSUED this 13th day of December 2024.

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

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DISAPPROVED:

\_\_\_\_\_  
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

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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 13th day of December 2024.**

  
\_\_\_\_\_  
**A. Frank McFadden, Chair  
Environmental Management Commission  
Certified this 13th day of December 2024**