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DRAFT

Minutes

**Alabama Environmental Management Commission
Rulemaking Committee Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama
February 20, 2009**

DRAFT

Minutes

**Alabama Environmental Management Commission
Rulemaking Committee Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama
February 20, 2009**

Convened: 10:00 a.m.

Adjourned: 10:29 a.m.

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Transcript

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Attachment 1

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Part A

AEMC RULEMAKING COMMITTEE MEETING - 2/20/2009

<p style="text-align: right;">Page 1</p> <p style="text-align: center;">ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION RULEMAKING COMMITTEE MEETING</p> <p>Alabama Department of Environmental Management Building Alabama Room (Main Hearing Room) 1400 Coliseum Boulevard Montgomery, Alabama</p> <p>February 20, 2009 10:00 a.m.</p>	<p style="text-align: right;">Page 3</p> <p>1 MS. ARCHIE: It's 10 2 o'clock, and I now call the Rules 3 Committee Meeting to order. I would like 4 to recognize that we do have a quorum. 5 Good morning, everyone. 6 Item No. 1 is consideration 7 of minutes of meeting held on January 8 9th, 2009. Have all Committee members 9 had a chance to look over the minutes? 10 MR. PHILLIPS: Yep. 11 MS. ARCHIE: Do we have a 12 motion? 13 MR. PHILLIPS: So move. 14 MR. WAINWRIGHT: Second. 15 MS. ARCHIE: It has moved 16 and properly seconded that we accept the 17 minutes. It has been approved. 18 Next item is discussion and 19 consideration of resolution to recommend 20 to the full Commission for adoption. At 21 the direction of this Committee, I met 22 with Attorney Tambling to discuss the 23 proposed resolution for how we are to</p>
<p style="text-align: right;">Page 2</p> <p>1 COMMITTEE MEMBERS PRESENT: 2 ANITA L. ARCHIE, CHAIR 3 SAM H. WAINWRIGHT, P.E. 4 W. SCOTT PHILLIPS 5 6 ALSO PRESENT 7 ROBERT TAMBLING, EMC LEGAL COUNSEL 8 DEBI THOMAS, EMC EXECUTIVE ASSISTANT 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23</p>	<p style="text-align: right;">Page 4</p> <p>1 operate, and also, other things that were 2 raised in the possible code of conduct 3 for Commissioners that has been floated 4 around since August. At this time, I'd 5 like to call on Robert to give us a 6 little discussion of our thought 7 processes so far as the resolution. 8 MR. TAMBLING: Good morning. 9 At the last Committee meeting -- or 10 Commission meeting, I should say -- I 11 think Commissioner Phillips had compiled 12 a list of suggestions from different 13 Committee members as to what our 14 operational guidelines should be. 15 Committee met; Committee 16 directed that the Chair and I get 17 together and review the list and pare it 18 down and come up with a proposal, at 19 least -- to move forward at least to see 20 what we could do with the list. We 21 looked -- I looked over the list. I was 22 able to distill it down to about three or 23 four proposals.</p>

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AEMC RULEMAKING COMMITTEE MEETING - 2/20/2009

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1 In my discussion with Mr.
2 Wainwright and Ms. Archie, we decided the
3 best approach would be to go ahead and
4 handle this one issue at a time. And
5 we -- Ms. Archie and I met, and we came
6 up with this resolution here which is
7 before you today. Would you like me to
8 read it?
9 MS. ARCHIE: Yes.
10 MR. WAINWRIGHT: No.
11 MR. TAMBLING: No?
12 Actually, we had -- we had drafted this,
13 so it's probably not necessary for me to
14 go ahead and read it since we drafted it
15 at the last Committee meeting a few weeks
16 ago. So it simply is, "Should a
17 Commission member request the Director to
18 take action on any matter, then the
19 Director shall immediately notify the
20 Commission Chair for direction with
21 regard to resolution of the matter.
22 "The Chair shall report the
23 disposition of the matter to the full

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1 Commission at the next regularly
2 scheduled meeting of the Commission."
3 MS. ARCHIE: Is there any
4 questions of Robert or me regarding our
5 thoughts on this resolution?
6 MR. PHILLIPS: I have one
7 question, Madam Chair, and that is
8 relative to the paragraph that begins,
9 "Be it further resolved," resolved during
10 Commission meetings. I didn't really
11 recall us having a discussion about
12 Commission meetings, and it seems to me
13 that we have our rules as well as
14 Robert's Rules of Order that we follow.
15 So it seems a little redundant to me in
16 this resolution.
17 MR. TAMBLING: That was one
18 of the -- that was one of the suggestions
19 that was made along with this one. It
20 was -- it was very, very close and very
21 similar to that paragraph I just read to
22 you. But it -- the difference was is
23 that it takes place during Commission

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1 meetings, whereas the paragraph I just
2 read would apply to situations where an
3 individual Commissioner approaches the
4 Director after a Commission meeting or
5 between Commission meetings.
6 But I agree with you. I
7 think it is redundant. I think you have
8 rules that would take care of that
9 situation.
10 MS. ARCHIE: Commissioner
11 Wainwright?
12 MR. WAINWRIGHT: This
13 probably would require a rule change
14 because it is a direction to the
15 Commission rather than to the Director.
16 Do we need a motion to remove this or
17 just strike it and go ahead and adopt it,
18 less that?
19 MS. ARCHIE: I -- I suggest
20 we have a motion to strike it.
21 MR. WAINWRIGHT: So move
22 then.
23 MR. PHILLIPS: Second.

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1 MS. ARCHIE: It will be
2 stricken, taken out. I guess we -- I
3 guess where we are right now is whether
4 we're going to -- did we just officially
5 adopt this resolution to present to the
6 full Commission. So I guess that's
7 what's on the table right now, is did we
8 just do that, just striking that
9 provision out.
10 So I guess to make it clean,
11 do I have a motion that we recommend this
12 resolution to the full Commission?
13 MR. WAINWRIGHT: With the
14 stricken language, yes, I so move.
15 MR. PHILLIPS: Second.
16 MS. ARCHIE: It has been
17 moved and properly seconded that we
18 recommend to the full Commission this
19 resolution. It is hereby recommended and
20 sent to the full Commission. Thanks,
21 Robert.
22 MR. TAMBLING: Thank you.
23 MS. ARCHIE: Item No. 3 is

2 (Pages 5 to 8)

AEMC RULEMAKING COMMITTEE MEETING - 2/20/2009

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1 discussion and consideration of
2 Commission rules of conduct to recommend
3 to the full Commission for potential
4 rulemaking. I would just like to say, I
5 think Robert kind of sums it up that
6 pretty much, I think this was our main
7 concern that we had that we pretty much
8 have addressed with this resolution.
9 I think that -- my personal
10 opinion is that we don't need a standard
11 of conduct. I think our rules pretty
12 much cover how we should govern
13 ourselves. So do I have any comments
14 from any of the other members?
15 MR. WAINWRIGHT: Madam
16 Chair, the material that Robert's given
17 us to boil down the issues, is there one
18 of these that we should be looking at
19 between now and our next meeting? We
20 handled one of the issues, number one.
21 Are there any of these others that we
22 ought to be looking at between now and
23 the next -- we can probably handle No. 6

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1 also. We've already gotten new
2 letterhead.
3 MR. ARCHIE: What number is
4 that?
5 MR. WAINWRIGHT: This is
6 Robert's copy. Not sure where it is.
7 MR. PHILLIPS: I don't see
8 that.
9 MS. THOMAS: I didn't get a
10 copy of that. I didn't have a copy of
11 that to put in your folder.
12 MR. WAINWRIGHT: I don't
13 know where I got it then. I thought
14 Robert had sent this to all of us. Y'all
15 pass it around.
16 MR. TAMBLING: I apologize.
17 I must not have sent a copy to Debi, but
18 I did send it to each of you.
19 MS. ARCHIE: I have seen
20 this. This is a confidential memo that
21 the attorney had sent to us regarding EMC
22 operation guidelines.
23 MR. PHILLIPS: Is that

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1 taking the -- these originals and just
2 boiling them down?
3 MS. ARCHIE: Yes, yes. Just
4 summarizing.
5 MR. WAINWRIGHT: We could
6 take one of those and study it between
7 now and our next meeting, if there's one
8 that stands out to you.
9 MS. ARCHIE: Just give me a
10 quick second to go through them. I think
11 that since we have -- it was not part of
12 the official packet today, I think we
13 don't have enough time to really to go
14 through this and decide whether we want
15 to pursue this at this time. So I'd just
16 state that maybe we have -- have a chance
17 for this Committee to look over it, give
18 some comments, and decide whether we're
19 going to meet on to discuss these further
20 items for consideration.
21 MR. WAINWRIGHT: That's
22 fine.
23 MR. PHILLIPS: Okay.

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1 MS. ARCHIE: Robert, just --
2 if you would, you know, just resend it,
3 you know, again if somebody doesn't have
4 it, one of the Committee members. We'll
5 decide, and I'll talk to you regarding
6 the next meeting to discuss it, okay.
7 Is there any other business
8 for the Committee at this time?
9 MS. THOMAS: If I can
10 clarify, did y'all vote on those two
11 motions? I knew there was someone moved
12 and seconded. Did you vote?
13 MS. ARCHIE: Yes, Debi, on
14 both of them.
15 At this time, if there's no
16 further business, we stand adjourned.
17 Thank you.
18 (The Rulemaking Committee Meeting concluded
19 at approximately 10:29 on February 20, 2009.)
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23

3 (Pages 9 to 12)

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REPORTER'S CERTIFICATE
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STATE OF ALABAMA
COUNTY OF MONTGOMERY

I, Jenny Cone, Certified Court
Reporter and Notary Public in and for the
State of Alabama at Large, do hereby
certify that the foregoing is a true and
accurate excerpt of the proceedings as
taken stenographically by me at the time
and place aforementioned.

This 2nd day of March, 2009.

Jenny Cone
Certified Court Reporter (Lic.
#108) and Notary Public
State of Alabama at Large

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REPORTER'S CERTIFICATE
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STATE OF ALABAMA
COUNTY OF MONTGOMERY

I, Jenny Cone, Certified Court Reporter and Notary Public in and for the State of Alabama at Large, do hereby certify that the foregoing is a true and accurate excerpt of the proceedings as taken stenographically by me at the time and place aforementioned.

This 2nd day of March, 2009.

Jenny Cone /ca

Jenny Cone
Certified Court Reporter (Lic. #108) and Notary Public
State of Alabama at Large

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Part B

Attachment Index

Attachmen 1

Agenda

Attachment 2

Draft Resolution

**(Agenda Item 2 – Discussion and consideration of
resolution to recommend to the full Commission for
adoption)**

Attachment 1

AGENDA*
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
RULEMAKING COMMITTEE MEETING
Alabama Room (Main Hearing Room)
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2059
February 20, 2009
10:00 a.m.

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* The Agenda for this meeting will be available on the ADEM website, www.adem.alabama.gov, under EMC Information and Calendar of Events.

** The Minutes for this meeting will be available on the ADEM website under EMC Information.

1. CONSIDERATION OF MINUTES OF MEETING HELD ON JANUARY 9, 2009
2. DISCUSSION AND CONSIDERATION OF RESOLUTION TO RECOMMEND TO THE FULL COMMISSION FOR ADOPTION

The Committee will discuss and consider the following resolution to recommend to the full Commission for adoption:

Should a Commission member request the Director to take any action, the Director shall immediately notify the Commission's Chair for direction with regard to resolution of the matter. The Chair shall report the disposition of the matter at the next regularly-scheduled Commission meeting.

3. DISCUSSION AND CONSIDERATION OF COMMISSION RULES OF CONDUCT TO RECOMMEND TO THE FULL COMMISSION FOR POTENTIAL RULEMAKING

The Committee will discuss a compilation of comments from Commission members on standards of conduct for the Commission and consider recommending rules of conduct to the full Commission for potential rulemaking.

4. OTHER BUSINESS

Attachment 2

ENVIRONMENTAL MANAGEMENT COMMISSION

RESOLUTION

WHEREAS, it is a function of the Environmental Management Commission, pursuant to Section 22-22A-6(a)(3) of the Alabama Environmental Management Act, to develop the Environmental Policy for the State; and,

WHEREAS, Environmental issues may arise between meetings of the Environmental Management Commission that may be of interest to individual Commission members; and,

WHEREAS, the Director and Department staff may need to devote substantial time and resources to properly address these issues.

THEREFORE, BE IT RESOLVED THAT, should a Commission member request the Director to take action on any matter, then the Director shall immediately notify the Commission Chair for direction with regard to resolution of the matter. The Chair shall report the disposition of the matter to the full Commission at the next regularly scheduled meeting of the Commission.

IN WITNESS WHEREOF, we have affixed our signatures below on this 20th day of February 2009.

APPROVED:

