

9/24/14

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

This is to certify that the Minutes contained herein are a true and accurate account of actions taken by the Rulemaking Committee of the Alabama Environmental Management Commission on February 20, 2009.



W. Scott Phillips

Chair

Rulemaking Committee

Alabama Environmental Management Commission

Certified this 15th day of August 2014.

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.

Part A

Transcript

Part B

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Part A

AEMC RULEMAKING COMMITTEE MEETING - 2/20/2009

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ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
RULEMAKING COMMITTEE MEETING

Alabama Department of Environmental Management
Building
Alabama Room (Main Hearing Room)
1400 Coliseum Boulevard
Montgomery, Alabama

February 20, 2009 10:00 a.m.

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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
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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

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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.

AEMC RULEMAKING COMMITTEE MEETING - 2/20/2009

<p style="text-align: right;">Page 5</p> <p>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</p>	<p style="text-align: right;">Page 7</p> <p>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.</p>
<p style="text-align: right;">Page 6</p> <p>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</p>	<p style="text-align: right;">Page 8</p> <p>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</p>

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AEAC RULEMAKING COMMITTEE MEETING - 2/20/2009

<p style="text-align: right;">Page 9</p> <p>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</p>	<p style="text-align: right;">Page 11</p> <p>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.</p>
<p style="text-align: right;">Page 10</p> <p>1 also. We've already gotten new 2 letterhead. 3 MS. 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</p>	<p style="text-align: right;">Page 12</p> <p>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.) 20 21 22 23</p>

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REPORTER'S CERTIFICATE
* * * * *

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

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COUNTY OF MONTGOMERY

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I, Jenny Cone, Certified Court

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Reporter and Notary Public in and for the

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State of Alabama at Large, do hereby

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certify that the foregoing is a true and

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accurate excerpt of the proceedings as

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and place aforementioned.

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This 2nd day of March, 2009.

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Jenny Cone /ca

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Jenny Cone

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Certified Court Reporter (Lic.

22

#108) and Notary Public

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State of Alabama at Large

<p style="text-align: center;">A</p> <p>able 4:22 accept 3:16 accurate 13:13 action 5:18 addressed 9:8 adjourned 12:16 adopt 7:17 8:5 adoption 3:20 aforementioned 13:15 ago 5:16 agree 7:6 ahead 5:3,14 7:17 Alabama 1:5,8,10 1:12 13:6,11,23 ANITA 2:2 apologize 10:16 apply 7:2 approach 5:3 approaches 7:3 approved 3:17 approximately 12:19 Archie 2:2 3:1,11 3:15 5:2,5,9 6:3 7:10,19 8:1,16,23 10:3,19 11:3,9 12:1,13 ASSISTANT 2:8 attorney 3:22 10:21 August 4:4 a.m 1:16</p> <hr/> <p style="text-align: center;">B</p> <p>begins 6:8 best 5:3 boil 9:17 boiling 11:2 Boulevard 1:11 Building 1:9 business 12:7,16</p> <hr/> <p style="text-align: center;">C</p>	<p>call 3:2 4:5 care 7:8 CERTIFICATE 13:3 Certified 13:9,21 certify 13:12 Chair 2:2 4:16 5:20 5:22 6:7 9:16 chance 3:9 11:16 change 7:13 clarify 12:10 clean 8:10 close 6:20 code 4:2 Coliseum 1:11 come 4:18 comments 9:13 11:18 Commission 1:5 3:20 4:10 5:17,20 6:1,2,10,12,23 7:4 7:5,15 8:6,12,18 8:20 9:2,3 Commissioner 4:11 7:3,10 Commissioners 4:3 Committee 1:6 2:1 3:3,8,21 4:9,13,15 4:15 5:15 11:17 12:4,8,18 compiled 4:11 concern 9:7 concluded 12:18 conduct 4:2 9:2,11 Cone 13:9,20 confidential 10:20 consideration 3:6 3:19 9:1 11:20 copy 10:6,10,10,17 COUNSEL 2:7 COUNTY 13:7 Court 13:9,21 cover 9:12</p> <hr/> <p style="text-align: center;">D</p>	<p>day 13:16 Debi 2:8 10:17 12:13 decide 11:14,18 12:5 decided 5:2 Department 1:8 difference 6:22 different 4:12 directed 4:16 direction 3:21 5:20 7:14 Director 5:17,19 7:4,15 discuss 3:22 11:19 12:6 discussion 3:18 4:6 5:1 6:11 9:1 disposition 5:23 distill 4:22 drafted 5:12,14</p> <hr/> <p style="text-align: center;">E</p> <p>EMC 2:7,8 10:21 Environmental 1:5 1:8 excerpt 13:13 EXECUTIVE 2:8</p> <hr/> <p style="text-align: center;">F</p> <p>far 4:7 February 1:16 12:19 fine 11:22 floated 4:3 folder 10:11 follow 6:14 foregoing 13:12 forward 4:19 four 4:23 full 3:20 5:23 8:6 8:12,18,20 9:3 further 6:9 11:19 12:16</p>	<p style="text-align: center;">G</p> <p>give 4:5 11:9,17 given 9:16 go 5:3,14 7:17 11:10,13 going 8:4 11:19 Good 3:5 4:8 gotten 10:1 govern 9:12 guess 8:2,3,6,10 guidelines 4:14 10:22</p> <hr/> <p style="text-align: center;">H</p> <p>H 2:3 handle 5:4 9:23 handled 9:20 Hearing 1:10 held 3:7</p> <hr/> <p style="text-align: center;">I</p> <p>immediately 5:19 individual 7:3 issue 5:4 issues 9:17,20 item 3:6,18 8:23 items 11:20</p> <hr/> <p style="text-align: center;">J</p> <p>January 3:7 Jenny 13:9,20</p> <hr/> <p style="text-align: center;">K</p> <p>kind 9:5 knew 12:11 know 10:13 12:2,3</p> <hr/> <p style="text-align: center;">L</p> <p>L 2:2 language 8:14 Large 13:11,23 LEGAL 2:7 letterhead 10:2 Lic 13:21 list 4:12,17,20,21</p>	<p>little 4:6 6:15 look 3:9 11:17 looked 4:21,21 looking 9:18,22</p> <hr/> <p style="text-align: center;">M</p> <p>Madam 6:7 9:15 main 1:10 9:6 Management 1:5,8 March 13:16 material 9:16 matter 5:18,21,23 meet 11:19 meeting 1:6 3:3,7 4:9,10 5:15 6:2 7:4 9:19 11:7 12:6,18 meetings 6:10,12 7:1,5 member 5:17 members 2:1 3:8 4:13 9:14 12:4 memo 10:20 met 3:21 4:15 5:5 minutes 3:7,9,17 Montgomery 1:12 13:7 morning 3:5 4:8 motion 3:12 7:16 7:20 8:11 motions 12:11 move 3:13 4:19 7:21 8:14 moved 3:15 8:17 12:11</p> <hr/> <p style="text-align: center;">N</p> <p>necessary 5:13 need 7:16 9:10 new 10:1 Notary 13:10,22 notify 5:19 number 9:20 10:3</p> <hr/> <p style="text-align: center;">O</p>
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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.

<u>ITEMS</u>	<u>PAGE</u>
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2. Discussion and consideration of resolution to recommend to the full Commission for adoption	2
3. Discussion and consideration of Commission rules of conduct to recommend to the full Commission for potential rulemaking	2
4. Other business	2

* 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:

