

8/24/15

**Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
June 19, 2015**

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 June 19, 2015.



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

Certified this 21st day of August 2015.

**Minutes
Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
June 19, 2015**

**Convened: 11:09 a.m.
Adjourned: 11:46 a.m.**

Part A

**Transcript
Word Index**

Part B

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Part A

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1 ALABAMA ENVIRONMENTAL MANAGEMENT
2 COMMISSION MEETING
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9 ALABAMA DEPARTMENT OF ENVIRONMENTAL
10 MANAGEMENT
11 Alabama Room
12 1400 Coliseum Boulevard
13 Montgomery, Alabama 36110-2400
14 June 19, 2015
15 11:09 a.m.
16
17
18
19
20
21
22
23 Taken by: Charity McCulley, CCR #424

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1 CHAIRMAN BROWN: Good
2 morning. I will now call to
3 order the June 19th, 2015,
4 meeting of the Alabama
5 Environmental Management
6 Commission and acknowledge we
7 have a quorum.
8 First item on the agenda is
9 consideration of the minutes
10 held on April 17, 2015. The
11 minutes have been circulated for
12 review.
13 Is there a motion?
14 DR. RICHARDSON: Move to
15 adopt the minutes of the April
16 17th, 2015 Commission meeting as
17 circulated.
18 DR. MARTIN: Second.
19 CHAIRMAN BROWN: All in
20 favor say aye.
21 THE COMMISSION: Aye.
22 CHAIRMAN BROWN: That
23 passes.

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1 A P P E A R A N C E S
2
3 COMMISSION MEMBERS PRESENT:
4 H. Lanier Brown, II, Esquire, Chair
5 Terry D. Richardson, Ph.D.
6 Samuel L. Miller, M.D.
7 Craig Martin, D.V.M.
8 Mary J. Merritt
9
10
11
12 COMMISSION MEMBERS NOT PRESENT:
13 W. Scott Phillips, Vice Chair
14 James E. Laier, Ph.D., P.E.
15
16
17
18 ALSO PRESENT:
19 Robert D. Tambling, EMC Legal Counsel
20 Debi Thomas, EMC Executive Assistant
21 Russell Kelly, Chief of the Department's
22 Permits and Services
23 Division

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1 Next on the agenda is the
2 report from the Director. Good
3 morning, sir.
4 DIRECTOR LeFLEUR: Good
5 morning. Good morning.
6 THE COMMISSION: Good
7 morning.
8 DIRECTOR LeFLEUR: A
9 pleasure to be here with you.
10 Welcome to all of those in the
11 audience who are present for
12 this fifth scheduled meeting of
13 the Alabama Environmental
14 Management Commission for Fiscal
15 Year 2015.
16 My report today will focus
17 on only two items, our budget
18 and EPA's Interactive Visual
19 Compliance and Enforcement
20 Metrics program known as the
21 Dashboards.
22 It's my normal practice to
23 begin reports to you with an

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1 update on the financial
2 situation at the Department.
3 One reason for reporting on the
4 financial condition of the
5 Department is that the funding
6 of the Department has been a
7 challenge in recent years. On
8 numerous occasions, I have
9 reported that the Department has
10 consistently been funded at a
11 level that is no better than
12 49th in the nation.
13 Related to this, as you are
14 aware, in January 2010, a group
15 of environmental organizations
16 petitioned EPA to withdraw ADEM
17 NPDES water permitting authority
18 for twenty-six alleged failures
19 of the program to meet minimum
20 Clean Water Act requirements
21 with many having some connection
22 with the low level of funding.
23 In 2014 EPA determined that

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1 By way of background, ADEM
2 funding comes from three
3 sources: Federal grants, permit
4 fees from regulated industries
5 in Alabama, and General Fund
6 Appropriations. The funding
7 cuts EPA is assessing are those
8 reflected in the General Fund
9 Appropriation.
10 Please refer to the graph
11 displayed on the monitor.
12 As you can see, in FY 2012,
13 the Department's General Fund
14 appropriation for operations was
15 cut by approximately 25 percent,
16 followed by another 25 percent
17 cut in Fiscal Year 2013 and a 68
18 percent cut in FY 2014. There
19 is little wonder why EPA is
20 concerned.
21 To compensate for General
22 Fund appropriation cuts over the
23 last four years, I have come to

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1 with the exception of two areas,
2 the issues raised in the
3 petition did not warrant the
4 initiation of withdrawal
5 proceedings. EPA deferred a
6 decision in those two areas.
7 One of the two areas has
8 maintained the improved
9 performance level as required by
10 EPA and is now due to be deemed
11 not to warrant the initiation of
12 withdrawal proceedings. The one
13 remaining area of EPA concern
14 relates to cuts to the
15 Department's funding.
16 Given that ADEM funding has
17 historically been the lowest in
18 the nation, EPA has left the
19 funding matter open
20 indefinitely, stating that the
21 impacts of the FY 2012, '13, and
22 '14 funding cuts needed to be
23 further assessed.

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1 you twice requesting rulemaking
2 to increase the only other
3 available source of funding,
4 namely, permit fees paid by
5 regulated industries in Alabama.
6 In order to maintain funding at
7 the minimum level to retain
8 permitting authority, you have
9 amended the rules to increase
10 permit fees.
11 The 2014 interim response by
12 EPA dismissing basically all the
13 petition allegations, except the
14 ones related to funding, has
15 been appealed by three
16 environmental organizations to
17 the 11th U.S. Circuit Court of
18 Appeals. Those three
19 environmental organizations are
20 seeking to have the Court compel
21 EPA to immediately begin
22 proceedings to withdraw ADEM
23 NPDES water permitting

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1 authority. The matter is
2 pending and the outcome is
3 uncertain.
4 In my judgment, the only
5 reason EPA has not begun
6 withdrawal proceedings based on
7 a lack of funding is that
8 despite the lowest funding in
9 the nation, the Department's
10 performance is among the very
11 highest in the nation. EPA
12 generated dashboards, which I
13 will be discussing later in my
14 report, bear this out as does
15 the report from the United
16 States Office of the Inspector
17 General using EPA data that
18 ranks the Department among the
19 top ten programs in the nation.
20 The foregoing comments
21 regarding the precariousness of
22 the Department's funding
23 situation are to prepare you for

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1 show no funding for Departmental
2 operations. We see no
3 indication that the Department
4 will be receiving an
5 appropriation for operations
6 from the General Fund in FY
7 2016.
8 There will likely be no
9 final General Fund budget before
10 August; however, we must begin
11 preparing for how the Department
12 will deal with the likely
13 funding situation.
14 Efficiency is always the
15 first place to look for
16 stretching limited budget
17 dollars. The Department has
18 been a top performer nationally
19 with bottom of the barrel
20 funding, which means efficiency
21 is extremely high right now.
22 EPA recognizes, as do others,
23 that there are limits to what

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1 what I am about to report to you
2 regarding FY '16 Departmental
3 funding.
4 The Legislature passed a
5 Fiscal Year 2016 General Fund
6 budget, the Governor vetoed that
7 budget, and there will now be a
8 special session of the
9 Legislature to develop a new FY
10 '16 General Fund budget. It is
11 anticipated the special session
12 will begin sometime in late July
13 or August.
14 The budget passed by the
15 Legislature and vetoed by the
16 Governor called for zero funding
17 of Departmental operations.
18 That budget included proposed
19 additional conditional
20 appropriations to be made if
21 additional General Fund revenues
22 somehow become available. Even
23 the conditional appropriations

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1 improving operating efficiencies
2 can do to stretch budget
3 dollars. The Department will
4 continue to improve efficiency;
5 however, given the current level
6 of efficiency, it is unrealistic
7 to expect increased efficiency
8 can overcome the repeated budget
9 cuts.
10 Keeping in mind that EPA has
11 sent a clear signal that the
12 impact of the FY 2012 through
13 2014 appropriation cuts are
14 being scrutinized as possibly
15 resulting in inadequate
16 Departmental funding, along with
17 the fact that EPA is in the
18 Federal Court of Appeals, trying
19 to prevent the Court from
20 compelling EPA to begin
21 withdrawal proceedings based on
22 prior funding, realistically,
23 the anticipated FY 2016 cuts

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1 will leave the Department with
2 two bad options.
3 The first option is to
4 relinquish the NPDES water
5 permitting program to EPA due to
6 inadequate funding. This option
7 would have a devastating impact
8 on the State's ability to
9 attract new industry and even to
10 retain existing industry. The
11 second bad option is to, once
12 again, raise permit fees on
13 regulated industries in Alabama.
14 As Director, I will do
15 everything in my power to avoid
16 having the State lose its
17 authority to issue air, land, or
18 water permits; therefore, if the
19 final FY 2016 General Fund
20 budget includes the anticipated
21 zero funding for Departmental
22 operations, I will be coming to
23 you at the earliest opportunity

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1 to the regulated industries with
2 prior fee increases, any
3 additional fee increase,
4 although unavoidable, will be a
5 very unpopular action.
6 If there's any good news in
7 this it is that with the State
8 providing no financial support
9 for environmental regulation,
10 the citizens of Alabama, the
11 Department, and regulated
12 industry will no longer need to
13 rely on the undependable state
14 General Fund budgeting process
15 to carry on the critical work of
16 environmental regulation. The
17 Department will have budget
18 stability, albeit at a
19 subsistence level.
20 Now for the rest of the bad
21 news, the vetoed General Fund
22 budget not only called for zero
23 operational funding for the

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1 with a request for rulemaking to
2 increase permit fees by 20
3 percent to replace the
4 eliminated operating funds.
5 Such a permit fee increase would
6 maintain overall funding of the
7 Department at the FY 2014 and
8 2015 levels which, if and only
9 if performance can be
10 maintained, is anticipated to be
11 the absolute minimum level
12 necessary to retain the
13 Department's permitting
14 authority.
15 If Departmental operations
16 funding is restored or partially
17 restored during the special
18 session, the request for
19 rulemaking to increase permit
20 fees will be adjusted
21 accordingly.
22 Given the financial burden
23 already shifted from the State

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1 Department, it also called for
2 the Department to transfer \$7.7
3 million of funds that are now
4 generated from sources, such as
5 the \$1 per ton Solid Waste fee,
6 the \$1 per tire Scrap Tire fee,
7 and the 1 cent per gallon
8 Underground Storage Tank fee to
9 the General Fund to support
10 unrelated general State
11 expenditures. This would take
12 funds from revenue sources that
13 were created from new cloth
14 based on a commitment that they
15 would be designated exclusively
16 for one, and only one, purpose
17 which was the cleanup of
18 specific existing pollution.
19 From the time they were created,
20 these revenue sources have been
21 used for their intended purposes
22 and that work is ongoing. These
23 revenues are not general tax

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1 revenues, they are fees charged
2 for a specific service.
3 Earlier, I mentioned that
4 the vetoed budget included
5 conditional appropriations that
6 would provide funding for
7 various agencies on a
8 prioritized basis if additional
9 revenues were to become
10 available. If the General Fund
11 receives additional revenues
12 exceeding \$156 million, then up
13 to 7.0 million of the proposed
14 7.7 million transfer from the
15 non-General Fund revenues of the
16 Departmental to the General Fund
17 could be eliminated. It is
18 unlikely the entire 7.7 million
19 transfer would be eliminated and
20 even less likely any operating
21 funds would be restored.
22 Throughout the nation,
23 states provide financial support

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1 environmental cleanup in Alabama
2 and would be a sad reflection on
3 our State.
4 Moving on now to Interactive
5 Visual Compliance and
6 Enforcement Metrics, or
7 dashboards. Since August 2013,
8 shortly after EPA developed the
9 Interactive Visual Compliance
10 and Enforcement Metrics program,
11 commonly referred to as
12 "dashboards," I have regularly
13 offered analyses of Departmental
14 performance using that tool. If
15 we are to manage effectively and
16 if we are to keep the public
17 informed about the performance
18 of the Department, we must use
19 quantifiable measures or metrics
20 that are readily available to
21 all. These dashboards are a
22 means to visually show how the
23 Department performs in key areas

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1 from general tax revenues for
2 their environmental programs.
3 If the projected final General
4 Fund budget becomes reality,
5 then this year, Alabama would,
6 for the first time, not only be
7 providing zero financial support
8 to environmental programs, it
9 would convert the financial
10 support the environmental
11 programs received from
12 self-generated sources to a
13 funding source for the General
14 Fund. This is the opposite of
15 what is being done in the rest
16 of the nation, it is the
17 opposite of what has been done
18 in Alabama, and it is the
19 opposite of what was intended
20 when the funding mechanisms for
21 these environmental programs
22 were put in place.
23 This would undermine

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1 by looking at various compliance
2 and enforcement metrics over
3 time and in comparison to other
4 states and EPA standards. This
5 is the only source of
6 comparative data among states.
7 Other states in the nation are
8 our peer group and the standards
9 against which is appropriate to
10 measure performance. Not only
11 is this tool useful in helping
12 gauge the performance of the
13 Department, it also provides the
14 Department a means to identify
15 areas where improvement may be
16 possible.
17 The metrics displayed in the
18 dashboards are relevant,
19 impartial, verifiable, and
20 objective measures. There is no
21 comparable source of this type
22 of information. The information
23 presented provides a common

<p style="text-align: right;">Page 21</p> <p>1 standard of information which 2 can be interpreted to arrive at 3 an informed analysis. Although 4 individual observations, 5 anecdotal accounts, and opinions 6 will continue to provide 7 valuable input through the 8 eComplaint system and 9 face-to-face meetings with 10 various interest groups, the 11 data provided by the dashboards 12 provides the means by which all 13 parties can work from a common 14 objective data set. 15 As has been noted 16 previously, the launch of this 17 new system has not been without 18 glitches. There are instances 19 where this federally-developed 20 system has data gaps, reporting 21 delays, and so on. However, the 22 system is by no means fatally 23 flawed. It simply requires, in</p>	<p style="text-align: right;">Page 23</p> <p>1 backbone of metrics the 2 Department, EPA, and the public 3 will use to measure Departmental 4 performance in the future. 5 In recent weeks it's come to 6 my attention that some 7 individuals have had difficulty 8 accessing and properly 9 interpreting the information in 10 this powerful and useful tool. 11 Because we will regularly be 12 using this powerful tool for the 13 foreseeable future, today I will 14 devote some extra time to what 15 might be called a "tutorial," 16 using dashboards for the water 17 media. In previous reports, in 18 the interest of time, the 19 dashboard updates for air, land, 20 and water media have presented 21 five basic performance graphs 22 for each media. We typically 23 review graphs showing the size</p>
<p style="text-align: right;">Page 22</p> <p>1 a few instances, that certain 2 graphic representations receive 3 a more in-depth analysis to 4 obtain an accurate picture of 5 reality. 6 As the bugs are worked out 7 over time, such additional 8 analysis will become 9 increasingly unnecessary. There 10 are currently three primary 11 areas where improvement is 12 necessary: A few instances of 13 data gaps, two incorrectly 14 calculated graph components, and 15 one instance of an ill-defined 16 metric that results in an EPA 17 target goal that is unrealistic. 18 Each of these issues is under 19 active review by EPA in 20 conjunction with ADEM. Not 21 withstanding the few minor and 22 temporary start-up problems, 23 this system will be the ongoing</p>	<p style="text-align: right;">Page 24</p> <p>1 of that media's universe of 2 regulated facilities, the number 3 of facilities inspected, the 4 rate of permit violations, the 5 rate of serious violations, and 6 enforcement actions taken. 7 Today, we will cover some 8 additional graphs to give a 9 sampling of part of the wide 10 array of information available 11 and to point out some of the 12 subtleties that are occasionally 13 overlooked. 14 With that, I offer the 15 following to help all interested 16 parties to navigate EPA's 17 dashboards generated from the 18 EPA Enforcement and Compliance 19 Online database. The Department 20 will be providing copies of this 21 presentation to anyone who would 22 like one. As mentioned earlier, 23 I believe that it will prove</p>

<p style="text-align: right;">Page 25</p> <p>1 useful to anyone interested in 2 obtaining an accurate objective 3 view of the Department and its 4 enforcement and compliance 5 activities. 6 Today, I will first go 7 through the steps to get to the 8 dashboard information and then, 9 second, demonstrate how to use 10 the dashboard information. 11 Step 1: Enter the letters 12 A-D-E-M into a web browser or go 13 directly to the ADEM website at 14 www.adem.alabama.gov and click 15 "Compliance Information," 16 circled in red on this slide, in 17 the gray area on the left side 18 of the home page. 19 Step 2: On the next page 20 click either "EPA's Searchable 21 Compliance and Enforcement 22 Database" or "ADEM Visual 23 Metrics Dashboards," circled in</p>	<p style="text-align: right;">Page 27</p> <p>1 "Performance Dashboards" from 2 the drop down list next to the 3 "Dashboard View" tab as shown by 4 the red circles on this slide. 5 Note that there are two types of 6 dashboards: Activity and 7 performance. We will focus on 8 performance dashboards. 9 You will see displayed six 10 groups of dashboards with the 11 headings "Facilities," 12 "Inspections," "Violations," 13 "Serious Violations," 14 "Enforcement Actions," and 15 "Penalties" as circled in red on 16 this slide. 17 Step 6: At the top of each 18 displayed graph under the group 19 heading is a drop down box where 20 different graphs on that topic 21 can be selected. In this 22 example we are selecting the 23 graph titled "NPDES Permits by</p>
<p style="text-align: right;">Page 26</p> <p>1 red on this slide, which will 2 then take you to the correct 3 page on the EPA website. 4 Step 3: On the right side 5 of the EPA webpage, click the 6 icon "Analyze Trends," which 7 will take you to another EPA 8 webpage. 9 Step 4: Under the heading 10 "Track Performance," click 11 "State Dashboards" which will 12 take you to the dashboard site. 13 The default display on the 14 dashboard site shows the air 15 media, the national graphs, and 16 the activity graphs as shown by 17 the red circles on this slide. 18 Step 5: To view performance 19 measures for the water program 20 in Alabama select the "Water" 21 media tab, select "Alabama" from 22 the drop down list next to the 23 "State" tab, and select</p>	<p style="text-align: right;">Page 28</p> <p>1 Type". 2 I will now walk you through 3 a couple of graphs in each of 4 the six group headings: 5 The nine drop down options in 6 the facilities group provide 7 various breakdowns of permits by 8 types, those filing Discharge 9 Monitoring Reports, those that 10 have had manual overrides, et 11 cetera. This first slide is one 12 typically presented in my 13 regular updates. It shows that 14 there are approximately 11,500 15 NPDES permits outstanding in 16 Alabama with a large majority 17 being General Permits. It has 18 been the Department's strategy 19 to increasingly use General 20 Permits because they both reduce 21 the workload associated with 22 permit issuance and have 23 generally tighter discharge</p>

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1 limits.
 2 Some of the graphs require a
 3 bit of interpretation, such as
 4 one of the nine graphs in the
 5 "Facilities" group, graph titled
 6 "RNC/SNC Manual Override
 7 percent." In this case RNC/SNC
 8 refers to Regular Non-Compliance
 9 and Significant Non-Compliance.
 10 In this graph, the percentage of
 11 facilities where it was
 12 necessary to override the system
 13 to correctly reflect compliant
 14 status has dropped from nearly
 15 50 percent, which was far above
 16 the seven to eight percent
 17 national average to essentially
 18 zero, which is clearly below and
 19 better than the national
 20 average.
 21 Many graphs, such as this
 22 one, show multiple year trends,
 23 which indicate in what direction

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1 The graphs in this
 2 inspections group of dashboards
 3 analyze the rate of inspections
 4 which, as you will see, has been
 5 increasing over time.
 6 This next slide is one
 7 typically presented in my
 8 regular updates. It shows that
 9 the percentage of all major
 10 facilities inspected in Alabama
 11 consistently exceeds both the
 12 national average, shown by the
 13 dashed blue line, and the EPA
 14 target, shown by the black line.
 15 Among the four drop down
 16 selections in this group is also
 17 a graph showing the percentage
 18 of non-majors that have been
 19 inspected. In this case you can
 20 see that there was a slight dip
 21 in 2013 that was made up in 2014
 22 so that the inspection rate for
 23 non-majors, like the inspection

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1 that performance measure is
 2 headed. They also show
 3 comparisons against national
 4 averages, typically displayed as
 5 a dashed red or blue line, and
 6 EPA goals, typically displayed
 7 as a solid black line, which
 8 show how Alabama is performing
 9 compared to all other states and
 10 EPA goals respectively. By
 11 double clicking on many of the
 12 individual columns in the
 13 graphs, the raw data that was
 14 used to create the graph can be
 15 displayed. You will note in
 16 this and other groups that the
 17 graphs show that year-to-year
 18 performance trends are almost
 19 without exception, favorable.
 20 There are numerous graphs
 21 related to enforcement and
 22 compliance. The first of these
 23 is in the inspections group.

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1 rate for majors, exceeds the
 2 national average. You will note
 3 that EPA has not set a target
 4 for the rate of inspections for
 5 non-majors. However, ADEM's EPA
 6 work plan calls for an
 7 inspection rate of 20 percent,
 8 which as you can see has been
 9 met or exceeded every year.
 10 The graphs in the violations
 11 group of dashboards analyze
 12 violations which, for Alabama,
 13 have been remaining constant or
 14 declining. This next slide is
 15 one typically used in my regular
 16 updates. It shows the
 17 percentage of majors in
 18 noncompliance.
 19 As you see, the percentage
 20 of major facilities in Alabama
 21 with serious violations, shown
 22 in yellow, and non-serious
 23 violations, shown in blue, is

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1 better, often by a wide margin,
2 than the respective national
3 averages.
4 An additional graph from the
5 four drop down options in this
6 group is one showing the
7 percentage for all facilities in
8 all levels of non-compliance.
9 In this case, as we saw in the
10 preceding graph the
11 noncompliance for majors, shown
12 in blue, is well below the
13 national average.
14 Earlier I noted that there
15 are several areas where the
16 dashboard program needs
17 improvement. One of the areas
18 mentioned was reporting delays.
19 The yellow portion of this graph
20 is an example of a systemic
21 reporting delay caused by the
22 inability of many states, not
23 including Alabama, to enter data

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1 average.
2 The next grouping of
3 dashboards is titled
4 "Enforcement Actions."
5 Typically, the regular updates I
6 provide you show the trend in
7 the rate of formal and informal
8 enforcement actions since that
9 is reflective of a key strategy
10 that is resulting in our main
11 goal of increasing overall
12 compliance. Since this is an
13 area often cited as an area of
14 concern and often misunderstood,
15 I am providing three examples of
16 the available graphs along with
17 explanations of each.
18 This first graph displays
19 the percentage of major
20 facilities that are in
21 noncompliance that also have a
22 formal enforcement action being
23 taken against them. As you can

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1 for non-majors into EPA's ICIS
2 database in a timely manner.
3 Although data is only available
4 through 2012, non-compliance for
5 non-majors in Alabama, shown in
6 yellow, was consistent with the
7 national average.
8 In a typical update we would
9 normally review serious and non-
10 serious violations together by
11 using the graph preceding this
12 last graph. However, the
13 serious violations dashboard
14 group has three drop down
15 selections that can focus
16 specifically on serious
17 violations. Only one of the
18 three drop down graphs is fully
19 populated with data. However,
20 that graph does show the steady
21 downward trend of serious
22 violations which is below,
23 better than, the national

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1 see, the percentage is
2 increasing, which is desirable,
3 and now exceeds the national
4 average. I would point out that
5 this graph only reflects
6 enforcement actions at the level
7 of Administrative Order or
8 higher and does not reflect the
9 substantial percentage of
10 noncompliant facilities involved
11 in lower levels of enforcement
12 action.
13 This second enforcement
14 graph is an example of a metric,
15 namely, timely enforcement
16 action, that is ill-defined and
17 which results in an EPA target
18 goal, the black line at the top
19 of the graph, that is clearly
20 unrealistic. The timely
21 enforcement action definition
22 does not properly take into
23 account the type of violation,

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1 the type of facility, whether
2 enforcement is warranted, and
3 other relevant factors. For
4 example, a failure to file a
5 report may be corrected and
6 enforcement action not required,
7 while enforcement action against
8 a state agency may require
9 lengthy intra-governmental
10 actions. In fact, EPA has
11 recognized the problems with
12 this graph and is in the process
13 of reworking it.
14 Notwithstanding the questionably
15 defined metric and the resulting
16 unrealistic EPA target, the
17 Department's performance is
18 better than the national
19 average.
20 This third enforcement graph
21 measures several variables. The
22 brown portion shows total
23 non-compliance declining; the

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1 violations are higher than
2 others in Region 4. Our
3 objective is to increase
4 compliance and reduce the need
5 for penalties.
6 The metrics displayed in
7 these dashboard groups continue
8 to be the only comprehensive,
9 impartial, verifiable, objective
10 measures available.
11 As you've seen, every group
12 of measures demonstrates that
13 the Department is consistently
14 beating national averages and
15 that performance is trending
16 toward continued improvement.
17 The Department is committed to
18 maintaining its established
19 leadership position.
20 Future reports will continue
21 to present this information on a
22 regular basis to keep the
23 Commission and the public

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1 dark purple portion shows
2 significant non-compliance also
3 declining. The light purple
4 portion shows all enforcement
5 actions increasing, and the
6 light blue portion shows formal
7 enforcement actions likewise
8 increasing. Each measure shows
9 favorable trends.
10 The sixth and final group of
11 dashboards is penalties. There
12 are no national consolidated
13 comparisons of total monetary
14 penalties available. Alabama is
15 consistently first or second in
16 the amount of penalties assessed
17 among the eight Region 4 states.
18 Coupling the high total monetary
19 penalties with lower rates of
20 violation and the fact that
21 Alabama is smaller than several
22 other Region 4 states indicates
23 that individual penalties for

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1 informed about Departmental
2 performance.
3 In closing, I am pleased to
4 congratulate two of our
5 personnel who have reached
6 significant milestones in their
7 professional careers. Brad
8 Johnson and Clay Messer, who are
9 in the back of the room, both in
10 our Land Division, have earned
11 their professional engineer
12 designation by work experience
13 and passing a rigorous PE
14 examination. Clay, Brad, would
15 y'all please stand and be
16 recognized?
17 That concludes today's
18 report. If there are any
19 questions, I would be pleased to
20 address them.
21 CHAIRMAN BROWN: Thank you.
22 Any questions?
23 DR. RICHARDSON: I have a

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1 question. I'm fiddling with it
2 right now. But I was unable to
3 get the graphs mobile. So is
4 this mobile-friendly or not?
5 DIRECTOR LeFLEUR: Well, I
6 haven't tried it to be frank
7 with you. I would presume that
8 it would be available on mobile.
9 It would be a little difficult
10 to read --
11 DR. RICHARDSON: I can get
12 as far as to that page, but the
13 graphs were not actually --
14 DIRECTOR LeFLEUR: Oh, the
15 graphs don't appear?
16 DR. RICHARDSON: They don't
17 actually appear.
18 DIRECTOR LeFLEUR: Okay.
19 Well, then, they must not be
20 mobile-friendly. The graphs are
21 in such a big database that they
22 may not be able to ship those to
23 mobile devices.

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1 DR. RICHARDSON: Does EPA
2 have it within their budget to
3 take over our permitting? I
4 mean, their budget is pretty
5 slim right now, too.
6 DIRECTOR LeFLEUR: That's a
7 good question. How would they
8 fund taking over the
9 Department's permitting
10 responsibilities? They would
11 seek funding from the same place
12 that we seek funding; the permit
13 fees.
14 DR. RICHARDSON: So, in
15 other words, if EPA gets it,
16 it's going to be a double
17 whammy, so to speak.
18 DIRECTOR LeFLEUR: That
19 would be a logical conclusion,
20 that we have trouble funding our
21 program from permit fees and EPA
22 would have a similar problem.
23 DR. RICHARDSON: Thank you.

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1 No further questions.
2 DIRECTOR LeFLEUR: Any other
3 questions?
4 (No response.)
5 CHAIRMAN BROWN: Thank you.
6 DIRECTOR LeFLEUR: Thank
7 you.
8 CHAIRMAN BROWN: Next, the
9 Chair will direct the Personnel
10 Committee to start a job
11 performance evaluation for
12 Director LeFleur covering the
13 period of July 21st, 2014, which
14 was the day after the last
15 evaluation was completed, to the
16 date of the meeting at which
17 recommendations from the
18 committee will be considered.
19 As was done in the 2014
20 evaluation, the Committee should
21 obtain feedback from
22 Commissioners and public
23 regarding the Director's job

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1 performance and provide the
2 Commission with a consolidated
3 list of comments received by the
4 deadline set for receipt of
5 comments and the Committee's
6 recommendations relative to the
7 Director's job performance for
8 the evaluation period.
9 Next on the agenda is the
10 consideration of adoption of
11 proposed amendments to ADEM
12 Administrative Code, General
13 Administrative Regulations. And
14 we will hear from the
15 Department.
16 MR. KELLY: Thank you, Mr.
17 Chairman, members of the
18 Commission. I am Russell Kelly,
19 Chief of the Department's
20 Permits and Services Division.
21 Before you for your
22 consideration are proposed
23 revisions to Administrative

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1 Code, Rule 335-1-1-.07 the
2 Departmental Forms, Instructions
3 and Procedures. The
4 Department's proposing to delete
5 one form, add three new forms,
6 and modify 40 existing forms.
7 The changes are needed to comply
8 with the State and Federal laws.
9 Notice was published on February
10 22nd, 2015, and the public
11 hearing was held on April 3rd.
12 No comments were received
13 concerning the proposed
14 revisions.
15 We respectfully ask for your
16 favorable consideration, and I
17 will be happy to answer any
18 questions.
19 CHAIRMAN BROWN: Can I get a
20 motion?
21 DR. MILLER: I make a motion
22 we accept his proposal.
23 MS. MERRITT: Second.

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1 DR. MILLER: Second.
2 CHAIRMAN BROWN: All in
3 favor?
4 THE COMMISSION: Aye.
5 CHAIRMAN BROWN: We are
6 adjourned.
7
8 (THE ALABAMA ENVIRONMENTAL MANAGEMENT
9 COMMISSION MEETING WAS CONCLUDED AT
10 11:46 A.M.)
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1 DR. RICHARDSON: Second.
2 CHAIRMAN BROWN: All in
3 favor?
4 THE COMMISSION: Aye.
5 CHAIRMAN BROWN: Motion
6 passes. Thank you.
7 MR. KELLY: Thank you, Mr.
8 Chairman.
9 CHAIRMAN BROWN: Next, Chair
10 will note that Jim Walter
11 Resources has withdrawn its
12 request for hearing.
13 Is there any other business
14 from the Commission?
15 (No response.)
16 CHAIRMAN BROWN: I note that
17 the next meeting is August 21st,
18 2015, at 11:00 a.m., right here.
19 And with that I will
20 entertain a motion to adjourn.
21 DR. RICHARDSON: So moved.
22 CHAIRMAN BROWN: Do I hear a
23 second?

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1 C E R T I F I C A T E
2 T A T E O F A L A B A M A)
3 C O U N T Y O F C O N E C U H)
4 I hereby certify that the above and
5 foregoing transcript of proceedings was
6 taken down by me in machine shorthand, and
7 the questions and answers thereto were
8 transcribed by means of computer-aided
9 transcription, and that the foregoing
10 represents a true and correct transcript of
11 the proceedings given by said witness upon
12 said hearing.
13 I further certify that I am neither
14 of counsel nor of kin to the parties to the
15 action, nor am I in anywise interested in
16 the result of said cause.
17 I further certify that I am duly licensed
18 by the Alabama Board of Court Reporting as
19 a Certified Court Reporter as evidenced by
20 the ACCR number following my name below.
21 _____
22 CHARITY McCULLEY ACCR# 424
23 My Commission Expires: 2/19/17

C E R T I F I C A T E

STATE OF ALABAMA)

COUNTY OF CONECUH)

I hereby certify that the above and foregoing transcript of proceedings was taken down by me in machine shorthand, and the questions and answers thereto were transcribed by means of computer-aided transcription, and that the foregoing represents a true and correct transcript of the proceedings given by said witness upon said hearing.

I further certify that I am neither of counsel nor of kin to the parties to the action, nor am I in anywise interested in the result of said cause.

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Part B

Attachment Index

- Attachment 1 Agenda**
- Attachment 2 ADEM Director's presentation slides
(Agenda Item 2)**
- Attachment 3 Resolution to adopt amendments to ADEM Admin. Code
Division 335-1, General Administration Regulations
(The amended regulations are on file with the Commission
meeting records.)
(Agenda Item 5)**

Attachment 1

Amended 6/8/15

AGENDA*
MEETING OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

DATE: June 19, 2015

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

<u>ITEM</u>	<u>PAGE</u>
1. Consideration of minutes of meeting held on April 17, 2015**	2
2. Report from the ADEM Director	2
3. Report from the Commission Chair	2
4. Consideration of adoption of proposed amendments to ADEM Admin. Code 335-1, General Administration Regulations (Includes NPDES-Related Matter)	2
5. <u>Jim Walter Resources, Inc. v. ADEM</u> EMC Docket No. 12-06 (NPDES-Related Matter)	2
6. Other business	2
7. Future business session	2

* The Agenda for this meeting will be available on the ADEM website, www.adem.alabama.gov, under Environmental Management Commission.

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

1. CONSIDERATION OF MINUTES OF MEETING HELD ON APRIL 17, 2015
2. REPORT FROM THE ADEM DIRECTOR
3. REPORT FROM THE COMMISSION CHAIR
4. CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO ADEM ADMIN. CODE 335-1, GENERAL ADMINISTRATION REGULATIONS (INCLUDES NPDES-RELATED MATTER)

The Commission will consider proposed amendments to ADEM Admin. Code 335-1, General Administration Regulations, Rule 335-1-1-.07, Departmental Forms, Instructions, and Procedures. These revisions are being proposed to add new forms and modify/delete some of the existing forms. The Department held a public hearing on the proposed amendments on April 3, 2015.

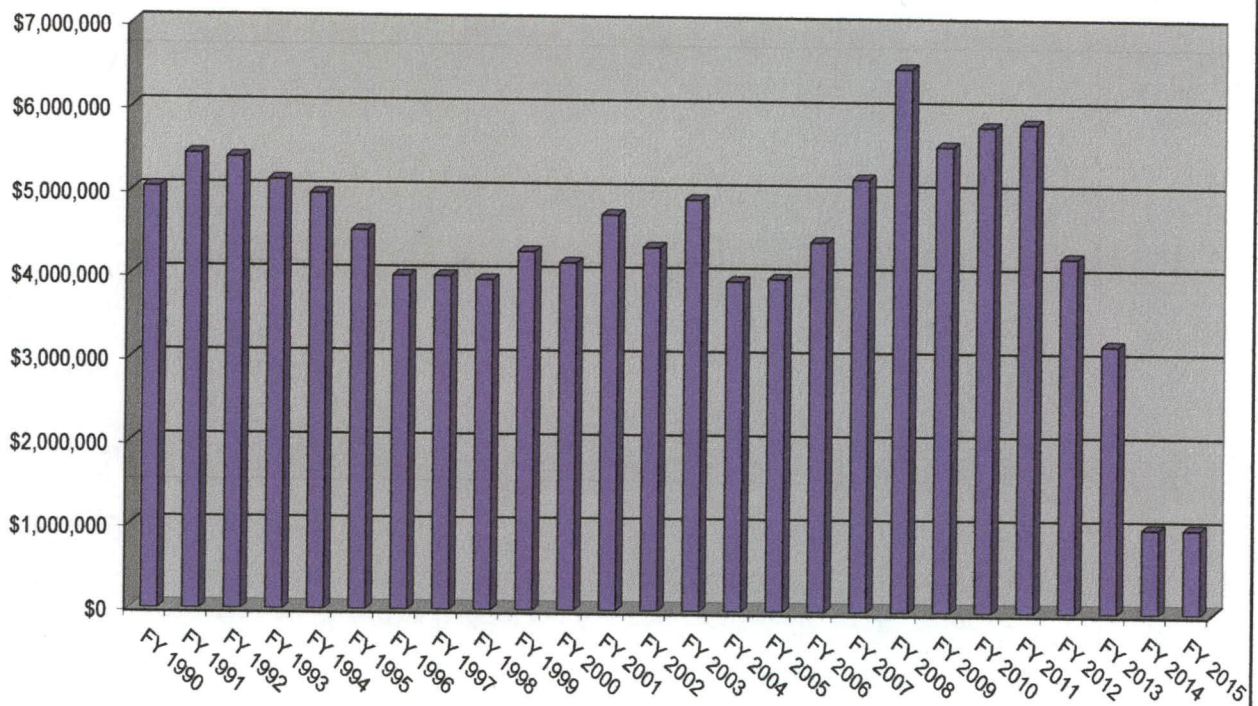
5. JIM WALTER RESOURCES, INC. V. ADEM, EMC DOCKET NO. 12-06 (NPDES-RELATED MATTER)

The Commission will acknowledge for the record Petitioner Jim Walter Resources, Inc.'s withdrawal of the request for hearing in the above matter.

6. OTHER BUSINESS
7. FUTURE BUSINESS SESSION

Attachment 2

STATE GENERAL FUNDS FOR ADEM OPERATIONS





- ADEM Forms
- ADEM Programs
- Alabama Environmental Regulations and Laws
- Compliance Information**
- Environmental Management Commission
- Inside ADEM
- More Information
- Notices and Events
- Contact Us



Lower High Falls, Talladega Forest - Bill Wilson

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Search the ADEM Website:

Search



Welcome to ADEM

Alabama is blessed with a wealth and variety of natural resources which provide significant social, economic, and environmental benefits and opportunities for the citizens of Alabama. The mission at ADEM is to assure for all citizens of the State a safe, healthful, and productive environment. This web site is designed to keep you informed and to help you as you live and work in Alabama.

Upcoming Events and Latest News

- July 15, 2015**
2015 Brownfields Conference
- June 9, 2015**
15th Annual Groundwater Conference
- May 1, 2015**
Asthma Awareness Month
- May 1, 2015**
ADEM Celebrates Earth Day 2015 in Selma
- April 22, 2015**
ADEM Hosts Middle School Students for Annual Ea...
- April 13, 2015**
2015 UST Assessment & Remediation Conference
- April 2, 2015**
Florence Receives Funding to Overhaul Curbside...

- [eGov Portal](#)
- [Complaints](#)
- [Calendar](#)
- [What's Happening In Your County](#)
- [Permit Wizard](#)
- [eFile](#)
- [E-Verify](#)
- [UST Delivery Prohibition List](#)



- ADEM Forms
- ADEM Programs
- Alabama Environmental Regulations and Laws

Compliance Information

- eFile
- Enforcement Notices
- UST Delivery Prohibition List

- Environmental Management Commission
- Inside ADEM
- More Information
- Notices and Events
- Contact Us

Enter your email address to sign up for ADEM Email Notifications!

Search the ADEM Website:



Enforcement and Compliance Information

eFile

- ADEM Enforcement Notices**
- ADEM Enforcement Orders by Fiscal Year**
- UST Delivery Prohibition List**
- NPDES Enforcement Action Report (5-21-15)**
- 2014 UIC Exceptions Report**
- 2013 UIC Exceptions Report**
- 2012 UIC Exceptions Report**
- 2011 UIC Exceptions Report**
- FY 2014 Industrial Users in Significant Non-Compliance with Pretreatment Standards**
- Public Water System Violations Annual Reports**
- Alabama Environmental Regulations and Laws**

[EPA's Searchable Compliance and Enforcement Database](#)

[EPA's PCS-ICIS Search](#)

[ADEM Visual Metrics Dashboards](#)

[State Review Framework](#)

[Clean Water Act Annual Noncompliance Report \(ANCR\) - Data for Non-Major Permittees \(Select the data year of interest\)](#)

The ECHO website can be a very useful tool for researching the compliance and enforcement histories of regulated facilities. However, the compliance status of facilities, as listed in ECHO, can be misleading. One frequent problem is that EPA and the states have different definitions of what constitutes a formal enforcement action, and when such cases are resolved. For example, if a facility has ever been subject to an enforcement action, ECHO continues to show that facility as out of compliance until the enforcement case has been formally resolved by EPA's standards, regardless of the presence or absence of current violations.

As you use the ECHO searchable database, please keep in mind that the site attempts to summarize complex issues, and may lead to misinterpretations. To avoid any misinterpretations you may wish to schedule a facility file review by contacting the ADEM Public Records Officer at records@adem.state.al.us, fax to 334-271-7950, or mail your request to P.O. Box 301463, Montgomery, AL 36130-1463.

What is ECHO?

ECHO Enforcement and Compliance History Online

[Log In](#) [Contact Us](#)



Search Community



Explore Facilities

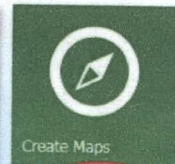
Search Community

Use EPA's Enforcement and Compliance History Online website to search for facilities in your community to assess their compliance with environmental regulations. You can also investigate pollution sources, examine and create enforcement-related maps, or explore your state's performance. [Learn more about ECHO](#)

Quick Search

Enter city, state and/or zip code

[More Search Options](#)



Create Maps

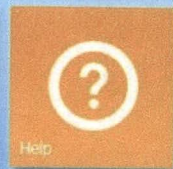


Analyze Trends

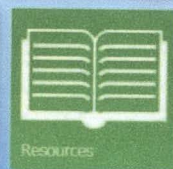
Latest News

ECHO News

- ▶ [Version 2.4 with Updated Air Data Launched!](#)
- ▶ [What's New in ECHO](#)
- ▶ [ECHO Training: June 2](#)
- ▶ [Join the ECHO Listserv](#)



Help



Resources



Advanced Tools

ECHO Enforcement and Compliance History Online

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Search Community



Explore Facilities

Latest News **ECHO News**

- ▶ [Version 2.4 with Updated Air Data Launched!](#)
- ▶ [What's New in ECHO](#)
- ▶ [ECHO Training: June 2](#)
- ▶ [Join the ECHO Listserv](#)


Analyze Trends

Track Performance

- ▶ [State Dashboards](#)
- ▶ [Drinking Water Dashboard](#)
- ▶ [Clean Water Act Annual Noncompliance Reports](#)
- ▶ [National Enforcement Initiatives](#)
- ▶ [Watch List](#)

Investigate Pollution Sources

- ▶ [Clean Water Act DMR Pollutant Loading Tool](#)
- ▶ [Greenhouse Gas Publication Tool](#)
- ▶ [Toxics Release Inventory \(TRI\)](#)



Create Maps



Analyze Trends



Help



Resources



Advanced Tools



You are here: Home > Trends > Comparative Maps & Dashboards Home > Analyze Trends: State Air Dashboard

Analyze Trends: State Air Dashboard

The Clean Air Act (CAA) authorizes EPA to regulate air pollution from stationary sources like chemical plants, utilities, and steel mills. EPA delegates much of their CAA authority to state, local and tribal agencies. To manage the national CAA stationary compliance monitoring and enforcement program, EPA requires that delegated agencies regularly report data on the type of facilities within their jurisdiction and activities conducted, such as, compliance evaluations, compliance determinations, and enforcement actions. The dashboards provide an easy-to-use summary of activities to answer questions like: which facilities are regulated, how many have been evaluated, and how many have alleged violations and have been subject to enforcement.

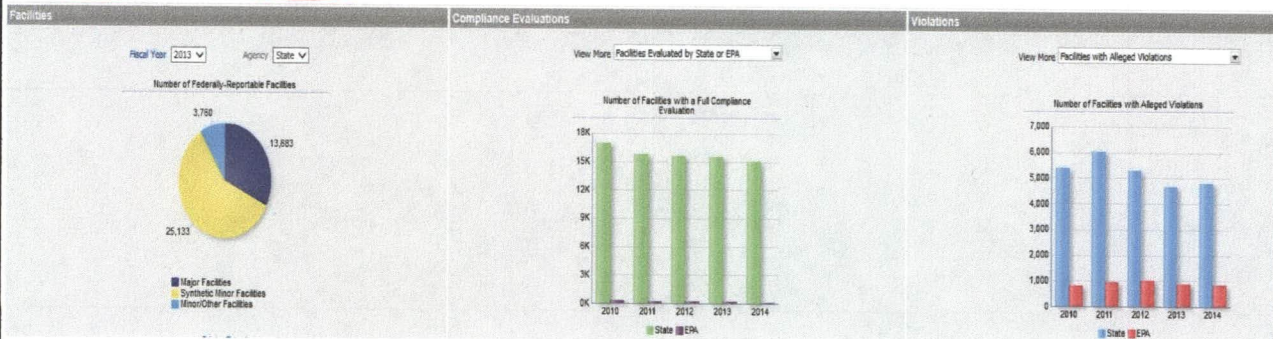
State counts may include facilities where a local control agency has been delegated the authority to enforce the Clean Air Act. Therefore, activities conducted by the local control agency are included in the state counts. Visit the [project homepage](#), or [2/12/2013 State Dashboard and Comparative Maps webinar](#).

See [critical information](#) about the data and state program assessment. *Note: The State Dashboard "Export" option does not allow export into Excel 2007; the Excel 2003 option triggers an error message in newer versions of Excel, but clicking "Yes" will open.*

National Air Activity Dashboard

Air Drinking Water Hazardous Waste Pesticides Water

State: National Dashboard View: Activity Dashboard





You are here: Home > Trends > Comparative Maps & Dashboards Home > Analyze Trends: State Water Dashboard

Analyze Trends: State Water Dashboard

The Clean Water Act National Pollutant Elimination System (NPDES) program authorizes EPA to regulate discharges to waters of the United States. EPA delegates much of the CWA authority to state, local, and tribal agencies. The State Dashboard provides an overview of Clean Water Act regulatory oversight activities of the state and EPA. The dashboards provide an easy-to-use summary of key activities to answer questions like: which facilities are regulated, how many have been inspected, how many have alleged violations have been identified and enforcement taken, and what is the quality of the water within the state. Visit the [project homepage](#), or watch the 2/12/2013 State Dashboard and Comparative Maps [webinar](#).

See [critical information](#) about the data and state program assessment and [known data problems](#). Note: The dashboard "Export" option does not allow export into Excel 2007; the Excel 2003 option triggers an error message in newer versions of Excel, but clicking "Yes" allows the file to open.

Alabama Water Performance Dashboard



Air
Drinking Water
Hazardous Waste
Pesticides
Water

State: Alabama
 Dashboard View: Performance Dashboard

Facilities	Inspections	Violations
<p>NPDES Permits by Type (All)</p> <p>Print - Export</p>	<p>Facilities Inspected - State/EPA (Major, %)</p> <p>States are provided flexibility in meeting EPA's goal of 50%</p>	<p>Facilities in Non-Compliance (%)</p> <p>Percentages calculated from EPA's data system (CIS-NPDES for...</p>

Alabama Water Performance Dashboard

Air Drinking Water Hazardous Waste Pesticides Water

State Alabama Dashboard View Performance Dashboard

Facilities

NPDES Permits by Type (All)

NPDES Permits by Type - FY13 (All)



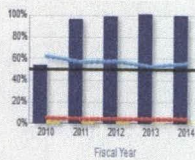
Non-Major (General Permit)
Non-Major (Ind.)
Major

[Print](#) [Export](#)

Inspections

Facilities Inspected - State/EPA (Major, %)

Facilities Inspected by State or EPA (Majors, %)



State, Majors
EPA, Majors
Goal (Majors Only)
State, Not Avg
EPA, Not Avg

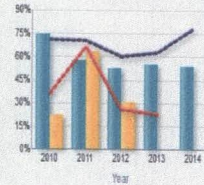
States are provided flexibility in meeting EPA's goal of 50% inspection coverage.

[Print](#) [Export](#)

Violations

Facilities in Non-Compliance (%)

Facilities in Non-Compliance (%)



Majors (CIS-NPDES data)
Non-majors (incl. ANCR data)
National Average (Majors)
National Average (Non-majors, Ind.)

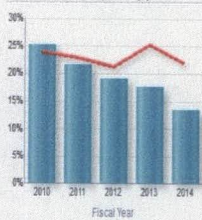
Percentage calculated from EPA's data system (CIS-NPDES) for major facilities on a fiscal year basis and ANCR data for nonmajor facilities on a calendar year basis. Only state violation determination data on major permits is required to be shared with EPA. ANCR data are available for 2010 - 2012.

[Print](#) [Export](#)

Serious Violations

Major Facilities in Serious Non-Compliance (%)

Major Facilities in Significant Non-Compliance (%)

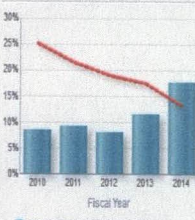


Major Facilities in SNC
National Average

Enforcement Actions

Major Facilities in NC w/ Formal Actions (%)

Major Facilities in Non-Compliance with Formal Enforcement Actions (%)

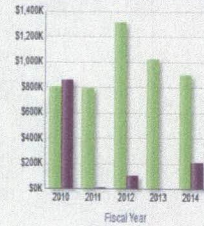


Major Facilities in NC w/ Formal Actions (%)
Majors in Significant Non-Compliance (%)

Penalties

Median Monetary Penalty

Median Monetary Penalty



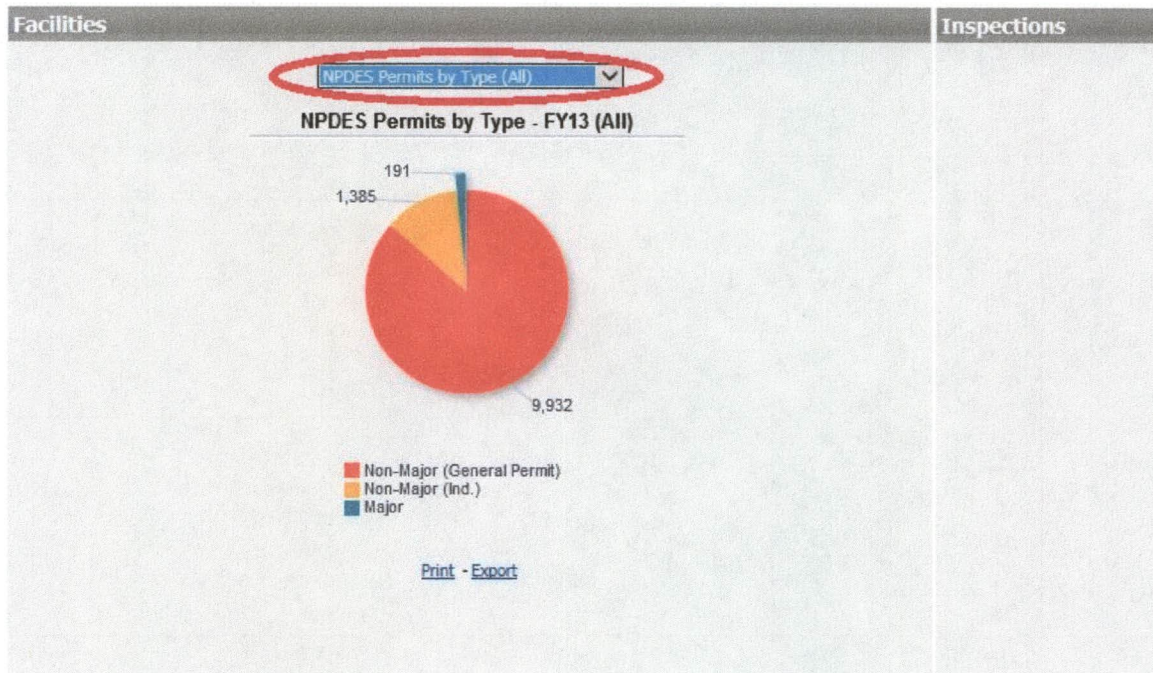
State EPA

Alabama Water Performance Dashboard

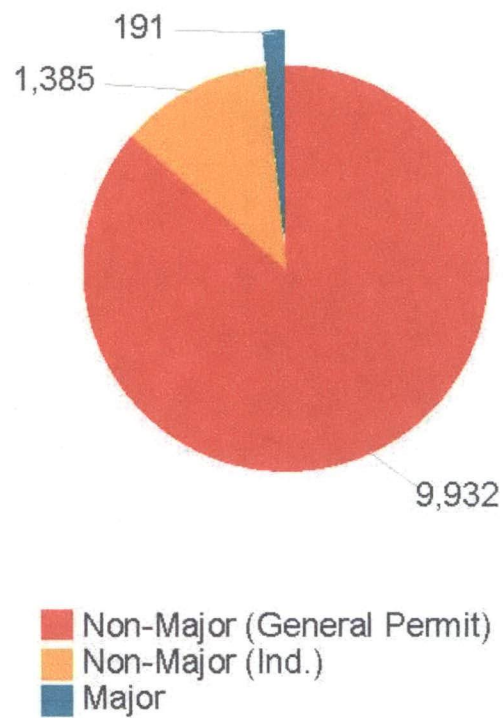
[Air](#) [Drinking Water](#) [Hazardous Waste](#) [Pesticides](#) [Water](#)

State ▼

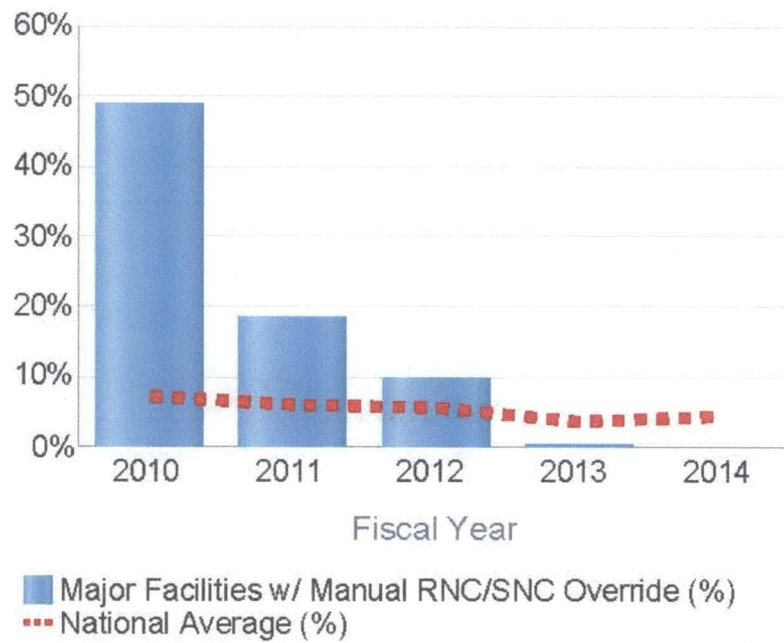
Dashboard View ▼



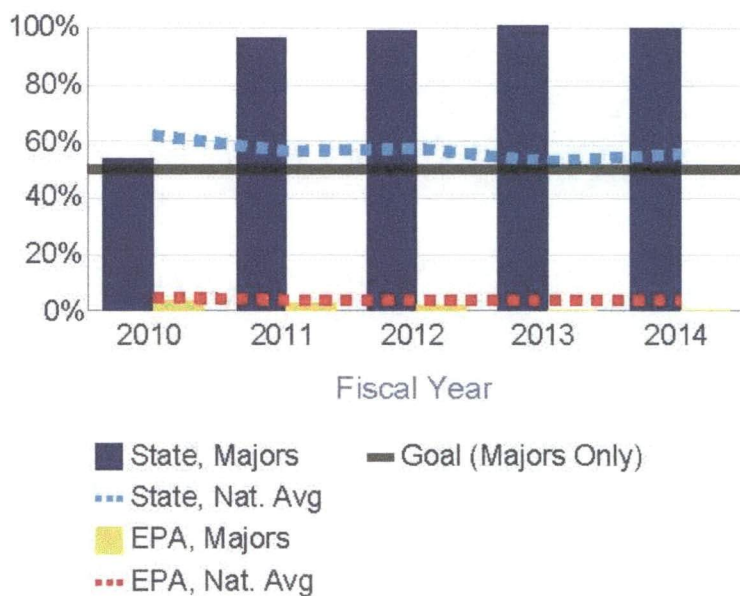
NPDES Permits by Type - FY13 (All)



Major Facilities with Manual Override of RNC/SNC to Compliant Status (%)

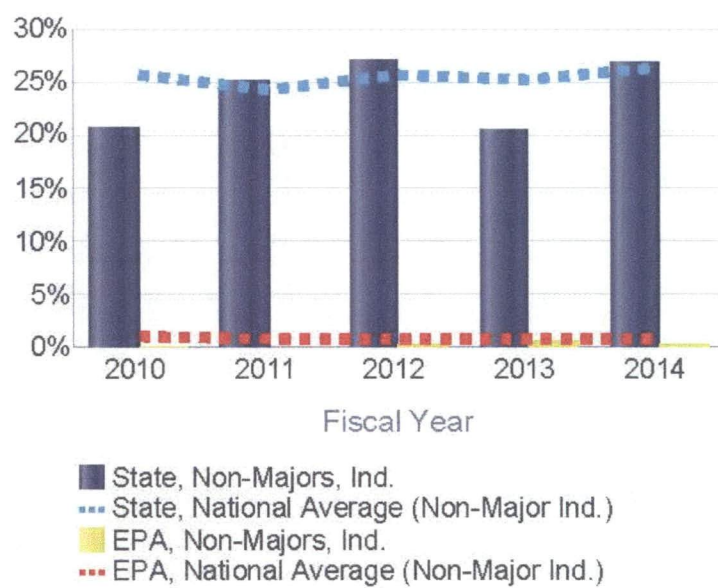


Facilities Inspected by State or EPA (Majors, %)



States are provided flexibility in meeting EPA's goal of 50% inspection coverage.

Facilities Inspected by State or EPA (Non-Majors Ind., %)

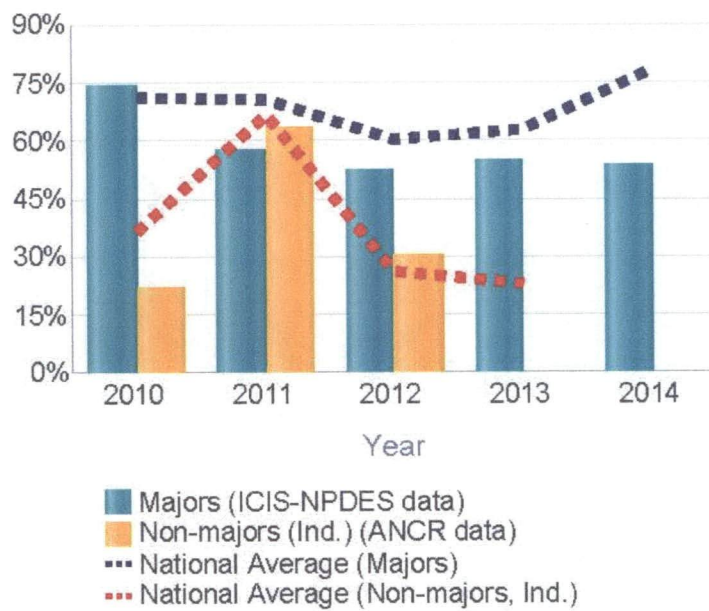


Percentages calculated from EPA's data system (ICIS-NPDES). Only state inspection data on major permittees is required to be shared with EPA.

Facilities in Non-Compliance (Majors, %)

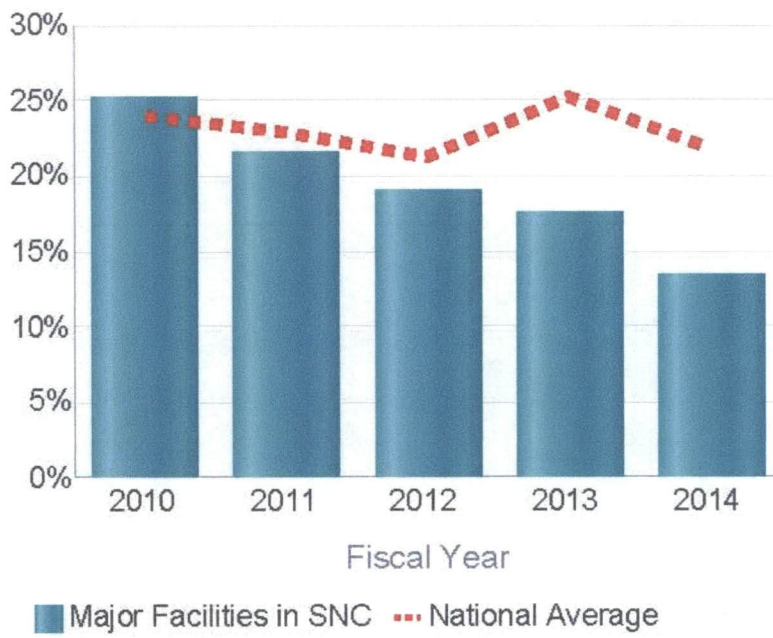


Facilities in Non-Compliance (%)

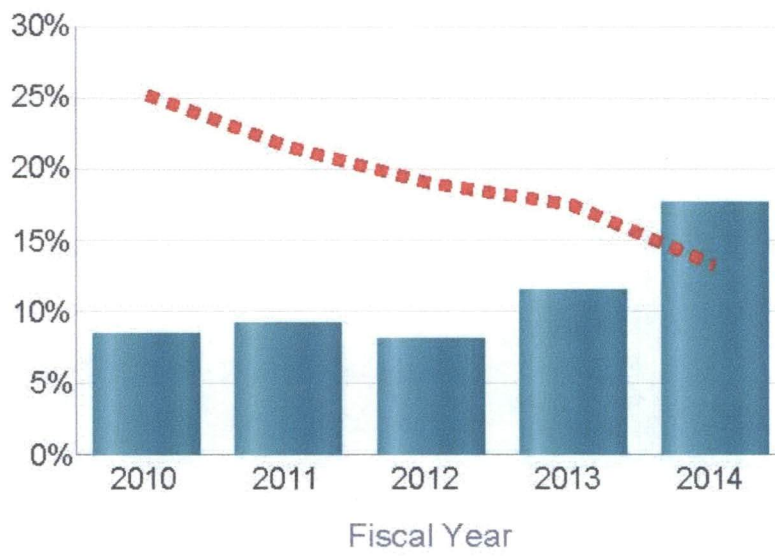


Percentages calculated from EPA's data system (ICIS-NPDES) for major facilities on a fiscal year basis and ANCR data for non-major facilities on a calendar year basis. Only state violation determination data on major permittees is required to be shared with EPA. ANCR data are available for 2010 - 2012.

Major Facilities in Significant Non-Compliance (%)

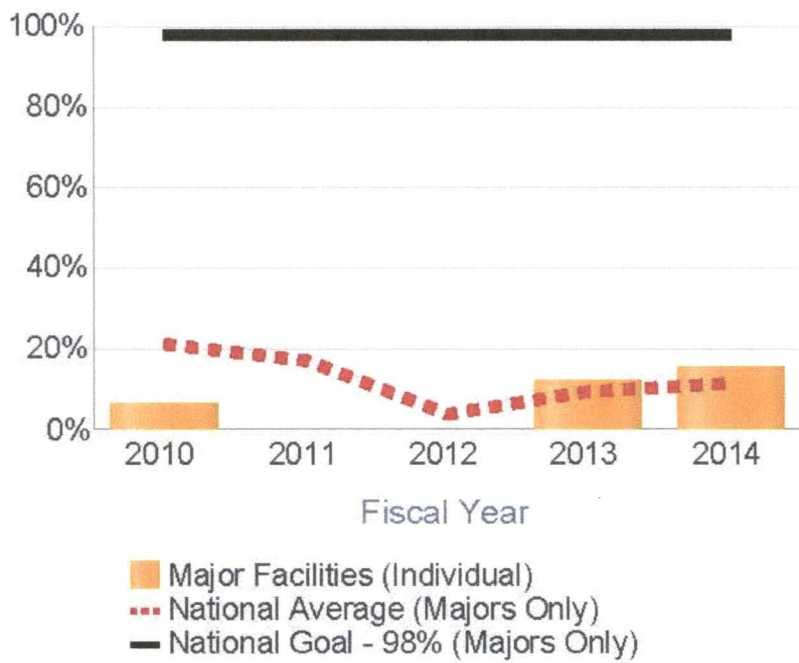


Major Facilities in Non-Compliance with Formal Enforcement Actions (%)

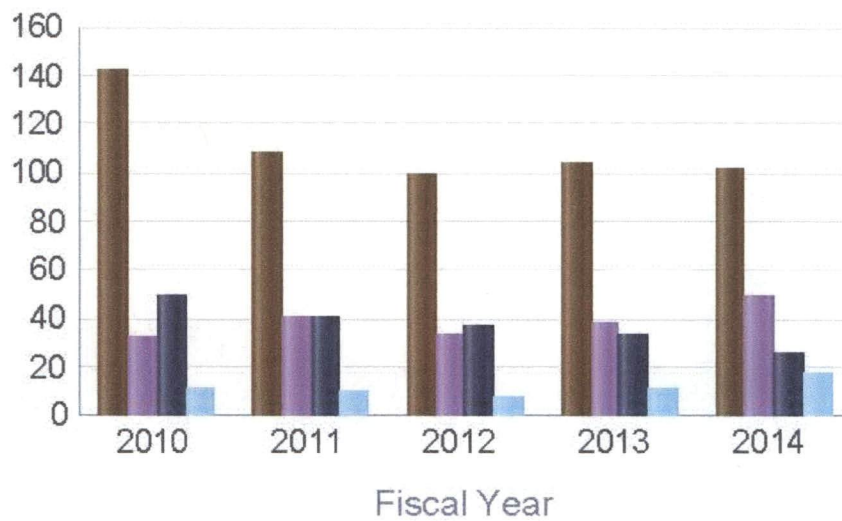


■ Major Facilities in NC w/ Formal Actions (%)
--- Majors in Significant Non-Compliance (%)

Facilities with Timely Enforcement Action as Appropriate (Majors, Individual, %)

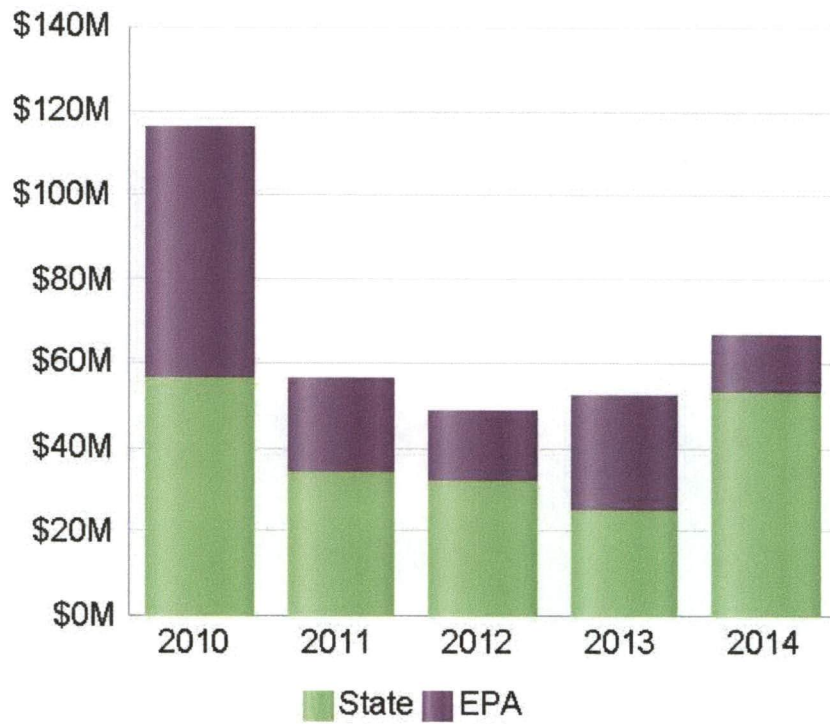


Non-Compliance & Enforcement Actions Comparison - Majors



- Major Facilities in Non-Compliance
- Enforcement Actions (All) - Majors
- Majors Facilities in Significant Non-Compliance
- Enforcement Actions (Formal Only) - Majors

Total Penalties Assessed



Attachment 3

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to ADEM Admin. Code 335-1 of the Department's Administrative Division – General Administration 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 did not receive any written or oral comments at the public hearing or during the public comment period.

NOW THEREFORE, pursuant to Ala. Code. §§ 22-22A-5, 22-22A-6, 22-22A-8 (2006 Rplc. Vol.), and Ala. Code. § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to division 335-1 [rules 335-1-1-.07/Departmental Forms, Instructions, and Procedures (Amend)]; of the Department's Administrative Division – General Administration rules, administrative code attached hereto, to become effective thirty-five days, unless otherwise indicated, after filing with the Alabama Legislative Reference Service.

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

ADEM Admin. Code division 335-1 – General Administration

IN WITNESS WHEREOF, we have affixed our signatures below on this 19th day of June 2015.

APPROVED:

Mary J. Menutt
E. Craig Martin
James Brown

[Signature]
Larry D. Richardson

DISAPPROVED:

ABSTAINED:

This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 19th day of June 2015.

[Signature]
H. Lanier Brown, II, Chair
Environmental Management Commission
Certified this 19th day of June 2015