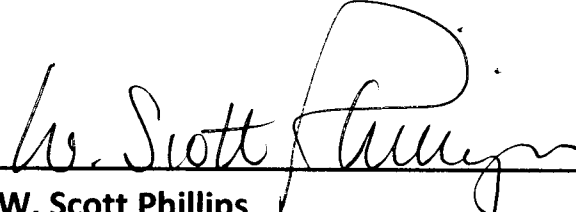


8/24/15

**Minutes
Meeting of the
Rulemaking Committee of the
Alabama Environmental Management Commission
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
April 17, 2015**

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 April 17, 2015.



W. Scott Phillips

Chair

Rulemaking Committee

Alabama Environmental Management Commission

Certified this 21st day of August 2015.

**Minutes
Meeting of the
Rulemaking Committee of the
Alabama Environmental Management Commission
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
April 17, 2015**

**Convened: 10:18 a.m.
Adjourned: 10:39 a.m.**

Part A

**Transcript
Word Index**

Part B

Attachment 1 - Agenda

Part A

Page 1

1 MEETING OF THE
2 RULEMAKING COMMITTEE
3 OF THE
4 ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
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6
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9
10
11 ALABAMA DEPARTMENT OF ENVIRONMENTAL
12 MANAGEMENT
13 Alabama Room
14 1400 Coliseum Boulevard
15 Montgomery, Alabama 36110-2400
16 April 17, 2015
17 10:18 a.m.
18
19
20
21
22
23 Taken by: Victoria M. Castillo, CCR#17

Page 3

1 CHAIRMAN PHILLIPS: I call
2 to order the meeting of the Rulemaking
3 Committee this morning. I want to
4 acknowledge that we have a quorum.
5 We will start with Agenda Item
6 No. 1, which is the consideration of
7 minutes of the Meeting and Work Session
8 held on February the 20th, 2015.
9 Do I have a motion?
10 MS. MERRITT: I move that we
11 adopt the minutes of February 20th.
12 CHAIRMAN PHILLIPS: Do I
13 have a second?
14 DR. RICHARDSON: I second
15 that motion.
16 CHAIRMAN PHILLIPS: I want
17 to have discussion before we take the vote
18 because I want to point out that on Page
19 70, Line 14, there was an error. The word
20 "vide," V-I-D-E, should have been
21 "Committee." So I want to note that the
22 minutes can be amended to correct that, so
23 there's really no need to amend the motion.

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1 A P P E A R A N C E S
2
3 COMMITTEE MEMBERS:
4 W. Scott Phillips, Chair
5 Terry D. Richardson, Ph.D.
6 Mary J. Merritt
7
8 ALSO PRESENT:
9 Robert Tambling, EMC Legal Counsel
10 Debi Thomas, EMC Executive Assistant
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Page 4

1 So any questions regarding that?
2 (No response)
3 CHAIRMAN PHILLIPS: No
4 further questions, all in favor signify
5 with the sign "aye."
6 (All Committee members
7 signify "aye.")
8 CHAIRMAN PHILLIPS: All
9 opposed, same sign.
10 (No response)
11 CHAIRMAN PHILLIPS: Motion
12 carries.
13 Agenda Item No. 2, discussion
14 and consideration of Division 2,
15 Environmental Management Commission
16 Regulations, Rule 335-2-3-.05, Agenda,
17 Sections (1) through (3).
18 We're continuing our examination
19 or re-examination of this rule that I just
20 mentioned. These sections of the rules
21 include the procedures and requirements
22 regarding requests from the public to
23 appear before the Commission at our

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1 meetings following consideration of agenda
2 items.
3 I want to open up the discussion
4 this morning with some comments relative to
5 that meeting, and then I'll yield the floor
6 to the other two Commissioners.
7 The first thing I would like to
8 say is that the way -- the method in which
9 we conducted the last work session was very
10 productive, in my mind. I think the forum
11 that we had, the number of people. We had
12 a well-attended participation. We were
13 down on the floor in a round-table format.
14 I think we got a lot of good
15 information out. We got a lot of
16 perceptions on the table. We got a lot of
17 facts on the table. And we really entered
18 into more of a dialogue with the group in
19 the room as opposed to just back and
20 forths. And from my perspective it was
21 extremely efficient and productive for what
22 we were seeking to obtain.
23 With that said, it also yielded

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1 a tremendous amount of information. It's
2 probably one of the largest minutes
3 packages I can remember getting for a
4 Committee meeting since I've been on the
5 Commission, and I think that that's a good
6 thing.
7 One of the things that we had
8 said when this Rulemaking Committee started
9 was that it was important for us to do an
10 evaluation thoroughly, deliberately, and in
11 a way that provided us a lot of input from
12 the public. Primarily because we already
13 have a rule. We're operating under that
14 rule. We have some issues with that rule.
15 The public has some issues with that rule.
16 And we need to be very careful in anything
17 that we propose to the full Commission in
18 regards to changing that rule.
19 And we, as a Committee, need to
20 be very cautious and convinced that what we
21 are proposing to the Committee will result
22 in a much better rule if we're going to
23 make any changes.

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1 With that said, I would like to
2 open up to Ms. Merritt or Commissioner
3 Richardson any comments that you may have,
4 and we'll keep going from there.
5 MS. MERRITT: Well, I echo
6 what you said about our last meeting. I
7 do -- you know, I learned a lot, because I
8 just started serving on the Committee. I
9 hadn't been here that long, but I did learn
10 a lot about the -- with everybody doing the
11 comments, about the rulemaking. And I --
12 and I agree that we not make it a rush
13 decision, because it helps me to learn more
14 about what everybody feels about the rule
15 that we got already on the table. And, you
16 know, help make a decision on the change
17 that we're going to give later on. But the
18 meeting was good. I liked the round table,
19 the way that we did that.
20 CHAIRMAN PHILLIPS:
21 Commissioner Richardson?
22 DR. RICHARDSON: Yes. Thank
23 you for yielding the floor. As the member

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1 of the Committee that wasn't here last
2 time, I can only say what I've judged from
3 the minutes, which was, as you pointed out,
4 an extensive set of minutes.
5 What I would like -- and I will
6 defer to Mr. Tambling for this for just a
7 moment -- what I would like is to hear some
8 comments from the floor about the format of
9 the meeting. It's obvious what the members
10 who attended felt. I'd kind of like to
11 know for the record what some of you felt
12 about that were able to attend that
13 meeting.
14 Is that appropriate?
15 MR. TAMBLING: Sure,
16 certainly.
17 CHAIRMAN PHILLIPS: Anyone
18 in the audience have any views, and -- and
19 just a reminder, because we are recording
20 this, please state your name and just one
21 at a time and speak clearly.
22 MS. LOWRY: I'm Cindy Lowry
23 with the Alabama Rivers Alliance, and I was

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1 at the meeting and two of my staff were
2 there as well. I mean, I really felt that
3 the format was effective. I felt
4 comfortable and acknowledged in the
5 comments that were made to the
6 Commissioners and the way the meeting was
7 handled to balance the -- or to acknowledge
8 the different views there and the different
9 comments that were made.
10 And I liked -- as Chairman
11 Phillips said, I liked the -- the fact that
12 we got some perceptions out there and
13 misperceptions kind of cleared up, which I
14 think was a big hurdle to kind of get over
15 with this. So I was very pleased with
16 this, and of course be interested to see
17 what you guys determine coming out of all
18 the information. I thought it was a really
19 good discussion, and I would like to see
20 more of that around the issues that we have
21 that are particularly complicated and
22 controversial.
23 CHAIRMAN PHILLIPS: Thank

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1 effective efficient conversations in the
2 future.
3 As one that's made a lot of
4 presentations to the Commission, you know,
5 I think if the doors were open and we know
6 we can communicate without having to come
7 give a presentation in some cases, you
8 know, I just think opening that door wide
9 on communications is a good step.
10 CHAIRMAN PHILLIPS: Thank
11 you. Anyone else before I go back to the
12 dyas?
13 DR. RICHARDSON: Thank you
14 for letting me hear your comments. I mean
15 obviously, had I been here, I would have
16 known I think that everyone was comfortable
17 and thought the open dialogue was good.
18 I, for one, not speaking for the
19 other Commissioners, but I, for one, am
20 very much in agreement with a more open
21 format to promote discussion. You know,
22 obviously there are more formal times when
23 we need to conduct our business, you know.

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1 you, Ms. Lowry.
2 Yes, ma'am.
3 DR. CRAWFORD: Myra
4 Crawford, Cahaba Riverkeeper. I thought it
5 was also extremely useful. It made the
6 interaction very personable. I don't feel
7 as if you're up there and we're out here.
8 I feel we can have a dialogue now, and I
9 think that was not a perception I held
10 before.
11 And the fact that you said, Talk
12 to us -- I think I remember you said. We
13 welcome you. It's, like, really? So thank
14 you very much.
15 CHAIRMAN PHILLIPS: Thank
16 you, Ms. Crawford.
17 Anyone else in the audience that
18 would like to provide any input? Go ahead.
19 MR. MULLEN: Mike Mullen,
20 Choctawhatchee Riverkeeper. I can't say
21 anything except to echo what's already been
22 said. I think it was a very good meeting,
23 and I think it opens the door to more

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1 But I think when we're looking to make a
2 decision on a rule, we need stakeholders,
3 which in this case is you, to -- we really
4 need to get your input. And I think that's
5 a better way to do it is, you know,
6 round-table type format.
7 Hopefully, that is something
8 that we he might see more of. I personally
9 would be in agreement with that.
10 So thank you, Chairman Phillips.
11 CHAIRMAN PHILLIPS: Thank
12 you, Commissioner Richardson.
13 Commissioner Merritt, anything
14 else?
15 MS. MERRITT: No.
16 CHAIRMAN PHILLIPS: With
17 that said, I would like to propose, as I
18 said, you know, we -- we receive the
19 minutes after our meetings after some time
20 lapses. I've gone through them once.
21 There are a tremendous number of pages, and
22 I guess we should have tried to manage it
23 more where we categorized the issues, but I

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1 don't -- I think we would have defeated the
2 purpose.
3 So what I would like to propose
4 to the Committee is -- Debi don't shoot
5 me -- but I'd like to ask Debi if she would
6 to take those minutes and put those into
7 some categories of what we heard, what we
8 got back from the participation on both
9 sides relative to the big issues or the big
10 categories that we may want to address. So
11 the Committee has the benefit -- I mean,
12 each of us could do it, but we're going to
13 end up with different categories. I would
14 rather have a common category sheet that
15 we're working from, then we can look at
16 individually before our next meeting. Take
17 that information and really get to the
18 critical issues from our perspective that
19 really need to be addressed and whether
20 those require us to make any changes
21 through the Rulemaking Committee. That
22 would be one proposal that I would offer to
23 the Committee.

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1 us -- by taking this, it allows us --
2 unfortunately, it would have been great if
3 we would have had twice as many people, but
4 I don't know where we would have put them.
5 But it allows us to continue to have
6 dialogues with people that talk to us that
7 we run into.
8 As we build that category sheet,
9 we'd at least have a common theme to speak
10 from, and of course that also makes that
11 available to the public to at least know
12 what we're thinking.
13 I know that it may take some
14 time. We'll get to this later in the
15 agenda. I'm not going to be at the next
16 meeting, not that you guys couldn't carry
17 on a Rulemaking Committee meeting without
18 me. But I think that also allows us to
19 get -- have a block of time between now
20 and, say, the August meeting to really work
21 through those categories and be prepared to
22 have a dialogue at that time on what we
23 think, if anything, should be addressed in

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1 MS. MERRITT: That's a good
2 idea.
3 DR. RICHARDSON: I
4 certainly -- I would certainly agree with
5 that, especially not having been here.
6 When you read it for your first time,
7 that's your second time exposed to it and
8 me reading through it the first time. And
9 you miss a lot by not getting the direct --
10 the intimation, and things like that.
11 I know that I, for one, need
12 more time to really distill this
13 information. And I think working from a
14 common document where things are
15 categorized into major headings, like you
16 mentioned, Chairman Phillips, would be most
17 beneficial to me. And I think it would
18 maybe help us expedite this process a
19 little bit more in having something set up
20 like that. So I would be all in favor of
21 that.
22 CHAIRMAN PHILLIPS: I also
23 think that what it also does is it allows

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1 the existing rule.
2 So I would entertain a motion to
3 do that.
4 DR. RICHARDSON: So move.
5 MS. MERRITT: Second.
6 CHAIRMAN PHILLIPS: All in
7 favor?
8 (All Committee members
9 indicate "aye.")
10 CHAIRMAN PHILLIPS: All
11 opposed?
12 (No response)
13 CHAIRMAN PHILLIPS: Motion
14 carries.
15 Debi, you and I will get
16 together with Robert and talk through kind
17 of how we're going to lay that out so the
18 Committee members have a good document to
19 work from.
20 Back to our agenda. Other
21 business. Any other business to come
22 before the Rulemaking Committee?
23 (No response)

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1 CHAIRMAN PHILLIPS: The only
2 other business that I will note continues
3 to be -- as soon as we finish this
4 rulemaking, is to take up your request,
5 Commissioner Richardson, which we'll do at
6 the end of this.
7 DR. RICHARDSON: And that
8 was the Environmental Justice
9 consideration.
10 CHAIRMAN PHILLIPS: Correct.
11 DR. RICHARDSON: Yes. And
12 that is something that I will definitely
13 want us to entertain another meeting of the
14 round-table type to listen to stakeholders
15 and their input too before we proceed on
16 anything like that. And that's a situation
17 where we don't really have a rule or even
18 an official policy in place, and it's
19 something we are going to want to proceed
20 with carefully and deliberately.
21 CHAIRMAN PHILLIPS: I just
22 didn't want it to be lost in our
23 discussion. I kind of keep that under our

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1 what we're discussing now correctly, I'm
2 thinking this could potentially be a fair
3 amount of discussion regarding the topic.
4 And I'm wondering if a 10 a.m. meeting is
5 what we want -- do we want to be hemmed in
6 by having to finish by eleven o'clock?
7 Would we rather convene after the
8 Commission meeting, so if it lasted 30
9 minutes, great, but if it needs to go on
10 for over an hour? I just want to put that
11 out for discussion, just to think before we
12 make this decision.
13 CHAIRMAN PHILLIPS: That's
14 an excellent point.
15 Ms. Meritt, do you have a --
16 MS. MERRITT: Yes.
17 Especially if we -- we might -- if we do
18 the round table, we probably need to move
19 it to after the Commission meeting and that
20 way we have more time.
21 CHAIRMAN PHILLIPS: Are you
22 proposing the round table?
23 DR. RICHARDSON: No, I am

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1 Other Business item.
2 DR. RICHARDSON: Yes.
3 CHAIRMAN PHILLIPS: Agenda
4 Item 4, future Rulemaking Committee
5 meeting. As I stated before, I will not be
6 at the next Commission meeting on June 19th
7 because of a conflict that I have that I
8 can't rearrange.
9 Most certainly, the Committee
10 can meet, if you'd like. But as we just
11 discussed earlier, it would give us the
12 time to get these categories out and to
13 really cover this very deliberately.
14 So I would like to entertain a
15 motion to set the next meeting on August
16 the 21st, which is our next full Commission
17 meeting, at 10 a.m. in the morning.
18 MS. MERRITT: So moved.
19 DR. RICHARDSON: Second.
20 CHAIRMAN PHILLIPS: Any
21 discussion?
22 DR. RICHARDSON: Discussion,
23 yes, Chairman Phillips. If I'm hearing

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1 not. I just assumed that that there will
2 be a lot -- there may be a lot for us to
3 talk and discuss.
4 CHAIRMAN PHILLIPS: A lot of
5 volume to those minutes.
6 MR. TAMBLING: Yes. You
7 know, one suggestion would be that you
8 convene the meeting at 10 a.m., adjourn it.
9 And then if you have to come back
10 afterwards, you could do that. You
11 wouldn't have to necessarily start hard and
12 fast at one, but that's up to you.
13 DR. RICHARDSON: That's
14 perfectly okay with me. I just don't --
15 you know --
16 CHAIRMAN PHILLIPS: I
17 think -- well, from my perspective, you've
18 got a long way to drive, and we all kind of
19 converge here. I have the least amount of
20 time to drive. But to get here at ten and
21 then find out that you need to stay later,
22 I think I would prefer to know that we're
23 going to start at one and it ends when it

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1 ends, as opposed to coming in at ten and
2 realizing that we did get done or that
3 we're not going to get done.
4 I really don't want to
5 presuppose that we're trying to drive the
6 meeting to a conclusion if we don't need to
7 finish. I mean, if we think we can get
8 finished from ten to 11, I think that's
9 good. If we think we can, but we're not
10 sure enough that we would come back --
11 DR. RICHARDSON: Do we have
12 to set this time now?
13 CHAIRMAN PHILLIPS: Well,
14 you can correct me if I'm wrong, Debi, we
15 can set the time and then amend it?
16 MS. THOMAS: Right, you
17 could.
18 CHAIRMAN PHILLIPS: Up to,
19 what, 30 days?
20 MS. THOMAS: Yes. I will be
21 putting out my first notice 30 days before
22 the next meeting.
23 DR. RICHARDSON: My reason

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1 So I just -- just give us your input,
2 please.
3 CHAIRMAN PHILLIPS: As
4 Chair, I will open it back up to the floor.
5 Any thoughts, concerns?
6 MR. REID: Mitch Reid from
7 the Alabama Rivers Alliance. Just as a
8 matter of efficiency, if it's sort of
9 agreeing that if you -- it may go over,
10 then I would probably rather see it listed
11 as one with the ability to change it to
12 other way, versus ten with the possibility
13 of going back to one. I mean, but,
14 honestly, it's whichever is easier for your
15 driving and your schedules.
16 MR. MULLEN: Are we talking
17 July or August?
18 CHAIRMAN PHILLIPS: We're
19 talking about August.
20 MR. MULLEN: August, I think
21 there's supposed to be another
22 Environmental Stakeholders Meeting after
23 the AEMC meeting, and I think there may be

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1 for saying that is that by then we will
2 have this information from you. We will
3 have each had time to kind of go through
4 it, and we may have a better idea of the
5 kind of time involved.
6 CHAIRMAN PHILLIPS: Why
7 don't we do this, why don't we leave it at
8 ten? And then if it looks like based on
9 what we get out of the category sheet,
10 that, wow, this is a lot, Robert, Debi, can
11 talk to each of us and get our
12 perspectives. If our perspective is, We're
13 never going to get this done between ten
14 and 11, then we will move it to one. If we
15 think we've got a shot at getting it done
16 between ten and 11, we'll leave it at ten.
17 Does that make sense?
18 DR. RICHARDSON: Before we
19 actually take action on this, again, I
20 would like to hear from the audience,
21 because that could put some of you at a
22 disadvantage in being here if we're not --
23 but we do have to decide within 30 days.

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1 people that want to be in both.
2 CHAIRMAN PHILLIPS: That's
3 an excellent point.
4 Yes, ma'am?
5 MS. COPELAND: I am Gigi
6 Copeland. I'm a private citizen.
7 CHAIRMAN PHILLIPS: Thank
8 you for being here.
9 MS. COPELAND: Thank you.
10 If you are interested in enhanced
11 communication, I think breaking a meeting
12 off and restarting it may not be the best
13 choice, because you may lose what
14 communication you had.
15 CHAIRMAN PHILLIPS: That's a
16 good point. Anyone else?
17 (No response)
18 CHAIRMAN PHILLIPS: Thank
19 you. Back to the dyas.
20 MS. MERRITT: I think we
21 should do it at ten right now. And then
22 after we look at what we have and we see if
23 we need more time, we'll go from there.

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1 DR. RICHARDSON: And if
2 there's interference with a stakeholders
3 meeting afterward, we can just meet again
4 at another time.
5 CHAIRMAN PHILLIPS: True.
6 True. So you're okay with the motion as it
7 stands?
8 DR. RICHARDSON: Yes, I'm
9 okay with the motion as it stands.
10 CHAIRMAN PHILLIPS: Okay.
11 All in favor of the motion, which is the
12 meeting of the Rulemaking Committee will be
13 on August 21st, 2015, at 10 a.m. in the
14 morning, signify by the sign "aye."
15 (All Committee members
16 indicate "aye.")
17 CHAIRMAN PHILLIPS: All
18 opposed?
19 (No response)
20 CHAIRMAN PHILLIPS: Motion
21 carries.
22 I will entertain a motion to
23 adjourn.

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1 MS. MERRITT: So moved.
2 DR. RICHARDSON: Second.
3 CHAIRMAN PHILLIPS: All in
4 favor?
5 (All Commission members
6 signify "aye.")
7 CHAIRMAN PHILLIPS: Thank
8 you.
9 (The meeting adjourned at
10 10:39 a.m.)
11 *****
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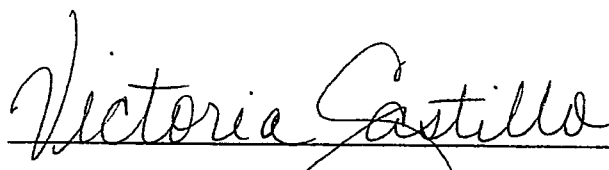
1 STATE OF ALABAMA)
2 COUNTY OF MONTGOMERY)
3
4 I hereby certify that the above
5 proceedings were taken down by me and
6 transcribed by me using computer-aided
7 transcription and that the above is a true
8 and accurate transcript of said proceedings
9 taken down by me and transcribed by me.
10 I further certify that I am
11 neither of kin nor of counsel to any of the
12 parties nor in anyway financially
13 interested in the outcome of this case.
14 I further certify that I am duly
15 licensed by the Alabama Board of Court
16 Reporting as a Certified Court Reporter as
17 evidenced by the ACCR number following my
18 name found below.
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21
22 VICTORIA CASTILLO, ACCR #17, 9/30/15
23 FREELANCE COURT REPORTER

1 STATE OF ALABAMA)
2 COUNTY OF MONTGOMERY)
3

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20 
21

22 VICTORIA CASTILLO, ACCR #17, 9/30/15

23 FREELANCE COURT REPORTER

*	appropriate (1) 8:14	11:6;13:15;18:10;21:7, 9,14,15;22:10;25:3	4:15,23;6:5,17;11:4; 18:6,16;19:8,19;26:5	D
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Part B

Attachment 1

AGENDA*
MEETING OF THE
RULEMAKING COMMITTEE
OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION

DATE: April 17, 2015

TIME: 10:00 a.m.

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

ITEMS

1. Consideration of minutes of meeting and work session held on February 20, 2015**
2. Discussion and consideration of Division 2, Environmental Management Commission Regulations, Rule 335-2-3-.05, Agenda, Sections (1) through (3)
3. Other business
4. Future Rulemaking Committee meeting

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

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

1. CONSIDERATION OF MINUTES OF MEETING AND WORK SESSION HELD ON FEBRUARY 20, 2015
2. DISCUSSION AND CONSIDERATION OF DIVISION 2, ENVIRONMENTAL MANAGEMENT COMMISSION REGULATIONS, RULE 335-2-3-.05, AGENDA, SECTIONS (1) THROUGH (3)

The Rulemaking Committee continues its re-examination and study of Rule 335-2-3-.05, Agenda, Sections (1) through (3). This rule includes the procedures and requirements regarding requests from the public to appear before the Commission at its meetings following consideration of agenda items.

3. OTHER BUSINESS
4. FUTURE RULEMAKING COMMITTEE MEETING