



ALABAMA ENVIRONMENTAL UPDATE

ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION MEETING OF APRIL 18, 2008

The meeting began with the approval of the minutes from the previous meeting held on March 20, 2008.

ADEM Director's Report

ADEM Director Trey Glenn touched on many subjects during his report. As an initial order of business, Director Glenn noted that he did not anticipate any additional rulemaking between now and the next EMC meeting. He also noted that ADEM was operating on budget for the year, but that the budget recently passed by the Alabama Legislature included substantial cuts, reducing ADEM's budget to pre-2007 levels. Lastly, Director Glenn praised ADEM's staff for their hard work in getting the Solid Wastes and Recyclable Materials Management Act, Act 2008-151, signed into law.

Commission Actions

Following the Director's report, the Commission addressed several agenda items. First, the Commission voted unanimously to approve the adoption of proposed amendments to the Division 14 Hazardous Waste Regulations, to conform them to the federal regulations. Second, the Commission voted to approve proposed amendments to Division 6 – Water Quality Criteria and Water Use Classifications Regulations. The amendments included adding a relative source contribution factor to the equation used to calculate human health criteria for non-carcinogenic pollutants. The amendments also changed the risk level used to calculate human health criteria for all carcinogens from 1×10^{-5} to 1×10^{-6} , with the exclusion of arsenic. The amendments also clarified ADEM's process for reviewing and modifying the assigned use classifications for any usage that has an associated degree of quality considered to be less than that applicable to the classification for "Fish and Wildlife."

Third, the Commission voted unanimously to direct ADEM to amend the reference dose (RfD) for acrolein and phenol found in ADEM's water quality regulations. Acrolein and phenol are chemicals commonly used by various industries in Alabama. ADEM's current RfD for these chemicals is consistent with EPA's 2006 National Recommended Water Quality Criteria. However, the Commission directed ADEM to amend the RfD for acrolein from 0.0156 mg/(kg-day) to 0.0005 mg/(kg-day) and the RfD for phenol from 0.6 mg/(kg-day) to 0.3 mg/(kg-day), which is the level indicated in EPA's Integrated Risk Information System (IRIS).

Lastly, the Commission discussed whether to have the Commission meetings at different locations around the state, other than just Montgomery. Both Commissioners Archie and Felker supported the idea; however, Commissioners Gardner and Wainwright did not. Commissioner Phillips' vote was the tie-breaker and he agreed that having a trial-run of having meetings in other locations would be appropriate. The next Commission meeting will take place in Montgomery and at that meeting the Commissioners will vote where the location of the next meeting should be.

Other Items

On April 15, 2008, Governor Bob Riley signed into law the Solid Wastes and Recyclable Materials Management Act, Ala. Act 2008-151, amending the Alabama Solid Waste Disposal Act. Among other things, the Act imposes a statewide fee of \$1 per ton on solid waste disposal which will help to adequately fund ADEM's solid waste regulatory activities. The Act also creates new penalties for violations of the provisions of the Act or its implementing regulations. For more information, please contact Jim Noles at (205) 226-8767 or jnoles@balch.com or Thomas Casey at (205) 226-3480 or tcasey@balch.com.

On April 16, 2008, the United States House Transportation and Infrastructure Committee held a hearing on the proposed Clean Water Restoration Act. This bill, if enacted, would expand the jurisdictional scope of the Clean Water Act by removing any reference to the "navigability" of waters. Specifically, the bill replaces references to "navigable waters of the United States" with "waters of the United States" so as to extend federal authority over all interstate and intrastate waters and wetlands in the nation. For more information, please contact Tripp Head at (205) 226-3414 or thead@balch.com or Steven Burns at (205) 226-8736 or sburns@balch.com.

Next Meeting

The Commission will hold its next regularly scheduled meeting on June 27, 2008.

Questions about items appearing in this Update may be directed to Steve McKinney at (205) 226-3496 in Birmingham or Jim Byram at (334) 269-3159 in Montgomery, or our website can be accessed at www.balch.com. This publication is intended to provide general information and does not constitute advice. It is not intended as a solicitation and, in the event legal services are sought, no representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers.