



# Alabama Environmental Update

## Alabama Environmental Management Commission Meeting of October 6, 2006

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The meeting began by Commissioner Phillips welcoming the Commission's two newest members, Anita Archie and Dr. Laurel Gardner. The Commission then elected Commissioner Phillips as Chair and Dr. Felker as Vice-Chair; Commissioner Hairston as Chair of the Strategic Planning Standing Committee; Commissioner Archie as Chair of the Personnel Committee; Commissioner Gardener as Chair of the External Relations Committee; and Commissioner Wainwright as Chair of the Rulemaking Committee. The introductory business ended by approving the minutes from the August 11, 2006 meeting. All Commissioners were present at the meeting.

### **Director's Report**

ADEM Director Trey Glenn began his report by announcing that the new 2007 fiscal year began on October 1, 2006. The Director also provided the Commission with an

update on ADEM's current initiatives. The Department is working to institute an "e-database" for discharge monitoring reports and, by 2007, the Department hopes to have the ability for "e-permitting." In addition, Director Glenn noted that he has implemented an initiative to examine all ADEM processes to ensure that the Department is functioning as efficiently as possible. The Director noted that EPA's new fine particulate matter standard has been reduced from 65 to 35 micrograms per cubic meter. The Director stated that some areas of Alabama are still in non-attainment for the annual particulate matter standard. Lastly, the Director announced that, on October 1, 2006, Mr. Elliot Lang took over as ADEM's Environmental Justice Coordinator.

Commissioner Wainwright questioned Director Glenn about the use of ADEM's airplane for aerial inspections. Director Glenn

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indicated that the plane is currently being used for investigations regarding NPDES storm water compliance at construction sites. Director Glenn stated that the Department hopes to expand the use of the plane to other inspection programs, such as scrap tire investigations.

### **Commission Actions**

First, the Commission adopted two resolutions honoring former Commissioners Pat Byington and Riley Smith for their years of service on the Commission. Commissioner Phillips also noted that the Commission will vote on new guidelines for public comment at the Commission's December meeting.

Next, Commissioner Hairston provided a summary of the current draft Strategic Plan. Commissioner Felker noted that the Strategic Planning Standing Committee worked extremely hard to develop the plan but he wanted to confirm whether all seven members of the Commission wholeheartedly supported it. Commissioner Archie questioned the fiscal impact of the plan on the Department. Similarly, Commissioner Gardner noted her concerns about implementing a plan that she did not have "a hand in." In response to these concerns, Commissioner Felker moved to delay sending the plan to public comment until the Commission's December meeting in order to provide the entire Commission, including the newest members, with an adequate opportunity to review the plan and provide input. This motion passed unanimously. Commissioner Wainwright noted

that he would like to see ADEM develop its own plan to provide the Commission with an idea of what goals the Department hopes to accomplish.

Moving to other matters on its agenda, the Commission voted unanimously to approve the proposed amendments to Division 1 - General Administrative Regulations. The Division 1 regulations allow for electronic signatures with the submittal of electronic applications, the addition, deletion, and modification of Departmental forms, and a 7% permit fee adjustment (this adjustment does not apply to Title V permits).

With respect to the new mercury regulations, the Commission also voted unanimously to approve adding Chapter 335-3-21 to Division 3 - Air Regulations for the control of mercury emissions from specified categories of stationary sources, as required by EPA. These federally-mandated regulations, known as the Clean Air Mercury Rule, will impose a cap and trade mercury limit on coal-fired utilities starting in 2010.

Turning its attention to ongoing administrative proceedings, the Commission noted for the record that the Request for Hearing in Earl Kennedy v. ADEM, EMC Docket No. 06-09, has been withdrawn.

### **Public Comments**

Before adjourning, the Commission listened to comments by Rev. Mark Johnston of the ADEM Reform Coalition. Rev. Johnston welcomed the newest Commissioners and

presented a revised and updated copy of the ADEM Reform Coalition's Blueprint for ADEM Reform.

### **Other Items**

Did you know that any person who "offers" for transport large quantities of hazardous materials must annually register with the U.S. Department of Transportation ("DOT")? "Offering" for transport includes, among other things, making the hazardous material available to a carrier for transportation in commerce. *See* 49 C.F.R. § 171.8. In fact, this DOT registration requirement may even apply to hazardous waste generators already complying with the EPA and ADEM hazardous waste regulations. For more information, please contact Rob Fowler at (205) 226-8733.

### **Next Meeting**

The Commission will hold its next regularly scheduled meeting on December 1, 2006.

Questions about items appearing in this update may be directed to Steve McKinney at (205) 226-3496 in Birmingham or Dorman Walker at (334) 269-3159 in Montgomery. 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.