



# Alabama Environmental Update

## Alabama Environmental Management Commission Meeting of June 29, 2007

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### Director's Report

Director Trey Glenn reported on administrative issues, including the budget. ADEM has a \$3 million shortfall in FY08 that it will meet with an increase from the general fund and changes in permit fees and ADEM's business practices. 90 days to submit comments responding to this change. Director Glenn stated that EPA anticipates it will issue the final standard by March 12, 2008. Lastly, Director Glenn gave two Pollution Prevention Awards to Lafarge and Toyota Motor Manufacturing of Alabama.

Director Glenn next spoke on the compliance status of a number of smaller entities holding National Pollutant Discharge Elimination System ("NPDES") permits, apparently in response to citizen e-mails to a number of Commissioners. According to Director Glenn, the holders of the permits in question tended to be

small municipalities, some serving fewer than 100 customers, and junior high schools. The Department had been in the process of addressing most of the issues before the e-mails were received. The Department attempts to avoid fining such entities as much as possible.

Director Glenn reported on four initiatives arising out of the Department's strategic planning process.

First, in the area of environmental justice: ADEM has studied demographic information to identify areas of concern and the Department has developed "Eleven Steps to a Better Alabama," a copy of which was made available.

Second, in the area of compliance and enforcement: The Department is developing a new guidance document which will be available as soon as this fall. Among the goals of the Department are to set clearer

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requirements in permits, to reduce discretion in permit enforcement, and to reduce the practice of repeated warning letters.

Third, in the area of external affairs: Director Glenn reported on several activities, including an environmental “roundtable” meeting in October for environmental groups, industry, and government to discuss and share the goals of their respective organizations; the use of outreach to enhance compliance, most notably with respect to small businesses; and a broad conference early in 2008 to provide an overview of major ADEM programs.

Fourth, the Department is executing Quality Management System principles to enhance the efficiency and effectiveness of its operations. He cited construction stormwater enforcement as a high-priority example. The Department is working to review sediment deposition, verify implementation of the Construction Best Management Practices Plan, eliminate economic incentives for noncompliance, enhance the use of electronic forms for information submittal, and ensure inspectors and site managers are using the same compliance checklists and forms.

Mr. Glenn reported that the Cancer Risk Advisory Panel formed by the Commission had met on August 6, 2007. Mr. Glenn will receive more information from the Panel on September 28 and report at the Commission’ October meeting.

EPA is investigating environmental hazards at the former Gulf States Steel facility in the Gadsden area.

EPA will direct a cleanup using \$3 million in federal funding, but if that is not sufficient, the site could be added to the National Priorities List (“NPL”). Subsequent cleanup would be subject to a cost share requirement; Alabama would provide 10% of the cost.

In anticipation of issues to be raised at public comment, Mr. Glenn noted that ADEM notifies the contiguous property owners of releases from underground storage tanks (“USTs”), posts sites of concern on the internet, and notifies appropriate authorities if there are emergency conditions. Mr. Glenn also observed that ADEM’s role in public notifications in response to fish tissue is limited. ADEM is involved in collecting and analyzing fish tissue, but any notifications occur later, i.e., after that raw information is provided to the Department of Public Health.

Finally, Mr. Glenn congratulated Mr. Davis Ajeagbu, Ms. Sonja Favors, and Ms. Tamaria McAlpin of the ADEM Land Division. EPA awarded them a Bronze Medal for Commendable Service for their work on issues in the Anniston area.

### **Report**

Commissioners Gardner, Archie, and Wainwright provided reports on the Committees on External Affairs, Personnel, and Rulemaking, respectively. Chairman Phillips reported on two issues. First, he stated that it may be necessary for the Rulemaking Committee to reconsider the process for public comment. He expressed concern that public comments were consuming as much time as the

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meeting itself, and that speakers from the public were not honoring the Commission's requirement to provide information at least two weeks in advance. Commissioner Felker also spoke about this issue at this time and immediately prior to adjourning. She observed that the Commission had heard comments from the public which either addressed areas over which the Commission lacked authority or included information of questionable accuracy. Second, Chairman Phillips noted that there will be chair and vice-chair elections in October.

### **Commission Actions**

The Commission received a report from Director Glenn on the possibility of a future rulemaking on amendments to ADEM Administrative Code Chapter 335-6-10, Appendix A (Reference Does – Acrolein and Phenol), in response to the Commission's directions issued at the previous Commission meeting. Director Glenn provided information on the status of water quality criteria for the two chemicals and the process for revising Alabama's criteria, including how Alabama's standards relate to EPA's Integrated Risk Information System ("IRIS"). Director Glenn reported that EPA would likely approve new standards for these two chemicals. However, he stated that any decision to change the criteria would be a policy decision for the Commission to make. The Commission took no action on this matter.

### **Public Comments**

The Commission heard five public comments:

(1) Mr. David A. Ludder, on behalf of Conservation Alabama, Inc., asserted that the levels of toxic air pollutants around the state were harmful to human health and he urged the Commission to take action to address the cumulative effects of air toxics. Commissioner Felker questioned whether ADEM had the authority to regulate in Jefferson County, and Mr. Ludder replied that in his view ADEM could regulate there if ADEM found the County's efforts inadequate. Mr. Ludder urged the Commission to review existing air quality data, consider adding more air quality monitors, identify existing programs elsewhere that may serve as a model to reduce threats to human health, and then to modify Alabama's program.

(2) Mr. Michael Mullen, on behalf of Choctawhatchee Riverkeeper, urged the Commission either to devote more resources to fish sampling, or to be less conservative in notifications of elevated mercury levels in fish where existing information may be dated or geographically limited.

(3) Ms. Jackie Tipper, on behalf of the Shoals Environmental Alliance and Alabama Arise, urged the Commission to enhance public notice of known contamination.

(4) Mr. Adam Snyder, on behalf of Conservation Alabama, urged the Commission to adopt a more restrictive gift policy for ADEM than existing government-wide

rules. In response to a question from Commissioner Felker, Mr. Snyder opined that the Commission had authority to impose more restrictive rules.

(5) Ms. Brantley Fry made comments in support of a vigorous strategic planning process.

**Next Meeting**

The Commission will hold its next regulary scheduled meeting on October 19, 2007