



ALABAMA ENVIRONMENTAL UPDATE

ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION MEETING OF APRIL 17, 2009

ADEM Director's Report

ADEM Director Trey Glenn addressed several subjects in his report to the Commission. Director Glenn first discussed the current 2009 budget and noted that there was a possibility of the Legislature introducing a supplemental budget for 2009 in response to a recent Alabama Supreme Court decision. Regarding the upcoming 2010 budget, Director Glenn stated that it was still in committee and being discussed but that he understood that the budget being proposed for ADEM would be approximately the same as the pro-rated 2009 budget. Director Glenn then briefly summarized present and upcoming rulemakings and noted that the Alabama Opacity Rule was presently being reconsidered by EPA.

Next, Director Glenn discussed the regulation of air toxics by ADEM. Specifically, Director Glenn stated that air toxics are regulated through ADEM's Maximum Achievable Control Technology (MACT) requirements, which exceed EPA minimum requirements. Director Glenn then announced that U.S. Environmental Protection Agency ("EPA") had selected four sites within Alabama to perform monitoring for air toxics. All four sites were located within Jefferson County and were therefore under the Jefferson County Health Department's purview, not ADEM's. Also, ADEM has recently begun enhancing its air compliance activities and has started targeting smaller sources in addition to larger sources.

Director Glenn then briefly discussed the federal stimulus package and noted that the most significant portion of the stimulus package for ADEM was the approximately ninety-three million dollars which will go toward ADEM's drinking water and waste water state revolving fund, thirty million of which will be put toward principal forgiveness. In addition, another four million dollars will be given to the Underground Storage Tank (UST) cleanup program.

Next, Director Glenn discussed ADEM's recent development of a Supplemental Environmental Project (SEP) Program. Under this program, a violator can undertake a SEP to offset part of its assessed penalty. ADEM is in the process of establishing a list of qualified SEPs throughout the state that a violator can consider to undertake instead of paying the full monetary penalty assessed under an administrative proceeding. Director Glenn noted that participation by a party would be totally voluntary; ADEM could not force a party to participate in this program.

Commission Chair's Report

Dr. Laurel Gardner, EMC Chair, did not provide a report to the Commission.

Strategic Planning Ad Hoc Committee Report

Commissioner Wainwright briefly stated that prior to today's Commission meeting, the Strategic Planning Ad Hoc Committee had met to discuss the reconciliation statements for the proposed amendments to the Division 1 – General Administration Regulations and the Division 2 – Environmental Management Commission Regulations, which he would be introducing to the full Commission today for adoption. After reviewing all of the comments, Commissioner Wainwright stated that the Committee has

recommended one small change to the proposed amendments to Division 1 that would allow the Commission to make changes to the Unified Strategic Plan (USP) whenever the Commission sees fit.

Other Commission Actions

Following Commissioner Wainwright's report, the Commission voted unanimously to amend the Division 1 – General Administration Regulations and the Division 2 – Environmental Management Commission Regulations. ADEM Administrative Code rule 335-1-1.03 was amended to establish a process for updating the USP. ADEM Administrative Code rule 335-2-2-.05 was amended to add a new subparagraph (h) to include consideration of the relevance and relation of a proposed rule to the most recent USP as an item the Commission may take into account when it considers petitions for rulemaking.

The Commission then heard from Mr. Gerald Hardy, Chief of the Land Division. Mr. Hardy requested the Commission add Division 5 to its Administrative Code to implement the Alabama Uniform Environmental Covenants Act, which was enacted into law in June 2007, and to revise Division 1 to include Schedule J – Environmental Covenant Fees. The Commission unanimously adopted the proposed amendments.

Next, the Commission heard from Mr. Dennis Harrison regarding proposed amendments to the Division 7 – Water Supply Regulations. Mr. Harrison proposed revisions to rules 335-7-2, 335-7-5, 335-7-6, 335-7-10, 335-7-11, 335-7-14 and Appendices A, B, and C to reflect changes in the federal National Primary Drinking Water Regulations. The Commission unanimously adopted the proposed amendments.

Mr. Hardy then addressed the Commission again regarding proposed amendments to the Division 13 – Solid Waste Regulations. Mr. Hardy proposed amending Division 13 by adding rule 335-13-11, which would establish the regulatory requirements necessary for the implementation of the Solid Waste Fund Site Remediation program. Mr. Hardy explained this fund would assess a one-dollar-per-ton fee. The fees collected from the fund would be used to clean up illegal dumps that threaten public health or that are discovered on an innocent landowner's property. The Commission unanimously adopted the proposed amendment.

Other Items

On April 17, 2009, following a scientific review ordered by the U.S. Supreme Court in 2007, the EPA issued a proposed finding that greenhouse gases contribute to air pollution that may endanger public health or welfare. The proposed finding identified six greenhouse gases that pose a potential threat—carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride. A public comment period of 60 days will open upon formal publication of the proposed finding in the Federal Register. The proposed action, as well as any future final action, would not itself impose any requirements on industry or other regulated entities. An endangerment finding under one provision of the Clean Air Act would not by itself automatically trigger regulation under the entire Act.

Next Meeting

The Commission will hold its next regularly scheduled meeting on June 19, 2009, in Montgomery, Alabama.