Guide for Citizen Participation

How to make your voice heard on community environmental issues

ADEM

Alabama Department of Environmental Management

Foreword

This Guide is based in part on *Indiana's Guide for Citizen Participation*, with permission from David Parry of the Indiana Department of Environmental Management.

The Alabama Department of Environmental Management (ADEM) created this document to make Alabama's laws and rules more understandable to the public and should not be used as a substitute for the actual, more formal text of Alabama law, Alabama environmental statutes, or Alabama regulations.

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Citizens' Guide

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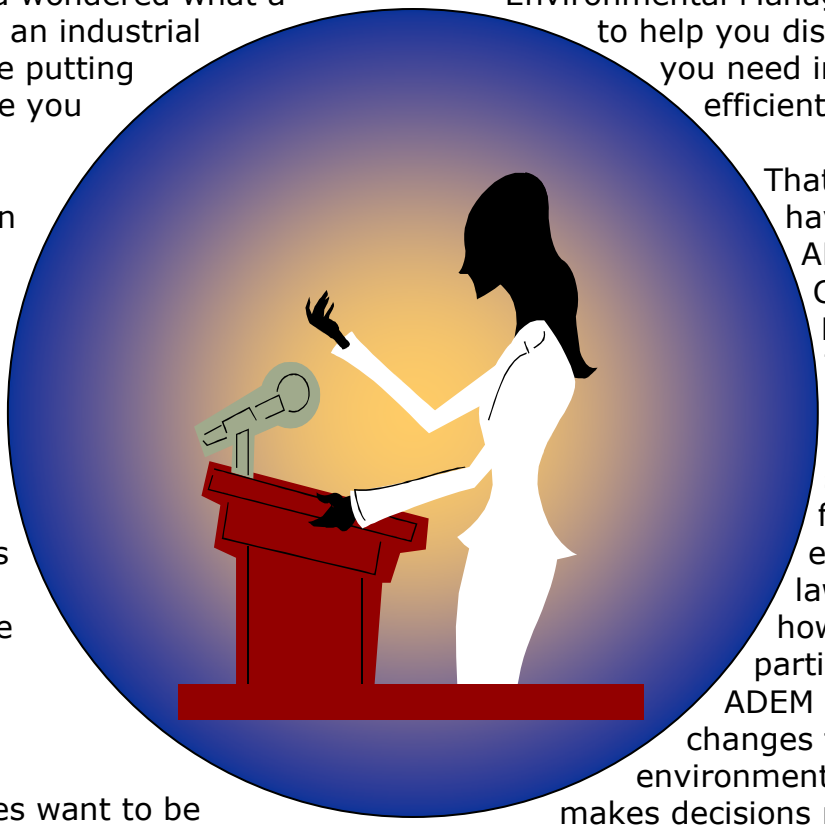
ADEM Guide for Citizen Participation

Introduction

Do you suspect there may be environmental hazards in your neighborhood?

Have you ever been concerned about what might be coming out of the pipe that empties into a stream or river? Have you wondered what a smoke stack at an industrial facility might be putting into the air? Are you curious if an industry is operating within prescribed environmental limits? Did a factory seem to experience sudden unexplained growth? Did you oppose this expansion, but not know where or to whom to address your concerns?



Many businesses want to be good neighbors, and are happy to share information with their neighbors. Similarly, government agencies want to get it right when providing you with the information you need, and have a right to review.

If you are seeking answers, but are having difficulty getting started, the Alabama Department of Environmental Management, wants to help you discover the facts you need in a timely and efficient manner.

That is why we have prepared the ADEM Guide for Citizen Participation. This guide can help you to understand state and federal environmental laws. It explains how you can participate when ADEM proposes changes to environmental rules, or makes decisions regarding issuing permits or conducting cleanup actions.

Since ADEM is not the only government agency with authority over environmental matters, this guide also can point you to other government agencies that may have authority over activities which are not regulated by ADEM.

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Part 1

What are some of the things you need to know to help you get involved in protecting your neighborhood environment?

Would you like to know how to become involved in environmentally-related issues in your neighborhood?

Because you have a right to know about activities that could affect the environment within your neighborhood, ADEM has put this information together to help you find the answers you need. Like all citizens, you have a right to know what's going on. And if you know what, where, and how to ask for the information you need, you will be more successful at getting it. You also may be more successful at changing the manner in which a proposed project or activity that you feel may have an impact on you, your family and neighbors will be carried out. It all starts with understanding the process; knowing how our government is organized, and how our environmental laws and rules are made and enforced.

What government agencies have authority over environmental issues?

When people in Alabama have a question or a complaint about the environment, many contact ADEM. However, while we do have authority over many environmentally related issues, we are not the only governmental agency to have a say in what many folks would consider environmental matters. There also are numerous federal agencies and other state agencies with authority over environmental matters within Alabama such as the U.S. Environmental Protection Agency (U.S. EPA), the Alabama Department of Conservation and Natural Resources, the Alabama Department of Public Health, the Alabama Department of Economic and Community Affairs - Office of Water Resources, or the Alabama Department of Agriculture and Industries. In addition, there are several local-level agencies (like your county health department) that also have authority over environmentally-related matters.

What is ADEM (the Alabama Department of Environmental Management), and what does it regulate?

ADEM was established by the Alabama Legislature in 1982. It is the state agency charged with regulating certain activities that could impact human health or the environment. ADEM regulates these activities in the manner that is described both in state environmental laws and, in even greater detail, in state environmental rules. (How rules differ from laws is discussed under "What is the difference between rules and laws?" on pages 5-9. How rules are made, and who makes them is discussed in Part 2.)

Generally speaking, ADEM is empowered by state environmental laws and rules to regulate:

1) Pollutants emitted into the air,

- From smoke stacks, from evaporation (such as from storage containers or facilities, or paint coating or drying processes), from open burning, or from some dust sources
- The construction or installation of site-specific devices that emit pollutants into the air, as well as the construction of pollution control devices

2) Pollutants discharged into the waters of Alabama,

- Any discharge of sanitary wastewater (from homes and public restroom facilities) or industrial wastewater (including process wastewater, cooling water, or certain stormwater runoff) flowing from a point source (such as a pipe or trench) onto the ground (where it may percolate into the soil or groundwater) or into virtually any stream, pond, or lake
- Stormwater runoff from certain construction activities

3) Maintenance of water quality from the impacts of dredging and other similar discharge-related activities,

4) The proper processing or disposal of solid wastes (which may be a solid, a liquid, or a contained gas),

5) The proper storage, treatment, or disposal of hazardous waste (hazardous waste includes solid waste or a combination of solid wastes that, because of its quantity, concentration, physical, or chemical characteristics, may cause or significantly contribute to an increase in mortality, serious irreversible illness, or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment.),

6) The proper handling, storage, and shipment off-site of hazardous wastes from facilities generating such wastes,

7) The cleanup, or the supervision of the cleanup, of land, water, or groundwater contaminated by the improper disposal, or accidental release, of solid or hazardous waste,

8) Underground chemical and petroleum storage tanks,

9) Activities involving the removal of asbestos,

10) The construction of public water supply facilities,

11) Overseeing the state program to protect the groundwater quality of public well fields, and

12) The monitoring of public water supplies to ensure safety.

Under what authority does ADEM regulate these activities?

The list on page 4 appears to be fairly long. However, there are many other environmentally-related matters over which ADEM has no authority, and that will be further discussed in Part 8.

ADEM is empowered by both federal and state government.

Regarding Federal Authority

Although federal environmental laws enacted by Congress and signed by the President generally empower the U.S. EPA to regulate activities that could impact the environment, U.S. EPA often delegates its authority to the individual states. For example, ADEM is empowered by the U.S. EPA to enforce the federal Clean Air Act (CAA) and the Clean Water Act (CWA).

ADEM issues permits to various commercial and industrial facilities or sources. Permits limit the air emissions or wastewater discharges from these facilities. ADEM inspectors then routinely visit these facilities to ensure they are operating in the manner allowed by their permits. When facilities or sources fail to operate under limits allowed by their permits, or fail to quickly return to permitted operating limits and conditions, ADEM can respond by issuing a legally binding written order to return the facility to their allowable operating limits and conditions. ADEM also can impose fines on those facilities or sources that violate their permits or fail to quickly make their operations conform to permit limits.

Regarding State Authority

ADEM is also empowered by state environmental laws enacted by the Alabama Legislature and signed into law by the Governor. Some of these state laws authorize ADEM to implement federal environmental laws on behalf of the state. Other state environmental laws enable ADEM to regulate activities not specifically regulated by the federal government. State law can also allow ADEM to impose additional standards that are stricter than federal standards, but no state can enact and enforce environmental laws that are less strict than federal standards. The state also has created the Alabama Environmental Management Commission (AEMC) that considers and adopts rules developed by ADEM staff directing exactly how the state laws (as well as the federal laws the state is empowered to enforce) are to be carried out.

What is the difference between rules and laws?

Laws often are written in broad, general language that sets standards of conduct, or minimum limits to be met, or maximum limits not to be exceeded. But our laws don't necessarily include details on what those standards or limits are, and how they are to be met. Because the topics addressed by some laws are so complex, rules are needed to provide the additional details that are otherwise too numerous and too specific to be written into the law. Adopting rules to help carry out laws is a well established practice, used throughout federal and state government. Thus, laws frequently are accompanied by rules that help to explain or clarify what must be done to obey those laws. However, if at any time a law and a rule on the same subject seem not to be in complete

agreement, always follow the law, instead of the rule.

> To learn more about environmental rules and where they come from, see Part 2, "Who makes Alabama's environmental rules and what is the rulemaking process?"

Laws: where can you find them?

Regarding Federal Laws

Many environmentally-related matters are governed by federal law, which is listed in the United States Code. However, since most such matters are addressed by the state, acting on behalf of the U.S. EPA, you will seldom need to refer to the U.S. Code while participating in the public process associated with environmentally-related decision making. The U.S. Code is very large. If you do need to refer to it, keep in mind that not all libraries in Alabama are likely to have a copy. However, there are 22 libraries in Alabama such as Alabama A&M, Tuskegee University, Auburn University and the University of Alabama that have been designated by the U.S. Government as Federal Depository Libraries. The U.S. Code (federal laws) and the U.S. Code of Federal Regulations (CFR) are among the federal publications available to the public at each federal depository. For more information about Alabama's Federal Depository Libraries and a complete listing of those libraries, please check pages 97-99 of this guide, "Federal Depository Libraries in Alabama." For those persons who cannot easily visit a federal depository, nearly all libraries in Alabama provide free public access to the Internet, where the U.S. Code is available at www.access.gpo.gov/uscode/.

If you are unfamiliar with how to use a computer, or the Internet, you can ask a reference librarian for assistance.

Regarding State Laws

All Alabama laws are listed in the Code of Alabama. It is made up of 44 separate "titles," and is published in 35 volumes, including indexes and supplements. Many university and public libraries in Alabama have a copy of the Alabama Code. It also can be found on the Internet at www.legislature.state.al.us/CodeofAlabama/1975/coatoc.htm from where it may be viewed, and selected sections may be printed.

Alabama is an "authorized" state, meaning that it is authorized by EPA to administer state environmental law in lieu of most federal environmental laws. The laws under which ADEM can write regulations are found in Title 22 of the Code of Alabama 1975.

Nearly all libraries in Alabama have Internet access. If you are unfamiliar with how to use computers, or the Internet, ask a librarian for assistance.

Rules and regulations: where can you find them?

Regarding Federal Regulations

The federal government calls its rules "regulations." All federal regulations are listed in the Code of Federal Regulations, often referred to as the "CFR." The CFR is extraordinarily large. Its 50 separate "titles" include specific details about how to carry out and enforce all federal laws. For example; Title 7 covers agriculture, Title 10 energy. Title 36 deals with parks and forests, while Title 43 covers other public lands. Title 50 is wildlife and fisheries. Title 40, "Protection of the Environment" lists most laws enforced by ADEM.

It is a virtual encyclopedia of environmental regulation; requiring 24 volumes to include all its "parts," which run from Part 1 through Part 799, plus Part 1500 through Part 1516.

The regulations on hazardous wastes alone extend from Part 260 through Part 299 and are more than 1,100 pages long comprising volumes 25 and 26 of Title 40. However, despite its large size, the CFR is organized efficiently to help users find what they are looking for. The other "good news" about using the CFR is that you usually won't have to use it, because most of the environmental rules that must be followed in Alabama (even the rules to meet federal requirements) are instead listed in the Alabama Administrative Code, which is discussed below. For example, the standards and requirements derived from the federal CWA and CAA are explained in detail in the state environmental rules. Nonetheless, there are instances when the state simply incorporates federal regulations into state rules by reference; that is, the federal regulations also serve as the state rules. In those instances, if you want to look at the state rules, you must look in the federal regulations. For example, the state rules for regulating hazardous wastes that are restricted from land disposal are explained in detail in the federal regulations. Not all libraries are likely to house a full set of the Code of Federal Regulations. However, the 22 federal depository libraries throughout Alabama will each have a copy of the CFR. For more information about Alabama's Federal Depository Libraries and a complete listing of those libraries, please check pages 97-99, "Federal Depository Libraries in Alabama." In addition, nearly all libraries in Alabama provide Internet access to the public. On the Internet, you can visit The U.S. National Archives and Records Administration webpage (www.access.gpo/gov/nara/cfr/) from which you can find and print out specific portions of the CFR. If you are unfamiliar with how to use computers, or the Internet, you can ask a librarian for assistance.

Regarding State Rules

Just as federal rules are all listed in the CFR, all the rules that accompany and clarify state laws are listed in the Alabama Administrative Code, which is considerably smaller than the CFR.

The Alabama Administrative Code (or AAC) is published by the Legislative Reference Service pursuant to Ala. Code § 41-2-7 (e) (2000 Rplc. Vol.). The Alabama Administrative Code is a compilation of the rules of all state agencies covered by the Alabama Administrative Procedure Act. The AAC has 116 separate "titles" that run non-consecutively from Title 20 to Title 950. The Code is compiled by agency name and includes a table of contents for each agency's rules. The state rules that regulate environmental protection are in Title 335. The Code is available at www.alabamaadministrativecode.state.al.us/docs/adem/index.html. You may obtain additional information about the AAC, including acquiring the code in hardcopy form, by contacting the Legislative Reference Service (LRS), Administrative Procedure Division, 435 Alabama State House, Montgomery, Alabama 36130. Telephone: (334) 242-7570.

The most current ADEM Administrative Code is available at www.adem.state.al.us/alEnviroRegLaws/default.cnt., or you may call (334) 394-4360.

Now that you know where to find copies of state and federal laws, rules, and regulations, how do you use them to find what you need?

You know where to find copies of the U.S. Code, the CFR (Code of Federal Regulations), the Code of Alabama and the Alabama Administrative Code. But each is so large; how do you use them to find the few pages you may need? Try to think of it this way. To reference a specific quote from Shakespeare, a person would name the play, the act, the scene, and sometimes even the line, where the quote can be found. Just think of state or federal law, rule, and regulation code books in the same way. Nearly every sentence, or at least every paragraph, has its own sequence of identifying numbers and letters. Frequently, the public notice announcements, fact sheets, and other documents made available by ADEM as part of its public participation processes will list the law or rule code citations under which the particular rulemaking, permit request, or cleanup project in which you are interested is being conducted. ADEM public notices always provide an agency contact person, so if the relevant code citations are not part of the public notice announcement, you may call the listed contact person to get any code citations you may need. Each of these sets of law or code books is like an encyclopedia; they are large, they have lots of information, and they have a table of contents and an index. If you don't know the particular sequence you need to find what you are looking for, you also can search for it using the index or table of contents. In addition, if the code books are on the Internet you also may be able to search through them using key words. Again, nearly all libraries in Alabama have Internet access. If you don't know much about computers or the Internet, ask a librarian to help you.

How Laws and Rules are Referenced

Laws: Below is an example of the scheme for labeling, or being able to find, a specific law in the Alabama Code such as § 22-22A-4(a).

22-	22A-	4	(a)
Title	**Chapter**	**Section**	**paragraph**
Health, Mental Health And Environmental Control.	Environmental Management	Department of Environmental Management created, etc.	There is hereby created and established the Alabama Department of Environmental Management to carry out the purposes of this chapter …..

Rules: Below is an example of the scheme for labeling, or being able to find, a specific rule in the ADEM Administrative Code such as r. 335-1-1-.01.

335-	1-	1-	.01
ADEM	**division**	**chapter**	**rule**

335-1 represents division 1 of our regulations. It describes our General Administration procedures.
335-1-1 represents chapter 1 (Organization).
335-1-1-.01 represents the first rule (.02 is the second, etc.)
The first paragraph of a rule is represented as (1) [(2) is the second, etc.] All other subdivisions of a rule are reflected as the subparagraphs.

Does ADEM have other materials available that may be helpful to you as you work to participate in processes that could affect your neighborhood environment?

Yes, ADEM has several resources available to help you participate in our environmental regulatory processes including:

- File rooms,
- Contact persons,
- Inclusion on ADEM mailing lists, and
- The ADEM Internet Web site, at adem.alabama.gov

The ADEM Web site includes: eFile, eComplaint, and "What's Happening in Your County.

For additional information on how to use the resources ADEM has available for you, please see pages 95-99, "Getting Started: What are the first steps to public participation?"

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Part 2

Who makes Alabama's environmental rules, and what is the rulemaking process?

Who makes our state environmental rules?

While state environmental laws are enacted by the State Legislature, and then signed into law by the Governor, state environmental rules (to further clarify environmental laws) are adopted by the Alabama Environmental Management Commission (or AEMC).

Who are the members of the AEMC?

The AEMC is composed of seven members who are citizens of the State of Alabama. In 1982, initial members of the Commission were appointed to their positions by the Governor, Lieutenant Governor, and Speaker of the House of Representatives with the advice and consent of the Senate. All subsequent appointments to places on the Environmental Management Commission have been made by subsequent Governors with the advice and consent of the Senate. No member of the Environmental Management Commission may serve more than a total of 18 years. When a vacancy occurs during a period when the Legislature is not in session, the appointee shall have the full power of the office until and unless the Senate, upon the reconvening of the Legislature, shall by affirmative vote refuse to consent to such appointment. Qualifications of the seven members shall be as follows:

(1) One member shall be a physician licensed to practice medicine in the State of Alabama and shall be familiar with environmental matters;

(2) One member shall be a professional engineer registered in the State of Alabama and shall be familiar with environmental matters;

(3) One member shall be an attorney licensed to practice law in the State of Alabama and shall be familiar with environmental matters;

(4) One member shall be a chemist possessing as a minimum a bachelor's degree from an accredited university or a veterinarian licensed to practice veterinary medicine in the State of Alabama and shall be familiar with environmental matters;

(5) One member that has been certified by the National Water Well Association Certification Program;

(6) One member shall be a biologist or an ecologist possessing as a minimum a bachelor's degree from an accredited university and shall have training in environmental matters; and

(7) One member shall be a resident of the state for at least two years but shall not be required to have any specialized experience.

Who proposes rules to the AEMC?

ADEM proposes "draft rules" to the AEMC for their approval. These "draft rules" are based on ADEM's interpretation of state and federal laws. Any rules proposed by ADEM must be adopted by the AEMC prior to becoming effective.

Any person may petition the Commission to adopt, amend or repeal a rule by making and filing a written petition. The specific requirements for petitions are found in the ADEM Administrative Code chapter 335-2-2.

The Commission must act within 60 days of receipt of a petition unless the Commission's next regularly schedule meeting is not within the 60 day period. In that case, the Commission may extend the period an additional 30 days. The Commission will either initiate rulemaking or deny the petition in writing stating the reasons based on the merits.

When does the AEMC meet?

The AEMC is required by law to meet regularly, at least once every two months, at times and places to be fixed by the Commission. Special meetings may be called at the discretion of the chairman and special meetings shall be called by him/her on written request of any four members to take up any matters within the jurisdiction of the Commission. All members shall be notified of the time and place of any regular or special meeting in any one of the following ways: in writing, by telegram to a member's last known address as provided to the Department or by telephone.

You also can view listings of current Commission membership, review minutes from past Commission meetings, or obtain agendas and upcoming meeting information by visiting the ADEM Web site on the Internet. (Most public libraries provide free Internet access.) Agendas generally are available on the Internet at least 30 days prior to scheduled meetings.

How can members of the public address the AEMC?

Members of the public wishing to speak at regularly scheduled Commission meetings must submit to the Commission Office a written request along with a description of the matter they wish to raise before the Commission. Written requests must include the name, address, telephone number and, if applicable, the email address of any and all persons who wish to address the Commission, as well as a description of the matter to be discussed. Written requests from members of the public wishing to appear before the Commission must be received by the Commission Office not later than 14 days prior to the next regularly scheduled meeting of the Commission. Such submissions shall be in writing and delivered by hand, U.S. Mail, facsimile, or private express delivery service. The Chair of the Commission, or designee, shall notify those persons requesting an opportunity to address the Commission, in writing, as to the proposed disposition of their request. The Chair of the Commission shall have the final agenda published along with the list of persons who will appear and the subjects they will address on the Department website and at the Commission office at least seven days before the Commission meeting. The Commission shall set reasonable time limitations on public appearances before the Commission.

Alabama Environmental Management Commission
Executive Assistant
(334) 271-7706
Physical Address: 1400 Coliseum Boulevard
Montgomery, AL 36110-2059
Mailing Address: P. O. Box 301463
Montgomery, AL 36130-1463

Individuals needing special accommodations for participation in Commission meetings or ADEM sponsored hearings and meetings should contact the ADEM Permits and Services Division at (334) 271-7714 at least five working days prior to the meeting or hearing.

What other Boards or Commissions exist that are related to environmental matters?

- There are several Boards and Commissions that ADEM works with regarding environmental matters such as the Alabama Drycleaning Environmental Response Trust Fund Advisory Board, the Alabama Land Recycling and Economic Redevelopment Commission, the Alabama Underground and Aboveground Storage Tank Trust Fund Management Board, and the Alabama Scrap Tire Commission. These bodies are subject to the Alabama Open Meetings Act (see page 17). This law guarantees that Alabama's citizens have open access to agencies, boards, commissions, and other governmental bodies which conduct the people's business. Any environmental rules that may be developed pursuant to the laws that established these Boards/Commissions would be initiated through ADEM's rulemaking processes.

What is the process associated with making environmental rules, and what are the opportunities for public participation within that process?

New environmental rules, or changes to existing rules, are generally initiated for one of the following reasons:

- Congress passes new environmental law and/or the U.S. EPA adopts a new federal rule or modifies an existing rule. Alabama must adopt a new state rule or modify an existing one to ensure compatibility with federal regulations. Normally, ADEM would propose such changes;
- The public may petition the AEMC to initiate a new rule, which is reviewed by the AEMC's Rulemaking Subcommittee. The Subcommittee makes a recommendation to the full Commission. If the reasons cited in the public petition are sound, based upon solid evidence and are accepted by the AEMC, the rulemaking process will be initiated;
- The Alabama Legislature can enact new environmental laws and it may be necessary to adopt regulations to implement those new statutes. ADEM would propose such rules;
- A concern in existing ADEM regulations may be identified that can be addressed under existing statutory authority. The requisite revisions may be drafted by ADEM or by ADEM in concert with others.

The Rulemaking Process:

- The Alabama Administrative Procedure Act requires a 35-day public notice of a proposed rule which is published in the Alabama Administrative Monthly. The public notice describes the proposed rule, and the date, time and place of a public hearing where interested citizens may comment on the proposed rule. The public notice will also list a deadline for receipt of written or electronically-submitted comments.

> Rulemaking procedures for all state agencies can be found in the Alabama Code (statutes) at Ala. Code § 41-22-1 (2000 Rplc. Vol.), *et seq*. (*et seq*. means "and the following one or ones").
> § 22-22A-8 also applies to ADEM.

- The Environmental Management Act [Ala. Code § 22-22A-8 (2006 Rplc. Vol.)] requires publication in the three newspapers of the state with the largest circulation. However, ADEM routinely publishes the notice in the four major dailies. This Act also requires a 45-day public notice prior to the public hearing, which can run concurrently with the notice published in the Alabama Administrative Monthly. Additionally, advanced notice of a proposed rule is sent to all individuals who have requested to be on ADEM's mailing list, as well as county newspapers in the state. Complete copies of the proposed rule are also made available for public review at ADEM's central office in Montgomery; at the Department's field offices in Decatur, Birmingham, and Mobile; the Department's Web page; and the Legislative Reference Service in Montgomery. If the draft rule will modify an already existing rule, the new language text being proposed to be inserted into the rule will appear underlined, while any existing language being proposed to be removed from the rule will appear as ~~strikethrough~~ text.
- A public hearing is conducted on all ADEM or AEMC rulemaking activities to solicit public comments. A Hearing Officer conducts the public hearing and a court reporter records and subsequently transcribes all comments for inclusion in the record of the rulemaking. The Hearing Officer has no decision-making authority, but serves as an administrator of the process, explaining the purpose of the public hearing, receiving oral and written testimony for the record, and generally maintaining order.
- If ADEM is proposing a rule, a representative explains the proposed rule and why it is being offered. Persons who have pre-registered are then called upon to offer comments, data, views, and arguments on the proposed rule. Those not wishing to speak or who wish to submit lengthy technical data in support of their views are encouraged to submit written comments.
- The hearing record, which encompasses all oral and written comments submitted within the prescribed period, is then reviewed by the ADEM staff. This review is made to determine if the rule should be proposed as drafted or if changes are appropriate. As a part of the review, ADEM personnel develop a "reconciliation statement" (or, response to comments) addressing the public comments submitted and,

if any changes to the proposed rule are made, an explanation why they were made. If significant changes are deemed appropriate, a new public comment period is required to effect such changes to the proposal. A copy of the Department's response is mailed to all persons who request it.

- If, after completion of the public hearing, review of the record and compilation of the reconciliation statement, ADEM wishes to propose the rule for the AEMC's consideration, the complete record, reconciliation statement, and proposed rule is provided to the AEMC.
- The AEMC considers the hearing record and at its next business meeting votes to adopt, reject, or modify the proposed rule. Once the AEMC has taken action on the proposed rule, any aggrieved (aggrieved means having suffered a threatened or actual injury in fact) person has 45 days to appeal that decision. In such instances, a Hearing Officer assigned by the Attorney General's Office will hear the appeal and make a recommendation to the AEMC.

It is important to note that a person does not have to attend the Public Hearing to have his/her comments entered into the record. Comments that are submitted through the mail and e-mail are given the same consideration as those that are presented in person at the public hearing.

What determines when a public comment period or an appeal period, officially begins and ends?

When computing the days within a public comment period, or the timeframe within which a decision may be appealed, the day the public notice was published (in a newspaper, or in the Alabama Administrative Monthly if it was a notice of a rulemaking), or the permit decision was issued, is not counted as one of the days of the comment period or period within which an appeal can be filed. If the final day of a public comment period or period within which an appeal may be filed is a Saturday, a Sunday, a legal holiday under a state statute, or a day that the office issuing the notice of decision or considering the petition to appeal is closed during regular business hours, then the comment period or period within which an appeal can be filed, runs until the end of the following day.

What is the Alabama Administrative Monthly and what public notice information might it contain regarding rulemaking efforts by ADEM and the AEMC?

The Legislative Reference Service or LRS is the principal bill-drafting and legal research office serving the Legislature of the State of Alabama. It is one of four nonpartisan agencies serving both the Alabama House of Representatives and the Senate; the other agencies are the Alabama Law Institute, the Legislative Fiscal Office, and the Examiners of Public Accounts. The Alabama Administrative Code (as discussed in Part 1 on page 7, which is comprised of 116 separate "titles" listed in 38 volumes), is the LRS' official publication containing all of the rules of state agencies. The Alabama

Administrative Monthly (Monthly) supplements the Alabama Administrative Code.

Published at the end of each month by the LRS, the Monthly acts as a source of information about the rules being proposed by state agencies and acts as an "advance sheet" to the Alabama Administrative Code. At the same time, copies of the proposed rules are supplied to the Joint Committee on Administrative Regulation Review which is charged to review all rules that are filed with LRS. Should the Committee take issue with the submission, the responsible agency is advised that a public hearing will be held by the Committee for which the public may attend and make comment.

The Monthly contains notices by state agencies of the intent to adopt, amend, or repeal rules. The notices include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved. The notices are published in alphabetical order by agency name. The text of the proposed new, amended, or repealed rule is not included in the notice. A copy of the text of a proposed new or amended rule may be acquired from the agency proposing the action.

Other related material appears in the following sections of The Monthly:

- Emergency Adopted Rules
- Certifications of Final Rules
- Peremptory Rules
- Rules Withdrawn by an Agency

How can you view a copy of the Alabama Administrative Monthly?

Although persons wishing to participate in, or track the progress of, environmentally-related rulemakings can easily go to the ADEM website, you can also check the Monthly. A subscription is required, but if your local library subscribes, you can request to review a copy for free.

The cost for a subscription to the Monthly is $60.00 per year. For more information, contact the LRS at (334) 242-7560.

What are the exceptions regarding the opportunity for public participation in the rulemaking process?

Although the immediately preceding information generally describes the environmental rulemaking process that ADEM must follow, there are exceptions to this process.

If an agency finds that an immediate danger to the public health, safety, or welfare requires adoption of a rule upon fewer than 35 days' notice or that action is required by or to comply with a federal statute or regulation which requires adoption of a rule upon fewer than 35 days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency rule. The rule shall become effective immediately, unless otherwise stated therein, upon the filing of the rule and a copy of the written statement of the reasons therefore with the Legislative Reference Service and the secretary of the agency. The rule may be effective for a period of not longer than 120 days and shall not be renewable. An agency shall not adopt the same or a substantially similar emergency rule within one calendar year from its first adoption unless the agency clearly establishes it could not

reasonably be foreseen during the initial 120-day period that such emergency would continue or would likely reoccur during the next nine months. The adoption of the same or a substantially similar rule by normal rule -making procedures is not precluded. In any subsequent action contesting the effective date of a rule adopted pursuant to this subsection, the burden of proof shall be on the agency to justify its finding. Prior to indexing and publication, the agency shall make reasonable efforts to apprise the persons who may be affected by its rules of the adoption of the emergency rule.

What other useful information should you remember about the rulemaking process?

The AEMC is a governmental body to which the new Alabama Open Meetings Act applies. This Act, passed by the Legislature became effective October 1, 2005. In addition to the meeting notices that the Commission currently provides (direct mail and ADEM website notices), the Commission will now be required to submit notice of its meetings to the Secretary of State. The Secretary of State is required to post notice on the Internet at least seven calendar days in advance of the meeting (www.sos.state.al.us).

In addition, any standing committee or subcommittee of the Commission will be required to submit notice of any meeting to the Secretary of State, which will be subject to the same seven day Internet notice prior to these meetings.

Under Ala. Code § 41-22-23(f) (2000 Rplc. Vol. and Cum. Supp.) of state law, a rule submitted to the Joint Committee on Administrative Regulation Review which has an economic impact shall be accompanied by a fiscal note prepared by the agency. Upon receiving the fiscal note, the committee may require additional information from the submitting agency, other state agencies, or other sources. A state agency shall cooperate and provide information to the Committee. At a minimum, the fiscal note submitted with a proposed rule shall include the following:

(1) A determination of the need for the regulation and the expected benefit of the regulation.

(2) A determination of the costs and benefits associated with the regulation and an explanation of why the regulation is considered to be the most cost effective, efficient, and feasible means for allocating public and private resources and for achieving the stated purpose.

(3) The effect of the regulation on competition.

(4) The effect of the regulation on the cost of living and doing business in the geographical area in which the regulation would be implemented.

(5) The effect of the regulation on employment in the geographical area in which the regulation would be implemented.

(6) The source of revenue to be used for implementing and enforcing the regulation.

(7) A conclusion on the short-term and long-term economic impact upon all persons substantially affected by the regulation, including an analysis containing a description of which persons will

bear the costs of the regulation and which persons will benefit directly and indirectly from the regulation.

(8) The uncertainties associated with the estimation of particular benefits and burdens and the difficulties involved in the comparison of qualitatively and quantitatively dissimilar benefits and burdens. A determination of the need for the regulation shall consider qualitative and quantitative benefits and burdens.

(9) The effect of the regulation on the environment and public health.

(10) The detrimental effect on the environment and public health if the regulation is not implemented.

ADEM cannot adopt a rule that differs substantially from the version of the proposed rule initially published in the Administrative Monthly unless it is a logical outgrowth of the proposed rule as supported by written public comments.

Under Ala. Code § 41-22-5(d) (2000 Rplc. Vol.), any claim that a rulemaking is invalid because the proper rulemaking process was not followed correctly must be commenced within two years from the effective date of the rule; provided that a proceeding to contest a rule based on failure to provide notice may be commenced at any time.

Part 3

How does ADEM help to protect your neighborhood and environment?

What types of activities does ADEM regulate?

A variety of activities could potentially pollute our neighborhoods or otherwise affect the environment. Commercial or industrial activities like manufacturing immediately come to mind. But in addition to factories, there are numerous other activities such as coal mines, gravel pits, grain or petroleum storage sites, car washes, hog barns, truck and auto repair shops, dry cleaners, power plants, open dumps, or backyard trash fires that potentially could cause pollution that is regulated by ADEM.

What are facilities and sources?

Generally, ADEM uses two different terms to mean "an activity that potentially could cause pollution that is regulated by ADEM." The term "facility" is used by both the Water Division and the Land Division to refer to such activities. A factory or other activity that discharges wastewater, or that treats water to reduce or eliminate pollution before discharging it, is a "facility." Similarly, a location that accepts waste for disposal also is referred to as a "facility." Meanwhile, the ADEM Air Division refers to an activity or site that potentially could emit air pollutants as a "source."

In some instances an activity may be both a "source" and a "facility." A landfill, a "facility" that accepts waste for disposal also is likely to be a "source" of air pollutants. Similarly, factories or power plants can be sources of air pollution as well as "facilities" that discharge wastewater.

What tools does ADEM use to do its job of protecting the environment?

Many environmentally-related issues regulated by ADEM are listed in the section, "What is ADEM (the Alabama Department of Environmental Management), and what does it regulate?" [See pages 3—4.] But how does ADEM go about actually protecting our environment?

ADEM carries out numerous environmentally-related functions, each of which is a useful tool in helping to protect the environment. However, the three tools that probably are the most useful to us are:

1) permitting

2) compliance

3) enforcement

How are these tools used by ADEM to protect our environment?

What are permits?

Persons wishing to engage in activities that generate by-products (such as air or water pollutants or waste) which could pollute our neighborhoods and the environment may first need to obtain a permit from ADEM. Most environmental permits give a person (or persons, such as with a company) permission to operate his or her facility. The permit also limits (to the extent practical and affordable, to the extent technically possible, and to the extent required by law) the amount of pollutants the person can legally emit or discharge while engaging in his or her intended activity. Facilities involved with waste disposal must

obtain permits that similarly limit the manner in which wastes are disposed.

For more details on how permits are issued, see Part 5 or visit the ADEM website at adem.alabama.gov.

What is meant by compliance?

ADEM watches permit holders to make sure they are in compliance with the requirements of their permits. ADEM does this by reviewing reports that must be filed periodically by permit holders. ADEM also conducts on-site inspections of sources or facilities with permits. In addition to permit requirements, there sometimes are also other, "non-permit" requirements. These are environmental laws and rules that must be followed, even though they are not spelled out in a permit. For example, even though a facility may generate hazardous wastes without a permit, the facility still must follow the legally required procedures for limiting the accumulation of such wastes on-site, properly labeling it, and shipping it off-site.

Sometimes, our inspectors also discover facilities that do not have a permit or do not have the type of permit(s) they should have in order to do what they are doing. Or, we may discover facilities that are not required to have a permit, but still are failing to meet certain "non-permit" requirements. When facilities are not meeting their permit(s) or "non-permit" requirements, ADEM inspectors provide guidance on how to get back into compliance as quickly as possible.

When and how does ADEM undertake enforcement action?

Those persons who

1) violate the terms and conditions of their permits, or
2) construct or operate facilities or discharge pollutants without the appropriate permits, or
3) violate "non-permit" requirements (such as conducting open burning or improperly handling or disposing of hazardous waste) are considered to be out of compliance with state environmental rules and laws.

Those facilities and sources that do not make the operational changes necessary to return to compliance may be subject to enforcement actions by ADEM. They may be issued a "Warning of Non-Compliance" letter, or a Notice of Violation (violation letter). For more serious non-compliance issues, the enforcement actions could escalate to assessing fines and/or requiring a negotiated settlement. Ultimately, the continued failure to return to compliance could even lead to civil lawsuits, criminal charges, and/or the revocation of permits.

What other tools does ADEM have at its disposal to help protect the environment?

In addition to the permit, inspection (compliance), and enforcement programs conducted by ADEM to minimize pollution generated by commercial and industrial activity, ADEM conducts many other programs that help protect the environment. These programs include: environmental monitoring and sampling, public education and outreach, technical assistance for business and industry, and technical licensing and training programs, as well as pollution prevention programs and various awards programs to encourage recycling and pollution reduction.

To learn more about these ADEM activities, visit ADEM's Web site at adem.alabama.gov.

Part 4

A General Summary Of The Public Participation Process

What types of opportunities do you have 1) to learn that someone is seeking to engage in an activity that could affect the environment and therefore requires an environmental permit, or other ADEM approval, or 2) to express your concerns or comments to ADEM regarding an environmentally-related decision being made by ADEM?

What types of environmentally-related activities regulated by ADEM include opportunities for you to get involved in the decision making process?

ADEM undertakes several different decision-making processes that require public input.

Those processes include, but are not limited to:

1) Issuing an environmental permit for a new facility or source,
2) Renewing an existing environmental permit,
3) Approving changes to an existing facility or source and its current permit (called a modification),
4) Allowing a permit to contain discharge or emissions limits that are less strict than current standards (called a permit variance),
5) Evaluating a contaminated site and approving a cleanup process, and
6) Making, changing, or eliminating a rule or rules used to carry out environmental laws and requirements,
7) Issuing enforcement actions with penalties.

These decision-making activities require ADEM, or the applicant, to provide some kind of notice to the public. Public notice can include notifying next-door-neighbors or providing widespread, general public notice in newspapers or other media. Public notice also can include holding a comment period, accepting public comments, or providing information about upcoming public meetings or hearings. Various types of ADEM decision-making processes may each have a public notice process. In some cases, no public notice conditions may be required. Thus, the type of public notice process to be employed is determined by the type of decision to be made.

What types of permits does ADEM issue that do not require public notice?

There are some types of permits that do not require public participation; for example, mobile sources such as hazardous waste or medical waste transporters, and gasoline tanker trucks. In other instances, the permitting of small area sources which are "cookie cutter" in nature, such as service stations, have identical sources of emissions and are required to have vapor balance systems for the control of air emissions.

The permitting of drinking water use and construction of new drinking water facilities do not require public notice. However, the establishment of primary and secondary drinking water standards (maximum contaminant levels of pollutants in drinking water) does require public notice per the rulemaking procedures.

(To learn more about the public participation process associated with rulemaking, please refer to Part 2 of this guide.)

What types of permits does ADEM issue that generally require public notice?

ADEM issues environmental permits for the purpose of:

1) Constructing and operating sources of air emissions,
2) Discharging wastewater or stormwater from municipal and industrial activities from a point source (i.e. discrete conveyance such as a pipe) into a water of the State
3) Constructing and operating facilities to dispose of solid wastes,
4) Constructing, operating, or closing facilities to treat, store or dispose of hazardous wastes, and
5) Coastal zone permitting.

Within these five permit groupings, there are two types of permits: Individual Permits and General Permits.

What are general NPDES permits, and how do they protect the environment?

General permits are "one-size-fits-all" types of permits that significantly restrict the manner in which a specific type of regulated activity may be carried out. The term "general" is commonly used in the National Pollutant Discharge Elimination System (NPDES) Program.

General permits are best suited for the regulation of numerous, very similar, and generally smaller facilities and sources that have low levels of emissions and discharges.

General Permits are written for a type of industry, such as the salvage industry or the transportation industry. Under the Federal regulations, facilities with certain Standard Industrial Classification (SIC) Codes must have stormwater covered under an NPDES Permit or they must achieve, maintain, and certify to "no industrial exposure." General Permits primarily address such storm water discharges. However, they can also address discharges such as noncontact cooling water.

The possible environmental impacts associated with one salvage yard can reasonably be expected to be about the same as the environmental impact associated with other salvage yards of similar size. So long as the applicant agrees to conduct its proposed activities under the pre-set limits established by the effective general permit, it will be able to operate under any general permit for which it is eligible. In this example of salvage yards (also see pages 23-24 for other types of general permits), the facility is issued coverage under a general permit, which is renewable every five years. (The rules governing these permits are in chapter 335-6-6-.23 of the ADEM Code.)

General permits have been created for these "one-size-fits-all" types of activities. Because there are so many sources or facilities involved statewide in the types of activities allowable under a general permit, ADEM is able to save a great deal of time and state resources by using them. Instead of considering individual or "custom" permit requests for common and wide spread activities, ADEM's general permits ensure that the environment is protected from the effect of salvage yards or other "like" activities. As a result, general permits allow ADEM and the public to focus time and energy on those facilities and sources that have a greater potential environmental impact.

Facilities and sources whose discharges could have a significant environmental impact are not covered under a general permit. Individual permits are written specifically for such facilities. Furthermore, facilities or sources discharging under a general permit, for which the Department determines that stricter permit conditions are needed in order to meet state water quality standards, will be required to discharge under an individual permit.

When a facility or source seeks coverage under a general permit or a permit-by-rule, there are limited opportunities for participation in the decision-making process. That is because any concerns about the environmental impact of a particular type of activity allowed under general permits or permits-by-rule were addressed during the renewal period of the subject general permit or rulemaking process that initially created the permit-by-rule. The general permit is a paper permit that undergoes public notice procedures every five years; however, the coverage process for each specific facility or source does not undergo the public notice process. The applications are listed on ADEM's web page at www.adem.alabama.gov/Permitting/PermittingInfo.htm.

What types of activities are regulated by general permits?

General NPDES Permits

There are 24 types of general permits for wastewater/stormwater discharges from various types of industries/activities. These are also frequently referred to as a "GPs." They include:

Asphalt - A general permit authorizing discharges associated with the manufacture of asphalt concrete, asphalt roofing, linoleum and printed asphalt felt and of hot mix asphalt from asphalt cement consisting of stormwater, non-contact cooling water, cooling tower and boiler blowdown, demineralizer wastewater, vehicle and equipment wash water; and stormwater from petroleum storage and handling and equipment storage and maintenance areas.

Shipbuilding - Authorizes the discharge of cooling water, boiler water, wash water and stormwater from boat and ship building industries.

Lumber, Wood and Paperboard - Authorizes the discharge of cooling water, boiler water, some process wastewater and stormwater from most industries involving lumber, wood and the paper board industry. Facilities that preserve wood and have stormwater exposure are not covered by this permit.

Concrete Industries - Authorizes the discharge of cooling water, boiler water, wash water and stormwater from existing concrete industries. New concrete facilities (those that began operation on or after 9/1/07) are not authorized to discharge wash water, cooling water, or boiler blowdown.

Metals - Authorizes the discharge of cooling water, boiler water, wash water and stormwater from most primary metals, metals fabrication and metals finishing industries.

Transportation - Authorizes the discharge of cooling water, boiler water, wash water and stormwater from most transportation terminals and warehousing activities.

Food and Related Substances - Authorizes the discharge of cooling water, boiler water, wash water and stormwater from industries involving food and related substances.

Mining < 5 acres - Authorizes discharges from small non-coal/non-metallic mining and dry processing, and areas associated with these activities.

Landfills - Authorizes the discharge of leachate, stormwater and wash water from construction activities at landfills. Landfills that discharge leachate are not covered by this permit.

Paints and Related Products - Authorizes the discharge of cooling water, boiler water, wash water and stormwater from industries that manufacture paint and related products.

Salvage and Recycling - Authorizes the discharge of cooling water, boiler water, wash water and stormwater from salvage and recycling activities.

Plastics and Rubber - Authorizes the discharge of cooling water, boiler water, wash water and stormwater from plastics and rubber industries.

Stone, Glass and Clay - Authorizes the discharge of cooling water, boiler water, wash water and stormwater from industries using stone, glass and clay.

Textile Industries - Authorizes the discharge of cooling water, boiler water, wash water and stormwater from textile industries.

Cooling Water and Boiler Water - Authorizes the discharge of cooling water and boiler water.

Offshore - Authorizes the discharge of wastewater associated with offshore oil and gas exploration and production activities. (The discharge of produced water, and drilling muds and cuttings are not authorized by this permit nor are any discharges to areas of biological concern.)

Petroleum Products and Treated Groundwater - Authorizes the discharge of cooling water, boiler water, some process wastewater and stormwater from most activities involved in the handling and storage of petroleum products. Discharges of treated groundwater from clean-up related to groundwater contaminated by petroleum products are also covered by this permit.

Hydropower - Authorizes minor discharges from hydropower facilities and imposes best management practices on construction, repair and maintenance activities conducted above water.

Water Treatment — Authorizes discharges of filter backwash, sedimentation basin wash water, and decant water from water treatment plants.

Hydrostatic Test Water - Authorizes the discharge of hydrostatic test water.

Construction Stormwater - Authorizes discharges from construction activities that result in a total land disturbance of one acre or greater, and sites less than one acre, but are a part of a common plan of development or sale.

Sand & Gravel - Authorizes the discharges from the mining and processing (wet or dry) of non-coal, non-metallic construction aggregate, construction sand and gravel, chert or dirt, and areas associated with these activities.

Mining < 5 acres - Authorizes discharges from small non-coal/non-metallic mining and dry processing, and areas associated with these activities.

Pesticide - Authorizes discharges from the application of pesticides.

MS4 Phase II - Authorizes stormwater discharges from regulated small, municipal separate storm sewer systems.

No Exposure - If a facility now has a "condition of no exposure," then the facility is excluded from NPDES

stormwater permitting. The Stormwater Phase II Final Rule which was signed on October 29, 1999 has a "no exposure" exemption clause. Any non-stormwater discharges would of course require proper permitting.

What are your opportunities for public participation when someone is seeking a general NPDES permit for an activity that could be located in your neighborhood?

Because coverage under a general permit of a particular type (see 24 types on pages 23—24) or "permit-by-rule" means the very same permit language and discharge requirements as all the other coverages granted under that general permit. There is limited opportunity for public participation associated with the coverage under a general permit. The permit language and discharge requirements were all set when the general permit was issued. Should the rules governing these general permits be changed, you may participate in the rulemaking process. (To learn more about the public participation process associated with rulemaking, refer to Part 2.) There is opportunity to comment on the provisions of general permits which are renewable on a five year basis. At that time, the Department will place the proposed permits on public notice for a 30-day public comment period.

What are individual permits, and how do they protect the environment?

"Individual" environmental permits are those issued on a case-by-case, facility (or factory) specific, basis. Individual permits usually are most appropriate for the regulation of large or complex facilities and sources with a potential for significant environmental impact.

What is the overall process ADEM follows to issue an individual environmental permit?

Although the review process for each of the various types of air, water, and waste disposal permitting programs is described in detail in Part 5 of this guide, titled - "How do each of the ADEM environmental permitting programs work?" The following is a general description of the process for issuing individual permits:

STEP 1 - The Application

- The person seeking the permit (the applicant) submits a permit application form and a non-refundable fee.

1) The application contains administrative information such as;

- Who will own, or assume legal responsibility for the facility or source,
- Where he or she may be reached, and
- Where the new facility or source is to be located.

2) The application also should include detailed technical information describing the facility or source and how it will be built and operated. The level of detail may differ depending on the complexity of the proposed activity.

- State law does not impose a time limit on ADEM for review of each of the various types of environmental permit applications, or to make a decision about whether to issue or deny a permit. For renewals of Major Source Operating Permits in the Air Program and Individual NPDES permits in the Water Program, the regulations require submittal of the permit renewal application or the application for a new discharge(s) at

least 180 days in advance. The complexity of the permit being sought generally dictates the amount of time ADEM requires to review and process the permit application. Thus, when a permit application is received, an internal "time clock" begins to run. That time clock only stops running:

1) if ADEM is waiting for the applicant to provide additional information needed to make a permitting decision,
2) if the applicant withdraws the permit application, or
3) when the final permitting decision is issued.

If a public hearing is held regarding issuance of the permit, at least 30 additional days are added to the "time clock."

- Except for solid waste disposal permits and hazardous waste management units, applicants generally are not required to notify their immediate neighbors (adjoining property owners or occupants) that an application for a permit (for a new or expanding facility or major modification of a source) has been filed. Applicants for municipal solid waste landfill (MSWLF) permits provide a list of landowners adjacent to the proposed landfill to ADEM.
- Landowners adjacent to a proposed landfill unit receive a copy of the public notice from ADEM. Applicants for hazardous waste management units must hold at least one public meeting with the community in order to inform the community of proposed hazardous waste management activities.
- Each ADEM permitting program requires that the application must be completed, and that all necessary information be provided, before ADEM begins to consider whether or not to issue the permit. If portions of the application are incomplete, or additional information is required prior to beginning review of the permit request, a Notice of Deficiency (NOD) will be sent to the applicant. If an NOD is sent to the applicant, the permit "time clock" may be stopped, and no further work on the permitting request may be done until all application requirements have been met.

STEP 2 - The Public Participation Process

- For the various types of solid waste disposal permits issued by the ADEM Land Division - Solid Waste Branch, a 35-day public comment period is held once confirmation that all information required to process the application has been received. This includes the approval of the proposed location of the landfill by the local government of that area and the preparation of a draft permit. ADEM is an authorized state for the federal counterpart of environmental regulations governing MSWLFs. These regulations are self-implementing at the federal level and do not require states to issue permits; however, Alabama law does require that permits be issued for solid waste disposal facilities.
- For the permits issued by the Air Division associated with air emissions or for individual NPDES permits issued by the Water Division for wastewater discharges, staff will first review the completed application, and then prepare a draft permit. The draft permit will include the limitations and conditions as required by applicable environmental laws and rules. Once the draft permit is prepared, it is made available for public review during a 30 day public

comment period. Similarly, the ADEM Land Division places drafts of hazardous waste permits on public notice. However, that public comment period is for 45 days.

- During the public comment period, the public may submit to ADEM its comments and concerns about the proposed permit. Depending on the level of public interest, a public meeting or public hearing also may be held during the public comment period.
- At the conclusion of the public comment period, ADEM permit program staff will consider all comments received during the public comment period, and prepare the final permit (unless the permit request is denied). Staff also will prepare written responses to all comments received during the public comment period and at any public hearings.

STEP 3 - The Permitting Decision

- The decision to issue or deny a permit will be sent to the applicant, and any persons who submitted public comments or otherwise requested that they be notified of the decision.
- If a permit is issued, the applicant will receive a copy of the permit. The different permit programs vary regarding who else may receive a copy of the permit. Anyone may request a copy of the final permitting decision. A copy of the final permit may be obtained via the Department's eFile system available at www.adem.alabama.gov. Final permitting decisions will also include ADEM's response to the comments received during the public comment period, and at any public hearing that may have been held. If the permit is denied, ADEM will have a written decision to explain why the permit was denied.

STEP 4 - Appeals

- Any interested party may appeal ADEM's final decision to issue or deny a permit. Appeals must be filed with the Environmental Management Commission in Montgomery. For additional information on appeals, see pages 34-35 "What if you do not agree with ADEM's final decision? How can you file an appeal?"

How can you learn if a new facility or source that will be engaged in activities that could affect the environment is proposing to locate on the property right next door to you? (or if a facility or source already located right next door to you is proposing to expand?)

In the Land program, applicants for solid waste disposal permits are required to notify their immediate neighbors (adjoining property owners or occupants) that an application for a permit (for a new or expanding facility or source) has been filed.

This requirement applies to nearly all waste disposal permits. If the applicant fails to meet this requirement to notify adjoining property owners and occupants, that failure can be grounds for an appeal of any permit that is issued. (See "What if you do not agree with ADEM's final decision? How can you file an appeal?") However, ADEM ensures that the permit applicant has met all public participation requirements through the application review process. Failure to do so can result in a Notice of Deficiency and the Department will not continue its review process until all requirements have been met.

The requirement to notify next-door neighbors (adjoining property owners or occupants) does not apply to the other media programs (Air and Water).

You can view lists of permit applications received by county on ADEM's website, at adem.alabama.gov/Permitting/PermittingInfo.htm, or you can do so by contacting the Permits and Services Division at (334) 271-7714 or via e-mail at Permitsmail@adem.state.al.us.

When or how are your local officials involved?

Federal and State regulations for the major permitting programs require ADEM to maintain mailing lists to notify all interested individuals of its proposed permitting decisions. ADEM routinely updates this list and includes local officials. In addition, ADEM maintains an up-to-date monthly list of permit applications received by county on its website.

In the case of municipal solid waste landfills, ADEM may not consider a new permit application for a landfill until the local government has approved the siting of a landfill in that area. The local approval process is subject to public notice and public involvement through a hearing by the local government. Local government must act on the application within 60 days of the end of the public comment period.

ADEM will notify any interested party of the final permitting decision at his/her written request. These additional details will be listed in the more specific descriptions of ADEM's various permitting programs, found in Part 5 of this guide.

What is a public notice?

A public notice generally is a legally required announcement to the public regarding an approval process required by some level of state, federal or even local government. It is a way in which you can learn about proposed activities that could be located near you.

As a state agency, ADEM is required to use the public notice process to announce that it has received a request for approvals of activities it regulates.

Some of the environmentally-related activities in Alabama for which ADEM must post a public notice include the review of:

1) Requests of new environmental permits,
2) Requests to renew existing environmental permits,
3) Requests to change existing permits (permit modifications), unless the permit modification is considered a minor modification such as a name change,
4) Requests for a permit variance from rules/standards,
5) Approval of contamination cleanup projects, and
6) Development and adoption of new state environmental rules or to change, renew, or cancel an existing rule or rules.

Where are public notices posted?

Generally, state environmental regulations require that all public notices, including those from ADEM, must be published in a daily or weekly newspaper of general circulation within the area affected by the facility or activity. Newspapers generally publish public notices in the "legal section" in small print. So, if you hear or suspect that some type of environmentally-related activity may be proposed for your neighborhood, you may want to closely examine that part of your newspaper. Or, you can contact ADEM's Permits and Services Division at (334) 271-7714. (Also see "How do I get on the ADEM mailing lists?")

You can find out more information about public meetings and notices by visiting ADEM's online event calendars at www.adem.state.al.us/newsEvents/Calendar/default.aspx; www.adem.state.al.us/newsEvents/pubHearings.cnt; or, www.adem.state.al.us/newsEvents/publicNotices.cnt.

Some of ADEM's approval processes may have additional notice requirements. For example: rulemaking notices also must be published in the Alabama Administrative Monthly, violations of the Safe Drinking Water Act posing an acute public health risk may need to be announced over the radio or television, and hazardous waste permit applicants must broadcast at least once on a local radio or TV station. These additional details will be listed in the more specific descriptions of the public notice processes of ADEM's various permitting and clean up programs, found in Parts 5 and 6 of this guide.

What information is included in a public notice?

Public notice announcements generally must:

1) Identify the person, business, or unit of local government seeking approval from ADEM (or whatever agency has authority over the matter for which it is seeking approval) to carry out a particular activity,
2) Describe the activity for which approval is being sought,
3) Describe the type of approval being sought (the type of permit or other approval), and
4) Describe the location where the proposed activity will take place.

Public notice announcements posted by ADEM also must:

5) Identify, and provide a telephone number for, a contact person at ADEM who can provide additional information to any person interested in the request,
6) Describe how to request a public hearing,
7) Establish the beginning and end dates of a public comment period (usually 30 days) during which persons may submit to ADEM any comments or concerns regarding the proposed project and approval process,
8) List the address where written public comments can be sent, and
9) List the location, date and time of the public meeting or hearing if it has been determined that a public meeting or public hearing will be held to discuss whether ADEM should approve the requested activity or place additional limits on it.

What is a public comment period?

Like the public notice requirement, the public comment period is a legal requirement. Not just ADEM, but nearly all non-legislative branches of state, federal, or local government that approve or deny requests by persons, companies, or governmental bodies to carry out regulated activities, must provide a public notice, and hold a public comment period. The purpose of the public comment period is to allow any member of the public to add your voice to the decision-making process.

The length of the public comment period will be clearly stated in the public notice. Most ADEM public comment periods are for 30 consecutive days, beginning with the day after the public notice announcing the public comment period first appears. If the 30th day of a public comment period falls on a weekend day, state holiday, or other day when state governmental offices are closed during regular business hours, then the public comment period will end on the close of the next day on which state offices are open for business. Although most ADEM public notice periods are for 30 days, some comment periods can be as short as 15 days, and others as long as 45 days.

Upon request, some ADEM programs holding public comment periods may agree to extend the public comment period beyond 30 days. Such extensions, when granted, generally add an additional seven to 15 days, during which public comment will be accepted. Again, it is left to the particular program area (air, water, or waste) in question whether to grant an extension, and the length of the extension generally varies from program to program. In addition, the person(s) seeking an extension may be required to demonstrate why the extra time is needed. Such requests must be made through the contact person listed in the public notice.

If ADEM agrees to a request for a public hearing either during or after the public comment period, either the public comment period may be extended, or an additional comment period will be held in association with that hearing. The opportunity to submit comments also may be extended for a few days after the hearing in order to give persons who attended the hearing, or who learned new information at the hearing, additional time to submit comments.

What types of comments are accepted during a public comment period?

It is recommended that public comments be written and submitted to the address provided in the public notice announcement. If the public notice announcement included a date and location for a public meeting, you may submit your written comments at that meeting.

In fact, if there is a public meeting you probably will have an opportunity to speak, during which you can present and add to your written comments, or simply stand and provide your comments verbally, without submitting any written comments. However, please keep in mind, that while verbal comments will be noted, they will not be recorded word-for-word. Verbal comments are only recorded word-for-word if there is a public hearing. (Public meetings and hearings are conducted somewhat differently. For more on those differences, see below and "How does a public hearing differ from a public meeting?")

In addition, if you prepare written comments, you need not attend a public meeting or hearing to submit your comments. You can mail, e-mail, fax, or deliver your comments in person to the ADEM address provided in the public notice. Furthermore, ADEM will provide a written response to all written comments, and additionally respond to verbal comments made during a formal public hearing. ADEM's written responses will accompany the agency's final permit decision to issue or deny a permit or other approval.

Of course, you may make whatever verbal or written comments you wish. You may speak in favor of a proposed activity, oppose approval for such an activity, or merely share concerns about whether and how it could affect you, your family, and your neighborhood or the environment generally. You could also make a case that a permit only be issued if certain conditions are included. Regardless of your position, comments that are based on facts and refer to specific laws, rules, and regulations, specific technical or scientific information, or specific facts about the proposed site or discharge will likely have more impact on ADEM's final decision than simply stating that you are for, or against, issuing a permit or other approval for the proposed activity.

What generally happens at a public meeting?

ADEM is not required to hold a public meeting for every permitting decision or other approval request the agency receives. However, any time it is perceived that there is reasonable interest by the general public, ADEM may go ahead and schedule a public meeting as part of the public notice process. Or, the agency may opt to hold a public meeting if someone requests that one be held.

Public meetings are informal and informational in nature. ADEM usually invites the applicant - that is, the person, business, or unit of local government seeking a permit or other ADEM approval - to attend the meeting and to make a presentation about its proposal. Most applicants are happy to do this. ADEM may also bring fact sheets to the meeting that describe the decision-making process. After presentations are made, a question and answer session, or other dialogue, may follow. A commitment is made to follow up on questions that cannot be answered immediately.

How does a public hearing differ from a public meeting?

A public hearing is more formal than a public meeting. Like meetings, public hearings may be requested by any person, but ADEM retains the right to determine whether a hearing will be held. When a hearing has been authorized, the Department will establish a time, date, and location for the hearing and appoint a hearing officer to conduct the hearing. The location for the hearing shall comply with the requirements of the Americans with Disabilities Act.

If a hearing is held, it will be run by a hearing officer, all comments will be recorded, and a transcript will be made. However, in place of a back-and-forth dialogue, your questions will be noted, but will only be responded to in writing at the time the final decision on the request for a permit (or other approval) is made public. Some ADEM programs hold a combined meeting and hearing, holding the formal hearing either before, or after, a more open dialogue, which could include a question and answer session.

Who is notified of ADEM's final decision to issue or deny a permit or other approval?

The applicant or permittee, and anyone who submitted public comments, are notified when the permitting decision is issued. (See "How do I get on the ADEM mailing lists?") The Notice of Decision describes whether and why the permit or other approval was issued or denied.

The various ADEM program areas (air, water, waste disposal) may differ in the process of notification of its final determination on a permit application. Additional details of the more specific public notice processes of ADEM's various permitting programs may be found in Part 5 of this guide.

What opportunities do you have to participate in the issuance of Administrative Orders?

ADEM has authority to issue administrative orders pursuant to Ala. Code § 22-22A-5(10) (2006 Rplc. Vol.), which provides that ADEM may "issue, modify, suspend or revoke orders, citations, notices of violation, licenses, certifications or permits." Orders may include corrective action requirements only, corrective action requirements and a penalty, or a penalty only (where corrective action has already taken place or none is necessary). Orders may be issued either by consent or may be issued unilaterally.

A consent order is usually an order negotiated between the Department and the violator and may or may not contain penalties. While a unilateral order may be issued by the Department without agreement by the violator, input from the violator may be received through a written response to the order which is generally requested, as well as the opportunity for an informal conference prior to the order being issued.

While most of the orders issued by the Department are consent orders, the Department retains the right to issue a unilateral order if a consent order cannot be negotiated or if the Department determines that, based on the violator's history, attempting to negotiate a consent order would be fruitless, or the violation is significant such that a compromise penalty is simply unacceptable.

Section 22-22A-5(18), Ala. Code (2006 Rplc. Vol.) governs the issuance of administrative orders. An order may be issued to a "person" who violates: Any provision of the statutes that ADEM administers; The rules the Commission has promulgated; Any order issued by ADEM; or, Any condition of a permit, license, certification or variance issued by the Department. The only exceptions to the Department's authority to issue an order assessing a civil penalty are: If a lawsuit has commenced requesting a penalty for the same violation; for any violation at a coal mining facility that is regulated pursuant to Ala. Code §§ 9-16-70 through 9-16-107 (2001 Rplc. Vol.); or if a civil penalty has already been assessed for the violation pursuant to § 22-28-23(b) Ala. Code (2006 Rplc. Vol.).

Prior to issuing the order, the statute requires the Department to first notify the violator of the violation and give the violator an opportunity for an informal conference regarding the violation and the proposed order. Before a penalty order is issued, the Department must publish a notice of the order both in a newspaper of general circulation in the area where the violation occurred and on the Department's website. The notice must

describe the nature and location of the violation, the amount of civil penalty proposed, a summary of the corrective actions required, and give instruction for submission of written comments and procedures for requesting a hearing on the order. The comment period must be open for at least thirty days. To facilitate comments, the proposed order can be accessed on the Department's website. The Department must provide notice of the hearing at least twenty days prior to the hearing both to persons subject to the order and all those who commented. Commenters are allowed to present any information he or she believes to be relevant at the hearing. The Department must consider the comments that are submitted and may issue the order as proposed, modify the order, or withdraw the proposed order. Once comments are responded to, the order is signed by the Director and an order number is assigned. If, as a result of comments, changes are made to a consent order, the order may need to be re-negotiated prior to its being finalized by the violator and the Department.

Upon issuance, the Department must provide written notice of the order to all who commented on the proposed order. The notice describes the nature and location of the alleged violation, cites the amount of civil penalty assessed, and contains a summary of the corrective actions required. The notice also has instructions for obtaining a copy of the order so that an aggrieved commenter may appeal the order to the Environmental Management Commission within 30 days of its issuance.

In addition to the procedural requirements discussed above, § 22-22A-5 (18) Ala. Code (2006 Rplc. Vol.) sets out requirements regarding the content of the order. An order must include the findings of fact relied upon by the Department in determining the alleged violation and the amount of the civil penalty. Section 22-22A-5 (18)c. Ala. Code (2006 Rplc. Vol.) provides that any civil penalty "shall not exceed $25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department under paragraph a. of this subdivision shall not exceed $250,000.00. Each day such violation continues shall constitute a separate violation for purposes of this subdivision." That section also sets out the factors which should be considered in determining the amount of the penalty. Those include "the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty." There is a two-year statute of limitations for the assessment of civil penalties.

Consent orders are "executed," and time for compliance begins running from the "effective date" of the order. Unilateral orders are "issued," and the time for initiating an appeal to the Commission begins running from the date of issuance of the order, or upon receipt of the order by the regulated entity for the purpose of compliance schedules.

Please Note:
The following is intended as a general overview of the requirements relating to appeals. The law can vary with particular circumstances and you are advised to seek additional information on your own or through an attorney before proceeding with any of these actions.

What if you do not agree with ADEM's final decision? How can you file an appeal?

All final decisions or "administrative actions" issued by ADEM, including permit decisions, may be appealed by an "aggrieved" person. An administrative action is the issuance, modification, repeal, or denial of any permit, license, certification, or variance, or the issuance, modification or repeal of any order, Notice of Violation, citation, or rule by the Department. "Aggrieved" means having suffered a threatened or actual injury in fact. If you are dissatisfied with a decision by ADEM, and wish to file an appeal, you must do so in writing.

A request for a hearing to contest an administrative action of the Department shall be filed with the Commission. Filing may be accomplished by personal, private -service or mail delivery addressed to:

ENVIRONMENTAL MANAGEMENT COMMISSION

Mailing Address:
P.O. Box 301463
Montgomery, AL 36130-1463

Physical Address:
1400 Coliseum Blvd.
Montgomery, AL 36110-2059

Filing shall not be timely unless the papers are received by the Commission within the time fixed for filing, except that papers shall be deemed filed on the day of mailing if mailed by certified, registered or express mail of the United States Postal Service or a similar private express-delivery service, and the date of the official postmark is on or before the time fixed for filing. A request for a hearing may not be filed by fax.

There are no standard forms to fill out and submit, so you must state your case in a letter to the AEMC. As per ADEM Admin. Code r. 335-2-1-.04(5), any request for an appeals hearing must identify the name, mailing address, and telephone number of the person seeking the hearing and their attorney, if represented by one, and his/her interests. Before a hearing is granted, the person filing the appeal (the petitioner) must identify the reason for the appeal request and the issues proposed for consideration at the hearing.

Petitions for appealing issuance, modification or repeal of any rule must be filed within 45 days of the adoption of the rule by the Commission. Petitions for any other administrative action other than emergency orders must be filed within 30 days of such action after notice to the aggrieved person by the Department. Persons aggrieved by the issuance of an emergency order may file a request for an expedited hearing with the Commission.

The request for an appeal must also identify the terms and conditions that, in the judgment of the person seeking the appeal hearing would appropriately satisfy the requirements of law with respect to alleged errors in question. That is, you must suggest an alternative to the language in the permit, or other order, or decision being appealed, and your suggested changes must be consistent with all applicable laws and rules.

In turn, the AEMC will provide persons filing appeals with notice of any prehearing conferences, preliminary hearings, hearings, stays, or orders disposing of the review of this decision.

You may contact the AEMC's Executive Assistant at (334) 271-7706 for answers to additional procedural questions. The AEMC will be happy to help you understand procedural issues, but do not expect that you will be able to discuss details of your case other than in a formal setting such as a prehearing conference, a formal hearing, or a settlement conference. The AEMC is prohibited by law from discussing a case without all sides being present.

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Part 5

How do each of the various ADEM environmental permitting programs work?

Part 4 of this Citizen's Guide explained in general terms the public participation processes for all of the various types of environmentally-related approvals ADEM issues, as well as those that involve Administrative Orders. Here in Part 5, we will provide more specific information about the public participation process for each particular type of permitting program.

Who needs an environmental permit?

Generally, persons wishing to engage in the following activities regulated by ADEM must first apply for and obtain a permit or other approval from ADEM:

1) The construction and operation of sources that will emit certain levels of regulated pollutants into the air,

2) The discharge of pollutants from point sources or underground injection systems into the waters of the state,

3) The construction and operation of facilities that dispose of solid wastes,

4) The construction, operation, and/or closure of facilities that may store, process, or permanently dispose of hazardous wastes,

5) The construction of facilities associated with providing safe drinking water to the public.,

6) The treatment of medical wastes, or

7) The introduction of pollutants from a non-domestic source into a publicly or privately owned waste treatment system (indirect dischargers), and

8) The transporters of untreated medical waste, hazardous waste, and used oil.

Alabama's environmental regulations (or rules) establish:

1) The emission or water quality standards that the facility or source must meet,

2) The amount of application fees to be paid, and

3) What steps either ADEM or the permit applicant, or both, must take to inform the public about what activities the applicant intends to carry out.

As explained in Parts 1 and 2, state law established the Alabama Environmental Management Commission which has developed the rules that detail: 1) how permits should be issued, and 2) what those permits should say about how a facility should be operated.

Why do the ADEM environmental permitting programs have to be so different from each other?

ADEM has seven environmental permit programs for air, wastewater, stormwater, underground injection, drinking water, solid waste disposal, and hazardous waste disposal permits. Each of these programs comes from specific federal legislation. The Clean Air Act led to the development of air permitting programs. The Clean Water Act and the Safe Drinking Water Act led to the development of the water permitting programs. And, the Waste

Disposal Act and its descendent, the Resource Conservation and Recovery Act (RCRA), led to the development of the waste disposal permitting programs.

Because each of these permit programs was developed from separate federal laws, there are numerous differences in the way each of these types of permitting requests are processed. However, the application review and decision making process of these various permitting programs do have similarities.

Permitting of Air Pollution Sources

Permits are perhaps the most essential factor in the environmental regulatory process and are designed to assure that any source complies with the applicable environmental statutes before becoming operational. Any facility planning to construct or modify a potential air pollution source should contact the Air Division to determine if an air permit will be required and, if so, what permitting procedures should be followed.

The permitting decisions that ADEM must make are technical judgments. If the application demonstrates that the project is capable of complying with the regulations, a permit would be issued. Zoning issues, although legitimate concerns, are not within the purview of this Department and, therefore, are not considered when permitting air pollution sources. These issues are within the jurisdiction of local zoning authorities.

There are three types of permits issued by the Air Division:

1. Air permit – a construction permit required by any source prior to building, erecting, modifying, altering, or replacing any equipment that would result in an increase in emissions. In addition, if a control device is to be installed that would cause a decrease in emissions, an air permit should be applied for prior to construction.

2. Title V - Part of the 1990 Clean Air Act Amendments that mandated creation of an Operating Permits Program in each State. Since each program created would have to conform to some basic elements, Title V was intended to create consistency in operating permit requirements throughout the country.

3. Synthetic Minor Operating Permit (SMOP) – an operating permit which restricts a source's potential to emit in such a way that a major source threshold is not exceeded.

What Types of Air Permits Are There?

Any facility planning to construct or modify a potential air pollution source should contact the Air Division to determine if an air permit will be required. Air Permits are the permits that have traditionally been issued to minor and major sources of air emissions. The ADEM Director has the discretion to not require Air Permits for sources which are insignificant in nature and would inherently meet any regulatory requirements. If an Air Permit is required, the permit must be issued before the source can commence operation.

Air Permits are also the vehicle through which ADEM implements the New Source Review (NSR) permitting

requirements of Prevention of Significant Deterioration (PSD) and Nonattainment Area Review.

Facilities are subject to PSD permitting requirements if the project by itself is a major source, that is it has potential emissions of regulated pollutants greater than 100 tons per year (TPY) or 250 TPY depending upon the source category, or if the facility is already a major source and the project will have potential emissions greater than specific significance levels. If the project is undergoing the PSD permitting procedures, the facility must propose in the application Best Available Control Technology (BACT) to be required on the project, and must perform an ambient air quality modeling review, among other requirements, to insure that the air quality in the area is adequately protected.

Facilities are subject to Nonattainment Area permitting requirements if the project by itself is a major source, that is it has potential emissions of regulated pollutants greater than 100 TPY, or if the facility is already a major source and the project will have potential emissions greater than specific significance levels. If the project is undergoing the Nonattainment Area permitting procedures, the facility must propose in the application Lowest Achievable Emission Rates (LAER) to be required on the project. These represent the greatest level of controls that are currently being achieved at other sources. Additionally, the facility will be required to create "offsets" at least equal to the amount of emissions from the project by creating reductions in existing emissions in the surrounding area.

A public comment period is required before construction can commence at a Greenfield site for which an Air Permit will be required. Public comments are generally accepted for 15 days during these public comment periods. If sufficient public comments relevant to the permitting process are received, a public hearing may be held to receive additional comments.

A public comment period is required before construction can commence on a project which is undergoing a NSR review. Public comments are generally accepted for 30 days during these public comment periods. If sufficient public comments relevant to the permitting process are received, a public hearing may be held to receive additional comments.

Title V - Permits

Title V of the Clean Air Act required the establishment of federally enforceable operating permit programs which would consolidate into one document, all applicable air pollution control requirements to which a "major" source is subject. A major source is defined as a source with the potential to emit 100 TPY of a criteria pollutant, a source with the potential to emit 10 TPY or more of a single Hazardous Air Pollutant (HAP) or 25 TPY or more of any combination of HAPs, an acid rain source, or a source subject to a New Source Performance Standard or a National Emission Standard for Hazardous Air Pollutants approved after July 21, 1992. The issuance of these renewable operating permits would be subject to an increased level of review by EPA, affected states, and the public as compared to current state permit programs. According to the Act, the EPA would have the authority to veto or require revisions to state-issued operating permits. Further, this Title V required permitting authorities to collect annual fees from all major sources as

necessary to fund the implementation and management of the operating permit programs.

A public comment period is required when issuing or significantly modifying a Title V Permit. Public comments are generally accepted for 30 days during these public comment periods. If sufficient public comments relevant to the permitting process are received, a public hearing may be held to receive additional comments. Additionally, citizens may petition EPA to object to the permit.

Synthetic Minor Operating Permits (SMOP)

SMOPs are operating permits which restrict a Title V major source's potential to emit in such a way that a major source threshold is not exceeded. These permits place enforceable restrictions on the allowed emissions and/or operations of a facility. These permits may be requested by the facility as a way to avoid some of the procedural requirements and fees of the Title V program as well as avoid applicability to Maximum Achievable Control Technology Standards (MACT) for HAPs.

A public comment period is required when initially establishing or significantly modifying the synthetic minor limitations in these permits. Public comments are generally accepted for 15 days during these public comment periods. If sufficient public comments relevant to the permitting process are received, a public hearing may be held to receive additional comments.

Permitting of Water Pollution Sources

All permitting decisions regarding water quality in Alabama are made by ADEM. Its decision making process is based on state and federal law, and on rules adopted by the AEMC.

How are permits issued to storm water and wastewater dischargers, and how can you participate in the permitting process?

ADEM maintains a mailing list of interested parties. These organizations, trade associations, corporations, law firms, environmental groups and individuals have requested to be notified whenever an NPDES draft permit is public noticed. You may have your name, or the name of your organization (neighborhood group, church, grass roots citizen group, etc.) added to this list of interested persons. For more information, see Part 9, "Getting Started: What are the first steps to Public Participation?"

The NPDES permits currently on public notice can also be found on the ADEM website at adem.alabama.gov.

How are permits issued to facilities that may discharge stormwater or wastewater into the waters of the state of Alabama, and how can you participate in the permitting process?

The Alabama Water Pollution Control Act (AWPCA) and Federal CWA requires that all persons discharging pollutants from a point source (such as a channel or pipe) into surface streams and lakes, or into storm sewers which are not connected to publicly- or privately-owned treatment works (POTWs) must have a National Pollutant Discharge

Elimination System (NPDES) permit. NPDES permits regulate the discharges of stormwater and various types of wastewater which may be generated from a variety of sources. ADEM issues these permits to industrial facilities, municipalities, federal and state owned facilities (such as prisons or park facilities), mobile home parks, drinking water treatment facilities, coal mines, quarries, construction sites, and other point-source dischargers. These discharges may or may not require treatment in order to meet the terms and conditions of the NPDES permit.

Industrial facilities which discharge into sewer systems which are connected to POTWs may be required to obtain an industrial wastewater pretreatment permit depending upon the types of wastewater that are discharged. Permits issued by ADEM for discharges to POTWs are State Indirect Discharge (SID) permits.

General NPDES Permits

Some of the NPDES permits (such as stormwater runoff permits, cooling water permits, and discharges from certain petroleum-related activities) issued by ADEM are general permits.

There is no formal 30-day comment period for facility coverage under general permits, since the opportunity for public comment already occurred when the general permit was issued, re-issued, or modified. However, although ADEM does not solicit public comment for coverage under general permits, that does not mean that people cannot comment. Indeed, ADEM will consider any useful information it may receive. For more information, see page 23 of Part 4, "What types of activities are regulated by general permits?"

Draft NPDES Requirements

The draft individual NPDES discharge permit must include:

1) all operating conditions, limitations, or requirements;
2) all discharge limits;
3) all compliance schedules (timetables for meeting and maintaining the limits of the permit); and,
4) all monitoring (sampling), record-keeping, and reporting (to ADEM) requirements.

Individual NPDES Permits

Any discharge activity not eligible for a NPDES general permit requires an individual NPDES permit. Applications are required to be submitted to the Department 180 days prior to expiration of the facilities' current NPDES Permit or 180 days prior to anticipated discharge for new facilities. Whether a permit is minor or major can depend on the amount of the discharge or may be determined based on the pollutants in the discharge. There are no statutory time limitations for the processing of renewals or modifications of NPDES permits. A 30-day public comment period is required for most NPDES modifications/issuances.

Once ADEM has prepared a draft permit, a public notice is published in a daily or weekly newspaper of general circulation within the area affected by the facility or activity, and is posted on the Department’s website. The public notice describes the proposed activity, the type of permit being sought, and identifies who is seeking the permit. The notice also specifies the timeframe for public comments. If ADEM anticipates there will be significant

public interest in a particular permit application, then it may automatically schedule a public meeting during the public comment period and include the date, time and location of the meeting in the public notice.

If a public meeting or a public hearing was not announced as part of the public notice of the draft NPDES permit, then any member of the public may request that one be held. If ADEM agrees to the request for a meeting or hearing, it will place a second public notice in the same newspaper which will provide the date, time and location of the public meeting or hearing. If any comments submitted during the public comment period(s) appear to raise new questions about a draft permit, ADEM may prepare a new draft permit, or may reopen or extend the public comment period.

In addition, if a permit is issued, a copy of the permit will be sent to the applicant and to the EPA.

State Indirect Discharge Permits

(Or SID) Permits are issued to industries that discharge industrial wastes to publicly or privately owned treatment works (POTWs). An industrial facility is required to apply for a SID permit if it meets one or more of the following definitions for a Significant Industrial User (SIU):

1) All "industrial users" subject to Categorical Pretreatment Standards under 40 CFR 403.6 (1994) and 40 CFR Chapter I, Subchapter N (1994);
2) All "industrial users" that "discharge" an average of 25,000 gallons per day or more of process wastewater (excluding sanitary wastewater, non-contact cooling water, and boiler blowdown) to a "publicly owned treatment works";
3) All "industrial users" that "discharge" an average quantity of process wastewater (excluding sanitary wastewater, non-contact cooling water, and boiler blowdown) that makes up five percent or more of the average dry weather organic or hydraulic capacity of the "publicly owned treatment works";
4) All "industrial users" that "discharge" an average organic loading that makes up five percent or more of the design capacity of the "publicly owned treatment works;"
5) All "industrial users" that "discharge" to a "privately owned treatment works;" or
6) Any "industrial user" that is determined by the "Director" to have a reasonable potential to adversely affect the operation of the "publicly owned treatment works" or for violating any pretreatment standard or requirement [in accordance with 40 CFR 403.8(f)(6)(1994)].

The main purpose of the SID Permit is to require monitoring of wastewater that is discharged to POTWs to assure compliance with State and Federal pretreatment standards. Also, SID Permits help to ensure the discharge from POTWs are protective of water quality.

An SID Permit is required prior to discharge for an SIU, or prior to an increase in flow or to a change in wastewater characteristics. Applications are submitted 180 days prior to the commencement of discharge, for new SIUs, or 180 days prior to flow increase, change in wastewater characteristics, or expiration of the current SID Permit for

existing SIUs. Requirements of the local sewer use ordinance, State pretreatment standards, and Federal pretreatment standards are taken into account during the development of the SID Permit. A 30-day comment period is given only to the industry and receiving POTW.

SID Permits are issued for a maximum of five years and include monitoring and compliance requirements.

Effluent Requirements

The "effluent limits" of an individual NPDES discharge permit are the levels to which pollutants must be reduced prior to discharge of the wastewater and/or stormwater into the waters of the state. Permits generally require that pollutant levels should be reduced either:

1) To levels that ensure that no harm will occur to humans, wildlife, or aquatic life in the receiving water body (even during dry weather periods of low water flow, or low lake levels), or

2) To levels reached using the best available treatment technologies economically feasible, whichever of these levels is the most protective.

Antidegradation

There are specific Antidegradation implementation procedures which have been developed for facilities in Alabama. Any facility with a proposed new or increased discharge of a pollutant either to a high quality water or to an outstanding state resource water is subject to the Antidegradation rules. The applicant will likely be required to submit an Antidegradation demonstration before the NPDES permit can be issued.

What is the public notice procedure when there has been an upset at a wastewater treatment plant?

An upset at a publicly-owned treatment works (municipal wastewater treatment plant) or industrial plant is deemed to have occurred when the facility (plant) has an exceptional incident in which there is an unintentional and temporary noncompliance with permit discharge limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

Whenever such upsets occur, the facility is required to verbally notify ADEM within 24 hours and submit a written report to ADEM within five days of becoming aware of the event. The submitted report includes the cause of the upset, documentation detailing that the facility was being operated properly at the time of the upset, and the steps the permittee took to minimize any adverse impact on human health and the environment resulting from the upset.

The sanitary treatment works are also required to report to ADEM, the public, the County Health Department, and any other affected entity such as public water systems, as soon as possible upon becoming aware of any notifiable sanitary sewer overflow. A notifiable sanitary sewer overflow is an overflow, spill, release, or diversion of wastewater from a sanitary sewer that reaches a water of the state or may imminently and substantially endanger human health.

Underground Injection Control (UIC) Permits

How are permits issued to facilities that may discharge wastewaters beneath the ground, and how can you participate in the permitting process?

Within the past few decades, the realization that subsurface injection could contaminate groundwater has prompted many states to develop programs and methods to protect underground sources of useable water. Additionally, to increase groundwater protection, a federal Underground Injection Control (UIC) program was established under the provisions of the Safe Drinking Water Act of 1974. This federal program establishes minimum requirements for effective state UIC programs. Alabama has EPA's approval to run the UIC program in the state. Since groundwater is a major source of drinking water in Alabama, the UIC program requirements were designed to prevent contamination of Underground Sources of Drinking Water (USDW) resulting from the operation of injection wells. ADEM's UIC rules on public participation follow the same federal requirements as do the NPDES (individual permits) in 40 CFR 124. See discussion regarding Individual Permits above.

There are many different types of injection wells regulated by ADEM, which vary in design and function. Some use gravity flow field lines to dispose of treated wastewater from small commercial operations in areas where a public sewer system is not available. There are also treated discharges from community wastewater collection and treatment systems which serve entire residential areas. Others involve discharges of treated groundwater and chemical oxidants associated with systems designed to clean up groundwater contamination.

With proper siting, construction and operation, injection wells can be an effective and environmentally safe means for treated wastewater disposal. There are many different types of injection wells, but they are all similar in their basic function.

What Are the Categories of Underground Injection Wells?

Class I Wells: Injection of pollutants below the lower most USDW. These wells are prohibited by regulation.

Class II Wells: Injection of wastes from oil and gas production. The Alabama Oil & Gas Board regulates these wells.

Class III Wells: Solution mining of certain minerals. Alabama currently regulates one facility with this type of well. Fresh water is injected to dissolve minerals, such as salt, and the salt solution is used as a raw material in a manufacturing process.

Class IV Wells: Injection of Hazardous Waste above an USDW. These are banned by Federal regulations. If found they are required to be closed.

Class V Wells: All other types of wells not regulated as a Class I, II, III or IV well. These make up about 90% of permitted injection wells in Alabama.

Drinking Water Permits

Drinking water permits are issued as either a permit-to-construct or a permit-to-operate.

A permit-to-construct is required prior to start of construction of a new public water system or any major addition to an existing public water system. This application must include plans and specifications prepared by a professional engineer. An application for a permit-to-construct a new water system must be accompanied by an engineering

report verifying the system has both the technical, managerial, and financial capacity to remain viable. An engineering report may be required prior to issuance of a permit-to-construct at an existing public water system, depending upon the complexity of the proposed improvements. Once a permit-to-construct is issued, progress reports must be submitted to ADEM at least quarterly, or more often if requested by the Department. Upon completion of the project, a project completion form must be submitted indicating final costs, satisfactory bacteriological results, and pressure test results. An on-site inspection by ADEM personnel is required before a new public water system can be placed in operation and on a case-by-case basis after construction completion on existing public water systems.

All public water systems are required to have a permit-to-operate. Existing public water systems must submit a permit-to-operate renewal application prior to expiration of the existing permit. The systems must also submit documentation verifying compliance with permit conditions and ADEM regulations. If needed special conditions or requirements are placed in permits-to-construct and permits-to-operate.

What is ADEM's role in regulating dredge or fill activities in a wetland, and what opportunities exist for public participation?

Any person who wishes to place fill materials, excavate or dredge, or mechanically clear (use heavy equipment) within a wetland, lake, river, or stream must first apply to the U.S. Army Corps of Engineers (COE) for a federal Clean Water Act (CWA), Section 404 permit. If the COE determines that an Individual Section 404 permit is needed, then the applicant also must obtain an Individual CWA Section 401 Water Quality Certification from the ADEM Field Operations Division.

Once a landowner, developer, contractor, etc. determines or becomes aware that a given project involves dredge or fill activities in a water of the United States (including regulated wetlands), the appropriate COE District Office should be contacted. The Nashville District manages COE permitting and regulatory concerns for the Tennessee River watershed located in Alabama. The Mobile District manages all other watersheds of the state. ADEM's Field Operations Division, Office of Field Services manages 401 Certifications for permits drafted by either COE District for Alabama, with the exception of Mobile, Baldwin, and Washington counties. The 401 Certification for these counties is managed by ADEM's Field Operations Division, Coastal Section. Dredge and fill projects within the three counties may also fall under the coastal certification program and may involve additional coastal consistency conditions.

Once the COE has been contacted, a determination will be made by the COE as to what type of 404 permit, if any, will be required. The COE may choose to make a site visit prior to making this determination. The COE may notify the applicant that the proposed activities are not regulated or issue a letter-of-permission for a project with de minimus impacts. However, if it is determined that a 404 permit is required, the COE will notify the applicant that either COE Nationwide, General, or Individual 404 permit coverage is needed based on the scope/ size of the proposed project prior to

proceeding with the proposed activities. An Individual 401 Certification from ADEM is only required for projects that fall under a COE Individual 404 permit.

The COE will issue a Joint Public Notice (JPN) for proposed 404 Individual permit coverage once the COE has made a preliminary decision that the applicant has met applicable COE technical and administrative requirements. This notice serves as the applicant's request for 401 Certification and the applicant is contacted by ADEM requesting that any needed technical information be submitted in order that a water quality review can be completed and determination relative to 401 Certification can be made.

Once the public notice period expires, the COE forwards all correspondence/ comments along with applicable responses to comments by the COE or the applicant, to ADEM and makes a formal request to ADEM for a determination relative to 401 Certification. ADEM will make this determination after review of all relevant information. Often, the ADEM 401 Certification is issued with special conditions identified that must be included as conditions of the COE 404 permit. However, ADEM may determine that there is not reasonable assurance that the project can be conducted in a manner which will be protective of water quality and the 401 Certification will be denied. In this case, the COE is unable to issue the 404 permit. ADEM also reserves the right to waive 401 Certification for After-The-Fact (ATF) 404 permit requests and in other specific instances.

The COE's 404 Nationwide and General permits are publicly noticed and issued approximately every five years and are designed for dredge and fill projects with limited scope and potential impact on the environment. The COE does not issue a project specific public notice for 404 Nationwide and General permits. ADEM reviews and issues 401

COASTAL AREA DEFINED

"Coastal area" means the waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder) lying seaward of the continuous 10 foot contour (as defined below) extending seaward to the outer limit of the United States territorial sea. The inland boundaries of the coastal area are described as follows: begin at the southernmost point of the Mississippi-Alabama state line where the land surface elevation reaches 10 feet above mean sea level and continue in a general easterly direction along the 10-foot contour to the proximity of Mobile Bay; continue in a northerly direction on the 10-foot contour along the western shore of Mobile Bay and the Mobile River delta to the north line of Mobile County; thence southeastward along the north line of Mobile County to the intersection with the Baldwin County line in the Mobile River; thence along the west and north lines of Baldwin County in the Mobile and Alabama Rivers to the intersection of the westernmost point of Baldwin County where the land surface altitude reaches 10 feet above mean sea level; thence along the 10-foot contour in a southwesterly and southern direction along the Alabama River, the Mobile River delta and the east shore of Mobile Bay to the proximity of Bon Secour; thence continue along the 10-foot contour in an easterly and northeasterly direction to the Alabama-Florida state line.

Certification for the COE 404 Nationwide and General permits. Unless contacted, an applicant does not need to coordinate with ADEM when applying for 404 Nationwide or General permit coverage from the COE.

Coastal Permits

The Coastal Program rules were promulgated for the purpose of establishing rules and procedures to administer the permitting, regulatory and enforcement functions of the ACAMP, consistent with Legislative requirements and intent. One of the roles of ADEM's program is to lessen the impacts to the State's coastal resources. The rules are described in Division 335-8 Coastal Area Management Program Regulations.

The ACAMP includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the State in accordance with the provisions of Chapter 7 of Title 9, Code of Alabama 1975, as amended, setting forth objectives, policies and standards for public and private users of lands and waters in the coastal area.

Who needs to obtain a permit before conducting activities in the coastal area?

ADEM's Coastal Area Management Program Regulations require persons desiring to conduct an activity (use) within the coastal area requiring a state agency permit, a consistency determination for federally regulated activities, a consistency determination for federal projects, activities and assistance, or "non-regulated uses" shall obtain, as appropriate, a permit or consistency determination from the Department that assesses whether or not the use is consistent with the applicable provisions of ADEM Admin. Code division 335-8.

Simplified, permitting/review under the Coastal Program is required when the proposed activity is either a 1) "non-regulated use" or 2) is a use subject to some other state or federal permit or a federal project, activity, or assistance.

Activities which are not otherwise subject to some state or federal permit but meet certain criteria are required to obtain a "non-regulated use" permit from ADEM. Non-regulated uses may include, but are not limited to, construction on beaches and dunes, developments greater than 5 acres in size, extraction of groundwater, and other uses determined by the Department.

Activities which are subject to some other state or federal permits or are federal projects, activities, or assistance and are also in the coastal area are required to obtain either a permit or a coastal consistency decision by ADEM.

Pursuant to 15 CFR Part 930, Subpart D, uses which are federally licensed or permitted activities affecting the coastal area are required to be conducted in a manner consistent with the management program. The Department shall review and respond to a federal license or permit applicant's consistency certification in accordance with the provisions of 15 CFR Part 930, Subpart D.

The federal license and permit activities which are subject to coastal consistency review, listed pursuant to 15 CFR Part 930, Subpart D, can be found in ADEM Admin. Code r. 335-8-1-.09.

What are typical coastal activities or uses that require permitting or coastal consistency reviews or decisions?

Activities that are typically reviewed by ADEM's Coastal Program staff include, but are not limited to:

1. Dredging and/or filling of State water bottoms or wetlands,
2. Construction and operation of new or expanded existing marinas,
3. Construction of piers, docks, boathouses, and other pile supported structures,
4. Construction of bulkheads, the placement of rip-rap, and other structural shoreline armament,
5. Construction of canals for the purposes of providing navigable access to an existing or approved water dependent facility or Use of Regional Benefit,
6. Construction and other activities on Gulf Front Beaches and Dunes,
7. Commercial and residential development greater than 5 acres,
8. Groundwater extraction greater than 50 gallons per minute (gpm),
9. Siting, construction and operation of energy facilities and,
10. Discharges to coastal waters greater than 1 million gallons per day (mgd).

How do you apply for a non-regulated use permit or a coastal consistency decision before conducting activities in the coastal area?

If the activity is a use subject to some other state or federal permit or a federal project, activity, or assistance, the process is typically initiated by the applicant through the filing of an application with the appropriate regulatory agency. For example, a proposal to dredge in coastal waters would be initiated through the filing of an application with the COE. The ADEM would provide a consistency decision to the COE permit, either concurrence or denial.

If the activity is not subject to the above but does meet the "non-regulated use" permit requirement from ADEM then application is made directly to the ADEM Coastal Office in Mobile.

What does ADEM consider as it reviews an application?

Uses that are determined by the Department to be in violation of applicable air or water quality standards or associated regulations shall not be permitted or certified to be in compliance with the ACAMP. ADEM's division 335-8 Coastal Area Management Program Regulations require it to make the following considerations as it reviews an application.

In determining a user's ability to comply with the regulations, the Department shall consider the extent to which the use adversely impacts the following coastal resources:

(a) Historical, architectural or archaeological sites designated pursuant to 16 U.S.C. §§ 470-470W;

(b) Wildlife and fishery habitat especially the designated Critical Habitats of endangered species listed pursuant to 16 U.S.C. § 1531-1543;

(c) Public access to tidal and submerged lands, navigable waters and beaches or other public recreational resources.

How are the citizens involved in the permitting process?

Prior to ADEM issuing a decision on the issuance, modification, or denial of any permit or variance under this administrative code, or on the concurrence with or objection to a certificate of consistency for a use requiring a federal permit or license or on the approval or disapproval of a local permitting program, or on the issuance, modification, or denial of a certificate of compliance for a use requiring a state permit, ADEM or its agents (including other state or federal agencies) shall issue a public notice of the proposed activity for the purpose of soliciting public comment thereon or shall require the applicant for the Department permit or variance or federal permit or license to provide such notice in a manner prescribed by the Department. Said notice shall be issued at least 15 days prior to issuance of ADEM's decision.

The Department may provide an opportunity for a public hearing on the proposed activity if any person has satisfactorily demonstrated that a relevant and significant issue cannot be effectively or fully communicated to ADEM in writing or a significant public interest would be served thereby. Any public hearing provided shall be announced at least 30 days prior to the hearing date.

Public notice may not be required for modifications, and permit extensions or renewals in which the impact is expected to be equal to or less than originally permitted. All editorial changes and name changes are not subject to public notice requirements.

What is a coastal variance and why is it sometimes needed?

ADEM may grant a variance from any requirement of the Coastal Program rules where the applicant has satisfactorily demonstrated to the Department that certain requirement(s) would be unduly restrictive or constitute a taking of property without payment of full compensation in accordance with the Constitution of the State of Alabama or of the United States. Any variance granted to an applicant may impose conditions and requirements to effectuate to the maximum extent, the object of the rule for which a variance is sought without being unduly restrictive or constituting a taking of property without payment of full compensation.

Waste Management Permits

What types of permits are issued to landfills and other facilities used to dispose of garbage and other solid wastes?

Solid waste can be a solid, a liquid, or a gas (in a container). ADEM's Land Division issues several different types of permits required for various types of waste.

Solid Waste Landfill Permits

There are three (3) types:

1) *Municipal Solid Waste Landfills*:

   MSWLFs generally accept most residential wastes (all the materials at curbside pick-up). A MSWLF unit also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, household hazardous waste, treated medical waste, industrial solid waste, construction/demolition waste and/or rubbish.

2) *Construction/Demolition Debris Landfills*: C/DLFs generally may only accept Construction/Demolition Waste such as waste building materials, packaging, and rubble

resulting from construction, remodeling, repair, or demolition operations on houses, commercial buildings, and other structures. Such wastes include, but are not limited to, masonry materials, sheet rock, roofing waste, insulation (not including friable asbestos), scrap metal, and wood products.

3) *Industrial Landfills*:

Industrial Landfills may accept industrial solid waste such as solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of RCRA. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and wastewater treatment.

Solid Waste Disposal Permit Modifications

Prior to any change in the permitted service area, increasing the volume of waste received or changing the design or operating procedure, the permittee shall request a modification of the permit. This modification request must be filed with the Department at least 90 days prior to the anticipated change and shall receive approval from the Department prior to the implementation of the proposed change.

There are two (2) types of Modifications:

1) *Major Modification to a Solid Waste Disposal Facility*:

Change in the permitted service area, conversion of an industrial landfill or construction/demolition landfill to a municipal solid waste landfill or conversion of a construction/demolition landfill to an industrial landfill, addition of a liner and leachate collection system or any design change in existing permitted liner and leachate collection system, addition of disposal acreage inside the permitted perimeter where design plans have not been previously submitted.

2) *Minor Modification to a Solid Waste Disposal Facility*:

Addition of a waste stream to an ILF or C/DLF, addition or relocation of a monitoring well, addition of sedimentation basins, any change in the permitted final fill elevations, and the average daily volume of waste specified by the permit for a landfill unit is proposed to be exceeded, or is exceeded for two or more consecutive reporting quarters, by 20% or 100 tons/day, whichever is less.

What types of public notice processes are used by ADEM when it issues permits or permit modifications for landfills?

The three (3) different types of public notice processes are for:

1) Initial applications for a permit for a:

i) Municipal Solid Waste Landfill,

ii) Construction/Demolition Landfill,

iii) Industrial Landfill

2) A major modification (change) to any one of these types of facilities;

3) A permit renewal after completing five years operations.

How can you participate in the process when ADEM is considering issuing a permit for a solid waste landfill or a major modification of a permit to such a facility?

The affected local government must themselves conduct a public meeting in the affected area. The public meeting must be held in the affected county/ municipality prior to the submittal of the application to ADEM. The local government also must publish a public notice announcing the public meeting in a newspaper, or newspapers, of general circulation within the affected county at least 30 days before the public meeting. That public notice must list the date, time, and exact place of the meeting.

At the time the application is submitted, the ADEM's Land Division requires

(a) Approval of the disposal site by the local governing body [or "Host government approval," as provided in § 22-27-48, Ala. Code (2006 Rplc. Vol.)];

(b) An evaluation by the Regional Planning Commission of the consistency of the proposed solid waste management site to the current regional solid waste management needs assessment [or "Statement of consistency," as provided in § 22-27-48, Ala. Code (2006 Rplc. Vol.)]; and,

(c) Related technical information.

Once the application for a solid waste disposal facility or a major modification to an existing solid waste disposal facility, is deemed to be a completed application - that is, the Land Division has determined that all the information asked for on the application has been provided by the applicant - ADEM shall notify interested and potentially interested persons of the proposed landfill unit by publishing a notice in a newspaper of general circulation in the county in which the facility is located or is proposed to be located. Landowners' properties adjoining to a proposed landfill unit will also receive a copy of public notice. The Department will also place the public notice on its Internet Web site.

The required public notice contains information regarding the specific type and nature of the landfill unit, the type of waste to be disposed, the person or agency requesting the permit, and the descriptive location of the landfill unit. It also will announce the beginning of a 35-day public comment period, and will provide instructions on how you may submit comments. In addition, the public notice will list a contact person at ADEM who can provide additional information about the request. It also will advise that a copy of the permit application may be viewed in the ADEM Central Office (1400 Coliseum Blvd, Montgomery, Alabama) and describe how to request a public hearing on the permitting request.

The Department will authorize a public hearing upon receipt of a significant number of technical requests. (See pg. 31, "How does a public hearing differ from a public meeting?") Requests for public hearings shall be submitted in writing to ADEM by interested persons. Receipt of comments and requests deemed to be frivolous and/or non-technical will be acknowledged. However, ADEM is obliged to respond only to those comments/requests that are relevant to the issue at hand. Requests for public hearings must be submitted within 35 days after the

publication of the public notice and must contain the following:

(i) The name, address, and telephone number of the person requesting the hearing.

(ii) A brief statement of the person's interest and the information the person wishes to submit.

(iii) The person's signature, if an individual, or the signature of a responsible officer of an organization or legal entity.

When a hearing has been authorized, the Department will establish a time, date, and location for the hearing, and will post a separate public notice announcing the hearing in the newspaper of general circulation in the affected county at least 35 days in advance. The notice will include a summary of the proposed permit, the place, time, and date of the hearing, and the name, address and telephone number of an office at which interested persons may receive further information.

Once the public meetings and hearings have concluded and the public comment period has ended, ADEM must issue a permitting decision: 1) deny the permit, stating in writing the reason(s) for denial and informing the potential permittee of appeal procedures; 2) issue the permit if the application is complete and meets regulatory requirements; or 3) require additional relevant information.

A response to the comments received during the public comment period is included with the notice of decision and mailed to all interested persons.

Other Types of Solid Waste Permits or Approvals Issued by ADEM

What other types of permits are issued by ADEM for handling, processing, treating, re-using or disposing of nonhazardous solid waste?

In addition to permits for landfills, ADEM also issues other permits and approvals to address more specific types of waste such as non-hazardous industrial waste, and medical waste. Although some types of wastes are sometimes used as daily cover or as part of a final cover, in other instances there may be limits, or even bans on the disposal of these wastes in landfills. All non-hazardous industrial waste must be preapproved by ADEM prior to disposal in a solid waste landfill. Commercial Medical Waste Transporters must get a permit to transport medical waste in Alabama. There is no public notice requirement.

How can you participate in the process when ADEM is considering issuing a permit to treat medical waste?

ADEM issues permits for facilities that treat more than 220 pounds of medical wastes per month. Persons or facilities that treat 220 pounds or less of medical waste are not required to obtain a treatment permit. There are no specific deadlines for the review of applications for medical waste treatment permits. However, permitting decisions generally are made within 180 days. Once an app -lication is considered complete, ADEM will issue a public notice to be published in the newspaper of general circulation in the affected county. The public notice describes the type of permit being sought; identifies the permittee and the location of the facility; advises that the application may be viewed at the main office of ADEM and at a location near

the proposed facility; announces there is a 30-day public comment period; provides information on how to submit comments and explains how to request a public hearing.

Public meetings are neither required nor routinely held. However, ADEM staff will meet informally with any individual or small group making such a request. If a public hearing is requested it may be held at ADEM's discretion. If a hearing is held, it will be preceded by a second 30-day public notice period announcing the time and location of the public hearing. At a public hearing, there is no back-and -forth dialogue, and no questions will be answered by ADEM. All verbal comments will be recorded and persons making comments will be encouraged to also submit their comments in writing.

After all valid comments have been considered, a permitting decision will be made. If a permit is issued one copy will be provided to the applicant. The notice of decision, summarizing the permit and advising that a copy of the permit may be viewed at the main office of ADEM will be sent to all parties that requested a public hearing.

HAZARDOUS WASTE PERMITS

Does everyone generating or handling hazardous waste need a permit?

No, generators of hazardous waste do not need a permit unless they also are treating, storing or disposing of their waste on-site. When no permits are required, there is no public comment period or other opportunity for public comment. Nonetheless, ADEM does protect public health and the environment by regulating those who generate hazardous waste. The regulation of hazardous waste generators is described in the following paragraphs.

Hazardous wastes can be a solid or liquid waste, contained gaseous material, or sludge. It can be the by-product of manufacturing processes or discarded commercial products that may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. The federal Resource Conservation and Recovery Act (RCRA) requires "cradle-to-grave" tracking of hazardous wastes; from generation, to transportation, to treatment, storage, and disposal.

There are two main types of hazardous waste: characteristic wastes and listed wastes. Characteristic hazardous wastes are those that are ignitable, corrosive, reactive (or explosive), or toxic. Listed hazardous wastes are wastes that con-tain specific substances, or that are the byproduct of specific processes. EPA maintains four separate lists - called the F, K, P, and U lists - that include several hundred different hazardous, or acutely hazardous, wastes. For a more detailed definition of Hazardous Waste, see pages 58-60, "What is hazardous waste, also known as RCRA waste?")

Listed hazardous wastes are subject to two specific federal rules: the "derived from" and "mixture" rules. Any wastes derived from listed hazardous wastes are also considered to be hazardous wastes. For example, if listed hazardous waste is incinerated, the remaining ash also is hazardous waste because the ash was derived from hazardous waste. Also under the mixture rule any waste mixed with listed hazardous waste is also con-sidered to be hazardous waste. This eliminates the strategy of turning a hazardous waste into a non-hazardous waste by diluting it. For example, under this rule, if you mix 10 pounds of listed hazardous waste with 990 pounds of non-hazardous material, you'll have 1,000 pounds of hazardous waste.

Types of Hazardous Waste Generators

Who is a Generator?

Many commercial and industrial activities may generate hazardous waste. All facilities or persons that produce hazardous waste are considered generators. As stated previously, although hazardous waste generators are not required to obtain a permit unless they also intend to treat, store, and/or dispose of their hazardous waste onsite, all hazardous waste generators are regulated. All generators of hazardous waste are responsible for identifying their hazardous wastes (e.g. having wastes analyzed so they know wastes that qualify as hazardous wastes.) Hazardous waste generators are also responsible for ensuring their waste is properly handled onsite and ensuring that when it is shipped offsite, it is only sent to a facility that is properly permitted or otherwise authorized to treat, store, or dispose of it.

What are the different types of hazardous waste generators, and what are their responsibilities?

There are three categories of hazardous waste generators. These categories are determined by the amount of hazardous wastes or acutely toxic hazardous wastes they generate monthly and/or on the amount of such wastes they accumulate on site at any given time.

For example, those facilities or individuals who generate more than 220 lbs. but less than 2,200 lbs. of hazardous waste during any month of the previous year, or who accumulate (store temporarily) onsite at any one time a total of less than 13,227 lbs. of hazardous waste, are considered Small Quantity Generators. SQGs must contact ADEM to obtain an EPA identification number. SQGs must ship their hazardous waste to a permitted hazardous waste treatment, storage, or disposal facility.

Facilities that generate, or accumulate onsite, less hazardous waste than a SQG, are considered Conditionally Exempt Small Quantity Generators (CESQGs), and are not required to obtain an EPA ID number. CESQGs must deliver waste to a facility permitted by ADEM and may accumulate no more than 2,200 pounds of hazardous waste on site at one time. SQGs and CESQGs may not exceed the allowable limits of their generator category for the amount of hazardous wastes they may generate, or accumulate onsite at any give time, or they will be reclassified into the appropriate higher category.

Meanwhile, facilities that generate, or accumulate onsite, more hazardous waste than a SQG are considered Large Quantity Generators (LQGs). In addition to obtaining an EPA ID number and shipping their waste to a permitted treatment, storage, and disposal facility, LQGs must submit a biennial report to ADEM documenting the handling of the hazardous waste generated. Anyone who generates 2.2 lbs. or more, of acutely toxic hazardous waste in any month, or who accumulates on-site at any time 2.2 lbs. or more, of acutely toxic hazardous, regardless of the rate of generation, automatically is subject to all the requirements applicable to an LQG of hazardous waste.

The period during which a hazardous waste generator may accumulate (temporarily store) hazardous wastes on -site without a permit is determined by the generator's classification as a large or small quantity generator. LQGs may only accumulate hazardous waste on-site for 90 days. SQGs may accumulate

hazardous waste on-site for 180 days before it must be properly shipped off-site to a permitted hazardous waste treatment, storage, or disposal facility. However, small quantity generators that ship wastes to facilities more than 200 miles away may accumulate their hazardous waste on-site for up to 270 days. No hazardous waste generator may store hazardous wastes on-site beyond these time limits without obtaining a hazardous waste treatment, storage, and disposal facility permit from ADEM.

Generators shipping hazardous waste off-site to a hazardous waste treatment, storage or disposal facility also are required to use a permitted transporter and to meet all requirements to label waste containers and maintain accurate records of who had custody of the wastes, and where it was taken.

Household waste is not a hazardous waste. Household waste is any material derived from households including single/multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

As mentioned previously, there are no public notices or opportunities for public comment associated with generating or shipping hazardous waste. However, persons with questions about whether there are registered generators in their neighborhood, or concerns about whether such wastes are being properly managed, may call (334) 271-5637.

What is the pre-application public participation process required for "new" or "significantly changed" (existing) hazardous waste facility permits? And, how are permits issued to facilities for the treatment, storage, or disposal of hazardous wastes, and how can you participate in the permitting process?

A hazardous waste permit application consists of two parts. Part A of the application consists of a standardized application form. Part B of the application consists of narrative descriptions of the facility, its design and operation, and supporting technical information. Applicants seeking an initial permit for a "new" hazardous waste facility, or seeking a permit renewal that also includes significant changes to the existing permitted facility (changes that are equivalent of a major modification), are required to hold at least one public meeting prior to submitting their Part B application.

At least 30 days prior to the "pre-application meeting," the applicant must place a public notice in the form of an advertisement in the newspaper of general circulation in the county or equivalent jurisdiction of the facility, and possibly in newspapers of adjacent counties if that is deemed necessary by the Department. The applicant must provide additional public notice by posting a readable sign about the meeting at or near the facility property and by announcing the meeting on at least one local radio or television station. Each of these public notice formats should list the date, time and location of the meeting, describe the proposed facility and the purpose of the meeting, provide a contact person for the applicant, and encourage people to contact the applicant at least 72 hours in advance of the meeting if they have any special access needs. The applicant also should notify ADEM and other appropriate units of state and local government about the meeting.

At the pre-application meeting the applicant should solicit questions and comments, inform the community and interested parties of proposed hazardous waste management activities, and provide a sign-up sheet

for attendees who wish to provide their names and addresses. After the meeting, the applicant must submit to ADEM, a summary of the meeting, a copy of the attendees' sign-up sheet, and copies of any written comments or materials submitted at the meeting.

Hazardous Waste Permits; General Public Notice Information

The issuance, renewal, or significant modification of any permit for a hazardous waste storage, treatment or disposal facility includes substantial public notice requirements and opportunity for public input. Some public notice requirements must be implemented by ADEM, while others are the responsibility of the applicant.

The Department maintains mailing lists used to notify interested persons regarding changes to the permit status of the various permitted hazardous waste management facilities in Alabama. ADEM also maintains a list of all people who have requested to be notified of changes to permit conditions at any permitted hazardous waste facility in the state.

Periodically, the public is notified of the opportunity to be put on the mailing list through publications in the public press, regional and State of Alabama funded newsletters, environmental bulletins, or State of Alabama law journals. Other names are added to these lists based on written or telephone requests, or as a result of attending a public hearing regarding permitting, or modifying the existing permits of hazardous waste facilities. If you wish to have your name added to one of these public notification lists, please contact the Department's Permits and Services Division at (334) 271-7714.

What is the public notice process, and what are the opportunities for public participation associated with hazardous waste permitting?

When ADEM receives a permit application for a new facility, or a permit application proposing a major modification, a notice to appropriate units of State of Alabama and local government officials is issued.

Once a draft permit has been prepared by ADEM, a public notice announcement is mailed to those people on ADEM's mailing list. Also, a publication of the notice is placed in the daily or weekly major local newspaper of general circulation, broadcast over local radio stations within the affected county and placed on ADEM's web site. At that time, ADEM will place the public notice package (a copy of the draft permit, a copy of the original application, a fact sheet, and a copy of the public notice announcement) on the Department's website and in ADEM's file review room.

The public notice announces the availability of a draft permit for public review. It also provides for a 45-day public comment period. The notice describes where the application, fact sheet, and draft permit may be viewed (at the library/courthouse and ADEM file room/regional offices) and also will provide an ADEM contact person for obtaining additional information.

ADEM will hold a public hearing on all proposed disposal facility permits. Notice of the public hearing will be given at least 30 days before the hearing (public notice of the hearing may be made in the same public notice for a draft permit) and shall include the date, time/location of the hearing. A public hearing may also be held whenever ADEM receives written notice of opposition to a draft permit and a

proper request for public hearing, when such a hearing might clarify one or more issues involved in the permit decision or when ADEM finds, on the basis of requests, a significant degree of interest in a draft permit. The public comment period on a draft permit will automatically be extended to the close of the public hearing. The hearing officer may also extend the comment period by so stating at the hearing.

After the public comment period and any extensions to it have expired, the Department will prepare and issue a final permitting decision. A copy of the permit is sent to the applicant and EPA. A notice of decision is sent to all persons who signed up at public meetings or hearings to receive notice of the final decision, and to all persons who submitted comments.

The notice of decision states whether the permit was issued or denied and is accompanied by a response to comments submitted during the public comment period or at the hearing.

The Effects of Non-Compliance impacts all permit applicants, including hazardous waste transporters, treatment, storage, and/or disposal facilities. ADEM may deny the issuance of or reissuance of a permit to any applicant with a substantial record of convictions, repeated violations, or intentional misrepresentation.

What is the public notice process and what are the opportunities for public participation associated with changes (permit modifications) to existing hazardous waste permits?

When a permit is modified, only the conditions subject to modification are reopened. Modifications may be requested by the permit holder (permittee), or initiated by ADEM. If cause exists, ADEM can modify the permit at any time to assure that the permit continues to comply with current applicable standards. Members of the public also may make a case that a permit should be modified.

Major Modifications

Major modifications may substantially alter the facility or its operations. The permittee should identify its request to ADEM as a major modification, describe the exact changes to permit conditions and the supporting documents referenced by the permit, and explain why the modification is needed.

If ADEM decides that the request is not justified, it will send the requester a brief written response giving the reason for the decision. If the Department tentatively decides to modify the permit, it will prepare a draft permit incorporating the proposed changes. ADEM may request additional information and require the submission of an updated application. The draft permit will be subject to the public notice procedures outlined earlier in this guidance document.

Minor Modifications

Minor modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. They generally do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment.

The permittee should identify its request to ADEM as a minor modification, describe the exact changes to permit conditions and the supporting documents referenced by the permit, and explain why the modification is needed. Following the Department's determination that the

request should be processed as a minor modification, a revised page(s) reflecting the change(s) will be developed to insert into the permit, and/or supporting documents. A copy of the revised page(s) will be sent to the facility and to the U.S. Environmental Protection Agency for insertion into their copies of the permit. A public notice period is not necessary for the processing of minor modifications.

All ADEM permitting decisions, including modifications to hazardous waste permits may be appealed to the Alabama Environmental Management Commission. For information on appeals, see pages 34-35 - "What if you do not agree with ADEM's final decision? How can you file an appeal?"

Hazardous Waste Definitions

What is hazardous waste, also known as RCRA waste?

RCRA (Resource Conservation and Recovery Act), Subtitle C "hazardous wastes" are required to have "cradle-to-grave" tracking of their generation, transportation, treatment, storage, and disposal. There are two (2) main types of RCRA hazardous waste; "characteristic" wastes and "listed" wastes.

"Characteristic" hazardous wastes are defined in the U.S. Code of Federal Regulations (40 CFR 261, Subpart C) as exhibiting one of four hazardous characteristics; ignitable, corrosive, reactive (or explosive), or toxic, but are not listed or otherwise excluded from Subtitle C regulation. It is the responsibility of the generator to determine whether his wastes exhibit one or more of these characteristics.

- **"Ignitable"** characteristic hazardous wastes include; liquids (other than water-based mixtures containing less than 24% alcohol) which can be ignited at temperatures of one hundred forty degrees Fahrenheit (140 °F) or less; solids which can, under normal conditions, ignite through friction, exposure to moisture, or spontaneous chemical changes. Ignitable compressed gases and oxidizers (as defined under 49 CFR 173.151) are also considered ignitable wastes.
- **"Corrosive"** characteristic hazardous wastes are those with a pH equal to or less than 2, or equal to or greater than 12.5. Liquids which can corrode steel at a rate of greater than one-quarter inch (¼) per year are also characterized as corrosive. [pH is a scale running from 1 to 14 (standard units), used to measure the strength of acidic and alkaline substances mixed with water or other liquids. Acidic solutions register below 7, and alkaline solutions register above 7, while the pH of pure water is 7, which is a neutral. The pH of solutions can also vary, depending on how diluted or concentrated they are. In addition, pH can be temperature sensitive, as solutions generally can be made more concentrated at higher temperatures. Vinegar generally has a pH of 3.4 to 2.4. Meanwhile, the pH of a room temperature solution of baking soda is about 8.3, the pH of household cleaning ammonia is approximately 11, and solutions containing lime or lye can be mixed to a maximum strength nearing pH 14.]

- **"Reactive"** characteristic hazardous wastes are substances unstable enough to be able to undergo violent change without detonations, or are capable of exploding under normal conditions or when heated under confinement. Substances which react violently with water, or which form potentially explosive mixtures or generate dangerous types or amounts of toxic gases when mixed with water are also characterized as reactive. Reactive wastes also include those cyanide or sulfide bearing substances capable of generating dangerous or environmentally threatening quantities of toxic gases when exposed to pH levels between 2 and 12.5. Explosives as defined under 49 CFR 173 (51, 53, or 88) are also characterized as reactive wastes.

- **"Toxic"** characteristic hazardous wastes are those solid wastes determined by a Toxicity Characteristic Leaching Procedure test to contain levels of certain toxic metals, pesticides, or other toxic organic chemicals at, or above, specific federally regulated thresholds. That is, if the extracts leached from a waste using the TCLP test contain one or more of 39 toxic contaminants listed in Table I of 40 CFR 261.24 - and that table includes arsenic, benzene, cadmium, chlordane, creosol, lead, mercury, selenium, and vinyl chloride - at levels which exceed the maximum unregulated concentrations, the waste must be characterized as a toxic hazardous waste.

"Listed" hazardous wastes, defined in the U.S. Code of Federal Regulations (40 CFR 261, Subpart D) include approximately 900 different hazardous, or acutely hazardous, wastes specifically "listed" in RCRA regulations. Listed wastes include:

- The **F List** is comprised of 28 different waste streams from non-specific sources. It includes some types of spent solvents, industrial wastewater treatment sludges, quench water sludges, petroleum-processing sludges and leachate (liquids which have percolated through, or drained from wastes) from hazardous waste.
- The **K List**, on the other hand, includes 116 hazardous wastes comprised mostly of residues from specific types of chemical reactions or distillation or purification processes associated with producing wood preservatives, organic and inorganic chemicals, pesticides, explosives, inks, veterinary pharmaceuticals, petroleum refining, metal refining, coke production and coal tar distillation.
- The **P List** includes 239 chemical substances which have been identified as acutely hazardous, although they also may be reactive or exhibit other characteristics. The P List is comprised of commercial chemicals which may be off -specification (for example, they may have impurities), might have been spilled, or are a container residue. If these P List substances are to be discarded, they must be disposed of as listed hazardous wastes. However, P List substances - whether off-specification, only partially spent, collected from nearly empty containers, or otherwise useful - may still be used in other commercial or industrial processes in lieu of disposal, and are not to be considered as hazardous wastes until such time as they do require disposal.

- The **U List** includes 521 substances identified as toxic wastes. They may have additional hazardous properties such as being ignitable, reactive, or corrosive. Like the chemical substances on the P List, U List substances also are commercial chemicals in need of disposal as a result of being spilled, being off-specification, or because they are container residue. However, they too may be suitable for less stringent commercial or industrial processes in lieu of disposal, and are therefore not regulated as waste under these circumstances.

"Hazardous Constituents"

RCRA regulations also list hazardous constituents, which include many of the chemical compounds which are the chemicals of concern in listed waste. In other words, the hazardous constituents are what make hazardous waste "hazardous."

The RCRA lists of Hazardous Constituents are found in 40 CFR (Code of Federal Regulations) Chapter 1 (Environmental Protection Agency - Continued), Subchapter 1 (Solid Wastes - Continued):

- Part 261, Appendix VII. Basis for Listing Hazardous Waste (154 listings)
- Part 261, Appendix VIII. Hazardous Constituents (480 chemical substances)
- Part 264, Appendix IX. Groundwater Monitoring List (221 chemical substances)

As mentioned above, the Resource Conservation and Recovery Act (RCRA) was enacted to ensure the "cradle-to-grave" regulation of hazardous wastes and hazardous constituents. RCRA permitting regulates the activities of facilities which treat, store, or dispose of hazardous waste. Meanwhile, RCRA Corrective Action addresses releases of hazardous wastes and hazardous constituents from RCRA permitted facilities, from interim status facilities, or from facilities that have been treating, storing or disposing of hazardous waste without a permit.

Part 6

What opportunities exist for participating in the ADEM decision making process associated with environmental cleanups?

Chemical spills and other past, or ongoing, residential, commercial or industrial activity sometimes contaminate the environment at specific locations, or larger sites with hazardous waste or hazardous substances (see Part 5, pp. 58-60 "What is hazardous waste, also known as RCRA waste?"). As legislation enacted over the past few decades has been carried out, both federal and state governments have worked together to clean up these contaminated sites. Federal and state agencies have 1) developed an inventory, or listing, of all known sites, 2) organized the lists of sites by ranking them according to the level of potential threat to human health and the environment and 3) conducted site cleanups. Cleanup activity is frequently referred to as "remediation."

As new spill events occur, or older contaminated sites are discovered, sites are added to the lists while other sites may be removed from the lists as cleanups are completed. In other instances, sites may undergo a partial cleanup, known as a "Removal Action," to stabilize or remove the most serious contamination, while other less threatening contamination remains. Such sites remain on the lists of contaminated sites to determine whether further cleanup is needed to address long term risk.

At the federal level, heavily contaminated sites are included on a National Priority List (NPL). Sites on this list are cleaned up under CERCLA (the Comprehensive Environmental Response, Compensation and Liability Act) better known as Superfund. The NPL is updated periodically. EPA publishes the list of NPL sites in the Federal Register. The Federal Register notice describes either the addition of sites to the NPL (final rule) or the proposal to add sites to the NPL (proposed rule). After the sites are proposed to the NPL in the Federal Register, EPA accepts public comments on the sites, responds to the comments, and places those sites on the NPL that continue to meet the requirements for listing.

At the state level, ADEM also uses the U.S. EPA's "Hazard Ranking System" which scores sites on a scale from 0 to 100 to prioritize them for cleanup. Sites scoring at or above an established level may be proposed for the NPL. The Department reviews, processes, and provides regulatory oversight of CERCLA cleanups and it operates under an agreement with U.S. EPA under the CERCLA Support Agency Cooperative Agreement (SACA). ADEM also operates several other cleanup programs for sites not listed on the NPL Superfund list. The opportunities for public participation in state cleanups are discussed in "State Cleanups."

Where do you look for additional information?

The U.S. EPA offers a Superfund Information System or the Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) database that contains information on hazardous substances sites, potential hazardous substances sites and remedial activities across the nation.

The database includes sites that are on the NPL or being considered for the NPL. Currently (as of September 2005), the CERCLIS database displays 13 contaminated sites in Alabama which have been designated as Superfund sites.

FEDERAL CLEANUPS

As a partner with U.S. EPA, ADEM has a role in all federal cleanups in Alabama. Staff from ADEM's Land Division fill that role.

What is the public participation process associated with Superfund (CERCLA) cleanups?

When sites that may potentially be heavily contaminated with hazardous substances are first brought to the attention of U.S. EPA or ADEM's Land Division cleanup staff, agency staffs respond by conducting a Preliminary Investigation and Site Assessment. EPA generally is the lead agency for Superfund related activities, with ADEM serving a supporting role, although ADEM does sometimes serve as the lead.

At the time of the Preliminary Investigation and Site Assessment, the agencies begin to build a mailing list of interested and potentially affected parties. They also conduct community interviews and solicit public input to measure the extent of community concern. In addition, the agencies' staffs begin identifying Potentially Responsible Parties (PRPs), or those persons who contributed to the contamination at the site. If the Preliminary Investigation and Site Assessment indicate that the site scores above 28.5 on the EPA's "Hazardous Ranking System," the site may be nominated for inclusion on the NPL. The Governor is asked to agree before any site is formally placed on the NPL.

Once a site is on the NPL, a full scale investigation of the site, known as a Remedial Investigation and Feasibility Study (RI/FS), will be conducted. During the RI/FS, ADEM and/or U.S. EPA will often hold public informational meetings to make cleanup issues known. Afterward, the agencies will draft a Proposed Plan for Remedial Action, which lists all cleanup alternatives and also includes the cleanup action recommended by the agencies. All of the alternatives are then balanced against nine criteria listed in CERCLA, and the alternative that provides the best balance is selected as the recommended option. The nine criteria to be considered are:

1) Overall Protection of Human Health and the Environment, which addresses whether a remedy provides adequate protection and describes how risks posed through each pathway are eliminated, reduced, or controlled through treatment, engineering controls, or institutional controls.

2) Compliance with Applicable or Relevant and Appropriate Requirements (ARARs), which addresses whether a remedy will meet all of the applicable or relevant and appropriate requirements of federal and state environmental statutes and/or provides grounds for invoking a waiver.

3) Short Term Effectiveness, which refers to the speed with which the remedy achieves protection, as well as the remedy's potential to create adverse impacts on human health and the environment that may result during the construction and implementation period.

4) Long Term Effectiveness and Permanence, which refers to the amount of risk remaining at a site

and the ability of a new remedy to maintain reliable protection of human health and the environment, over time, once cleanup goals have been met.

5) Reduction of Toxicity, Mobility, or Volume through Treatment, which addresses the anticipated performance of the treatment technologies that may be employed in a remedy.

6) Implementability, which addresses the technical and administrative feasibility of a remedy, including the availability of materials and services needed to implement (or carry out) the chosen solution.

7) Cost, which addresses the estimated capital and operation and maintenance costs, as well as a present worth cost. Present worth is the total cost of an alternative in terms of today's dollars.

8) Support Agency Acceptance, which indicates whether, based on its review of the Removal Action Plan, the support agency (either ADEM or the U.S. EPA) concurs with, opposes, or has no comment on the recommended alternative.

9) Community Acceptance, which considers whether comments received during the public comment period for the proposed cleanup plan (Interim Remedy Proposed Plan) reflect community support.

Although there may be various public information meetings throughout the Superfund process, one of the primary opportunities for public participation occurs when the Proposed Plan for Remedial Action (a fact sheet prepared by the lead agency and listing all cleanup alternatives, including the different available technologies and possibly differing levels of cleanup) is placed on public notice. The public notice will announce that a public meeting will be held at which public comments on the Proposed Plan for Remedial Action are to be recorded. The public notice also will announce the beginning of a 30-day public comment period during which written comments on the plan may be submitted to the agencies. In addition, the public notice will include:

1) The place, time and location of a public meeting,

2) A history of the site,

3) The results of the RI/FS,

4) Cleanup alternatives proposed for action,

5) The cleanup alternative recommended by the agencies,

6) A comparison of the recommended alternative to nine criteria required by CERCLA,

7) Pre-addressed public comment forms,

8) Staff contacts for further information,

9) The location of a public information repository such as a local library or county health department,

10) An Americans With Disabilities Act contact to help ensure access to the meeting for citizens with disabilities, and

11) Information regarding the next steps in the process.

After the public meeting and the close of the 30-day public comment period, the lead agency will review all comments and draft a Record of Decision (ROD). The ROD will be accompanied by a Responsiveness Summary with written responses to all comments submitted at the public meeting and during the 30-day public comment period. If the cleanup proposal recommended in the

ROD is different from the proposal recommended in the Proposed Plan for Remedial Action, then the ROD must include an explanation of why the recommended alternative was changed. An additional public informational meeting may be held when the ROD is made public. Cleanup work can begin at any time after the ROD is signed by the lead and support agencies.

However, any further major changes to the cleanup plan featured in the ROD would require a ROD Amendment. In turn, a ROD Amendment requires another round of opportunities for public input: another public notice, public meeting, and 30-day public comment period. ROD Amendments are usually needed if additional pollutants or more extensive contamination is discovered after work begins at the site.

Once the performance standard is obtained, the site may be removed from the National Priority List. Such delisting requires that EPA publish a rule in the Federal Register to remove the site from the NPL.

What is the public participation process associated with the Defense Environmental Restoration Fund program?

The Defense Environmental Restoration Fund Program (DERP) focuses on the cleanup and restoration of contaminated military installations. The Department of Defense (DoD), which is responsible for conducting the cleanups, is the lead agency at all DERP sites. As a supporting agency, ADEM's role is to oversee DoD and ensure the cleanups are being conducted appropriately. All environmental restorations being conducted by DoD are required to follow the Superfund (the Comprehensive Environmental Response, Compensation and Liability Act, or CERCLA) process, even if the sites are not on the National Priorities List.

Therefore, the same public participation requirements applied in Superfund also apply to all DERP cleanup projects. The environmental coordinator of the affected DoD installation, who generally serves as the primary point of contact, is responsible for compiling and maintaining mailing lists and publishing public notices.

DoD policy requires that a Restoration Advisory Board (RAB) be created when there is sufficient and sustained community interest. For example,

1) When the closure of an installation involves transfer of property;
2) When 50 citizens petition for a RAB;
3) When a federal, state, or local government body requests formation of a RAB; or
4) When an installation determines a RAB is necessary.

The RAB is DoD's approach to increasing public participation in the DERP. The RAB is designed to provide a forum for the exchange of information among members of the community and representatives from the installation, the U.S. EPA, and state and local governments. DoD policy requires that each RAB have an installation co-chair and a community co-chair. The co-chairs share similar responsibilities for the administration of the RAB. The installation and community co-chairs are equals, jointly developing meeting agendas and ensuring that appropriate issues are raised and discussed. The joint guidelines state that membership of the RAB should reflect the diverse interests and population of the community.

The Restoration Advisory Board has the responsibility to:

1) Give advice,

2) Discuss such key issues as the scope of studies and level of cleanup,

3) Review plans and reports,

4) Identify project requirements, and

5) Recommend priorities.

Many RAB meetings are used to satisfy the public meeting requirements of CERCLA. DERP cleanups begin with a preliminary site assessment/ investigation. This may lead to a full scale investigation of the site, known as a Remedial Investigation and Feasibility Study (RI/FS). During the RI/FS, DoD may hold public RAB meetings to make cleanup issues known. Afterward, DoD will draft a Proposed Plan for Remedial Action, which lists all cleanup alternatives and which includes the cleanup action recommended by the agencies. As with other Superfund cleanups, the recommended cleanup alternative of the Proposed Plan for Remedial Action must meet the nine criteria required by CERCLA (described in "What is the public participation process associated with Superfund (CERCLA) cleanups?").

Again, as with Superfund cleanups, one of the primary opportunities for public participation occurs when the Proposed Plan for Remedial Action - a fact sheet prepared by the lead agency that lists all cleanup alternatives, including the different available technologies and possibly differing levels of cleanup are placed on public notice. The public notice will announce that a public meeting will be held at which public comments on the Proposed Plan for Remedial Action are to be recorded. Publication of the notice also begins the thirty (30) day public comment period during which written comments on the plan may be submitted to DoD. The public notice will include:

1) The place, time and location of a public meeting,

2) A history of the site,

3) The results of the RI/FS,

4) Cleanup alternatives proposed for action,

5) The cleanup alternative recommended by the agencies,

6) A comparison of the recommended alternative to nine criteria required by CERCLA,

7) Pre-addressed public comment forms,

8) Staff contacts for further information,

9) The location of a public information repository such as a local library or county health department,

10) An Americans with Disabilities Act contact to help ensure access to the meeting for citizens with disabilities, and

11) Information regarding the next steps in the process.

After the public meeting and the close of the 30-day public comment period, DoD will review all comments and draft a ROD. The ROD will be accompanied by a Responsiveness Summary with written responses to all comments submitted at the public meeting and during the 30-day public comment period. If the cleanup proposal recommended in the ROD is different from the proposal recommended in the Proposed Plan for Remedial Action, then the ROD must include an explanation of why the recommended alternative was changed. An additional public informational meeting may be held when the ROD is made public, and following that, cleanup work can begin.

However, any further major changes to the cleanup plan featured in the ROD would require a ROD Amendment. In turn, a ROD Amendment requires another opportunity for public input: another public notice, public meeting, and 30-day public comment period. ROD Amendments are usually needed if additional pollutants or more extensive contamination is discovered after work begins at the site.

Once cleanup work is completed, excess property at the military installations that have been closed may be transferred from DoD to civilian use through a Finding of Suitability to Transfer (FOST) document. The public must be notified no later than 30 days before the transfer of the property by deed. The military installation must also provide notice to the public that the FOST has been signed. The notice must be published in a local newspaper. It must announce that there will be a 30-day public comment period, describe how to submit comments, describe the property and its location, give the date on which the FOST was signed, list a contact person, and provide information on how to obtain or view a copy of the FOST document. If a public meeting is scheduled, the notice also must announce the time, place, location, and agenda for that meeting. Persons seeking an extension of the public comment period must submit a request to the environmental coordinator at the installation. All public comments received for FOST property transfers must be responded to by DoD. Those comments and responses are included in the FOST appendix.

The affected military installation is required to keep an Administrative Record of all the activities, comments, and responses associated with each cleanup site. Most commonly, these Administrative Records may be viewed at a public library. They also are available at ADEM's central office in Montgomery.

How is an ADEM Brownfield Environmental Assessment implemented? What are the opportunities for public comment associated with these types of services and assistance?

"Brownfields" are under-utilized, closed, or abandoned industrial or commercial sites. Brownfields can be found in many communities throughout Alabama. Because such sites frequently are overgrown, run down, or otherwise neglected, they can project an air of decay and blight. Brownfields sometimes are also contaminated with hazardous waste or hazardous constituents. However, even when they are not contaminated, they may be perceived as such because of their appearance, and therefore may be viewed as undesirable for redevelopment. This perception can be an obstacle to local governments and neighborhoods trying to redevelop blighted areas.

The redevelopment of brownfields can benefit the environment, the community, industry, and commerce by:

1) Providing an alternative to industrial or commercial development in green, undeveloped areas outside cities,
2) Cleaning up contaminated properties (thereby addressing potential health risks to neighboring areas),
3) Recycling pre-existing structures to productive use,
4) Returning such abandoned properties to the tax rolls, and
5) Creating jobs.

Because brownfield redevelopment is often blocked by the perception that abandoned industrial or commercial sites could be contaminated, ADEM may conduct a Brownfield Environmental Assessment. It provides an excellent opportunity for units of local government to determine whether a site actually is contaminated, and if so, possibly to what extent. The environmental assessment can help answer many questions regarding potential cleanup costs and environmental liability at brownfield properties. Although this service/ assistance is not open to any private individuals or developers, they may apply through a unit of government. However, neither the unit of government nor the private individual/ developer may submit an application for a site at which it caused the contamination. The ADEM Brownfield Environmental Assessment Program uses limited federal funds. Preference will be given to properties with a proposed end use. Properties with complete redevelopment plans or with a prospective purchaser currently under consideration will be given additional preference. Although there is no actual public notice or comment period associated with the selection by ADEM of recipients for a Brownfield Environmental Assessment, applications providing the best evidence of a true need and solid community support have the best chance of being selected. Applications are accepted for all types of sites, but ADEM's primary focus is on industrial and commercial sites. However, wetlands, sensitive environments, sites with endangered species, sites located in flood plains and sites contaminated solely by petroleum products generally will not be accepted. Selected applicants will receive a confirmation letter upon receipt of the application. A meeting will be held by ADEM with the selected applicant to explain what the site project will consist of, and to describe the respective responsibilities of each party. Although federal funds are used to pay for the Brownfield Environmental Assessments, ADEM may ask the respective unit of government to provide "in-kind" services such as surveying the property, assisting ADEM in the proper disposal of soil and groundwater generated during the assessment, and gaining access to neighboring properties.

A Brownfield Environmental Assessment includes both Phase I and, if necessary, Phase II type activities. In general, Phase I type assessment activities involve historical research of the brownfield property and a site reconnaissance to determine if a threat of contamination may exist. If it is determined that contamination may exist, ADEM will coordinate and/or conduct Phase II type activities, which may include the collection and analysis of environmental samples (e.g., soil, sediment, groundwater, surface water, drums/non-drum containers, tanks, building materials) on-site, and possibly off-site. Contaminant migration (movement off-site) and possible exposure pathways (means by which persons may become exposed to contaminants; for example, soil, air, water, inhalation, ingestion, etc.) may be evaluated to help determine the potential risk the site may pose to human health and the environment. A Brownfield Environmental Assessment report will follow, and will, at minimum, include a site description and history, soil and geologic characteristics, site sampling results (if applicable), conclusions, and cleanup recommendations, if it is determined that a cleanup is necessary.

Should the environmental assessment reveal on-site contamination, ADEM will request a meeting with the applicant to discuss funding options, removal options, cleanup standards, and whether any land use restrictions may apply to the site after cleanup is completed. If a cleanup is required, and if the Responsible Parties are both known and cooperative, they also may participate in ADEM's Voluntary Cleanup Program (VCP) by conducting a cleanup prior to, or sometimes during, redevelopment in return for a Letter of Concurrence (see "The Alabama Voluntary Cleanup Program") for the property.

Opportunities for public comment associated with these types of services and assistance come in the form of public meetings. One of the requirements for conducting a Brownfields Environmental Assessment is the holding of public meetings. ADEM coordinates with local officials to provide public notice and hold at least two public meetings for the purpose of informing interested citizens of the environmental assessment activities taking place in their community. The ADEM Brownfield Environmental Assessment Program requires that a public meeting be held before activity begins and another upon completion of the assessment.

For More Information:

- Federal cleanup programs
  (334) 271-7968
- State cleanup programs
  (334) 271-7968
- Brownfields program
  (334) 279-3053
- Voluntary Cleanup Program
  (334) 279-3053

How is the Alabama Hazardous Substance Cleanup Fund (AHSCF) organized (including the listing of sites in the AHSCF Annual Legislative Report)?

STATE CLEANUPS

Hazardous substances have been treated, stored or disposed of at sites which are inactive or abandoned around the State of Alabama. These sites have the potential to contaminate groundwater, human health or the environment. The Alabama Legislature endeavored to provide a mechanism to assure that such sites are identified and action is taken to provide for the clean up and rehabilitation of such sites. Funds provided by the AHSCF are used to cleanup and rehabilitate sites not qualified for or unlikely to receive funding under CERCLA. However, funds provided by the AHSCF may also be used to provide state matching funds for cleanups and for operation and maintenance of sites which have completed cleanup under CERCLA.

The AHSCF empowers ADEM, with regard to the regulation, control, or removal of hazardous substances,

1. to respond to, direct, or initiate cleanup of inactive or abandoned hazardous substance sites;
2. to conduct or contract for professional technical data gathering and analysis and damage assessment;
3. to conduct or contract for the removal or containment of hazardous substances where there has been or is a potential for release, regardless of quantity or concentration; and
4. to issue rules and regulations as necessary to control or remove hazardous substances.

When an inactive or abandoned hazardous substance site is identified within the State of Alabama, the most current NPL of the U.S. EPA under CERCLA is consulted. Any site identified that also appears on the NPL is only eligible for the state matching funds provision of the AHSCF. When sites are identified that do not appear on the NPL, ADEM will attempt to identify all potentially liable parties. If potentially liable parties can be identified within a reasonable time, ADEM may:

1. order the potentially liable party or parties to develop a hazardous substance cleanup plan; and
2. order the potentially liable parties to implement the plan; and
3. provide a 30-day public comment period on the plan in the county where the site is located.

Whenever any liable party fails to comply with an order issued by ADEM, ADEM may execute the order using funding from the AHSCF. Reimbursement of these funds will be sought from the failing liable party.

In the event that no liable party can be identified, or if the liable party cannot be identified within a reasonable time, or if ADEM determines that there is an imminent threat to human health or the environment, and sufficient funds are available in the AHSCF, ADEM may develop and implement a hazardous substance cleanup plan. ADEM will seek reimbursement by the liable party, when and if identified.

The scope of any pertinent action or order shall be cleanup and containment of the site through the elimination of the threat to the human health and the environment posed by the hazardous substance.

ADEM prepares an annual AHSCF report and transmits it to the Commission, the legislature, and the Governor on or before January first of each year. The report includes information for each site identified under the AHSCF such as name and address, summary of environmental problems, site maps, status of any testing, status of any pending legal actions, proximity of site to sensitive areas, costs incurred, estimated future costs, etc. ADEM also transmits a copy of the annual report to each potentially liable party.

The liability of liable parties is not joint and severable. Liable parties are liable to reimburse the fund only for the costs of investigation, identification, containment and cleanup of hazardous substance sites, including the cost of monitoring and maintenance generally attributable to that party's proportional contributions to the hazardous substance present at the site. Several factors are taken into consideration in determining proportional contributions among liable parties.

ADEM has the right at reasonable times to enter upon any property upon which a known or suspected inactive or abandoned hazardous substance site is located and any other property which must be entered to have access to the site or to perform all actions necessary to carry out the cleanup of the hazardous substance. Entry is an exercise of the police power and is not an act of condemnation of property or of trespass.

What are your opportunities for participation in the State Cleanup Program?

Opportunities for public participation in the AHSCF come whenever a cleanup plan is to be implemented. Unless there is an immediate threat to human

health or the environment, ADEM will provide a 30-day public comment period on the plan in the county where the site is located. Notice of the public comment period will be given by a one-time publication in a local newspaper. The public may also report to ADEM any site which is perceived to be inactive or abandoned and potentially having hazardous substances thereon.

THE ALABAMA BROWNFIELD REDEVELOPMENT AND VOLUNTARY CLEANUP PROGRAM

What is the Voluntary Cleanup Program, and how does it work?

The VCP, established by the State legislature in 2001, provides a mechanism for site owners, operators or potential purchasers to voluntarily enter into an agreement with ADEM to assess, remediate, and reuse rural and urban areas of actual or perceived contamination. The affected property may not be subject to assessment or cleanup under other existing laws or regulations. Since the program is voluntary, participants may elect to withdraw from it at any time. However, those who complete a site cleanup under the VCP are issued a Letter of Concurrence from ADEM and a limitation of liability. The program does not relieve any "responsible party" from the liability for administrative, civil, or criminal fines or penalties resulting from the illegal or unpermitted disposal of solid waste, hazardous waste, hazardous constituents, hazardous substances, petroleum products, and/or pollutants to the land, air, or waters of the state on an identified property. Major incentives for the remediation of these sites include the removal of the liability of past environmental actions to future landowners and lenders and to provide a process by which voluntary response actions can be completed in a timely and efficient manner. This assurance provides a strong motivation for responsible parties, or future owners, to work with ADEM to clean up contaminated sites that may not otherwise be so readily cleaned up.

Most site owners or operators, or prospective owners or operators, who wish to clean up property that has been contaminated with petroleum products, hazardous waste, or hazardous constituents are potentially eligible to participate in the Voluntary Cleanup Program. Those not eligible are sites at which there is a pending state or federal enforcement action regarding cleanup, or that are considered an imminent and substantial threat to human health and the environment. The VCP also is open to sites at which a cleanup already has been completed, if the cleanup levels meet the VCP standards.

Interested citizens should be mindful that all information and documents related to the project become part of the public record upon submittal.

Once an application has been accepted, the applicant prepares and submits a series of work plans and reports for ADEM's review, including:

1) Voluntary Property Assessment Plan
2) Voluntary Property Assessment Report
3) Voluntary Cleanup Plan
4) Voluntary Cleanup Report

The ADEM Land Division Brownfield Redevelopment and Voluntary Cleanup Program, division 15 regulations contain the requirements and guidance for each of these submittals. ADEM shall approve, request corrections or disapprove a submittal within 60 days of receipt.

What are your opportunities for public participation once a facility has opted to conduct a cleanup within the Voluntary Cleanup Program?

Once the Voluntary Cleanup Plan is determined to be complete, ADEM will provide an opportunity for public comment. During that 30-day public comment period, you and/or other interested parties may view the plan at the ADEM Central Office in Montgomery. Voluntary Cleanup Plan files for a specific cleanup project may also be viewed on the Department's website or at another designated location that could be listed in the public notice.

The Department also will notify affected government officials of the Voluntary Cleanup Plan, publish a notice requesting comments; and set a public comment period of at least 30 days.

During the 30-day public comment period, all interested persons are invited to review and provide written comments regarding the Voluntary Cleanup Plan to the designated Project Manager. In addition, ADEM may hold a public hearing if a legitimate request is made during the public comment period to hold such a hearing. Members of the general public also may request a public hearing on the Remediation Work Plan.

For information on how to view ADEM's public files, see Part 9, "Getting Started: What are the first steps to Public Participation?"

What are the steps associated with completing the Voluntary Cleanup Program process?

Once ADEM has approved the application, a voluntary assessment plan should be submitted. ADEM will review the voluntary assessment plan within 60 days and send a letter of approval. If the voluntary assessment plan is not approved, ADEM will send comments. Upon approval of the voluntary assessment plan, the applicant should implement the voluntary assessment plan. Upon completion of the voluntary assessment, the applicant should submit a voluntary assessment report detailing the findings of the voluntary assessment. Based on the findings in the voluntary assessment report, the applicant should submit, for approval, a voluntary cleanup plan detailing the remediation activities to be implemented. ADEM will review the voluntary cleanup plan within 60 days and send a letter of approval. If the voluntary cleanup plan is not approved, ADEM will send comments detailing deficiencies in the plan that must be corrected in order for the plan to be approved. Upon approval of the voluntary cleanup plan, the applicant should implement the voluntary cleanup plan. Upon completion of the voluntary cleanup, the applicant should submit a voluntary cleanup report detailing the findings of the voluntary cleanup. Based on the findings in the voluntary cleanup report, the applicant should submit a request for a letter of concurrence. Once ADEM agrees with the findings of the voluntary cleanup report, a Letter of Concurrence will be issued to the site explaining the details of the limitation of liability provided. As mentioned previously, this document provides the participant and any future landowners with an assurance that the voluntary cleanup has been performed

properly and that their future liability is limited for the cleanup that was conducted.

Facilities at which a cleanup already has taken place may still participate in the VCP. However, such facilities would have to meet the same VCP cleanup levels as other participants before a Letter of Concurrence could be issued.

RCRA CORRECTIVE ACTION

What is the RCRA Corrective Action process, and to what types of facilities does it apply?

RCRA Corrective Action focuses on preventing, and cleaning up, releases of hazardous wastes or hazardous constituents from facilities regulated by the Resource Conservation and Recovery Act (RCRA). Hazardous waste includes solid waste or a combination of solid wastes that because of its quantity, concentration, physical, or chemical characteristics may cause or significantly contribute to an increase in mortality, serious irreversible illness, or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment. RCRA, which was enacted by Congress in 1976, requires the cradle-to-grave tracking of the generation, handling, and disposal of hazardous wastes. RCRA authorizes the U.S. EPA to carry out the hazardous waste regulatory program. In turn, U.S. EPA has authorized Alabama to carry out, and enforce, RCRA.

Although RCRA does regulate the handling of hazardous wastes by those facilities that generate it, RCRA does not require that hazardous waste generators obtain a permit. However, facilities that engage in the treatment, storage, and/or disposal of hazardous wastes are required to obtain a RCRA permit. In addition, the Solid and Hazardous Waste Amendments (HSWA) to RCRA, which took effect in 1986, expanded RCRA to include RCRA Corrective Action, which addresses the cleanup of releases of hazardous wastes and hazardous constituents from all RCRA-regulated facilities that treat, store, or dispose of hazardous waste or hazardous constituents.

RCRA Corrective Action, and Superfund (CERCLA, see "What is the public participation process associated with Superfund (CERCLA) cleanups?"), are similar programs, and follow roughly parallel procedures, to clean up contamination. However, while Superfund generally cleans up significant contamination at abandoned

RCRA Hazardous Wastes

The hazardous wastes regulated under RCRA may be solid or liquid wastes, contained gases, or sludge, any of which could be by-products of manufacturing processes or discarded commercial chemical products. These types of hazardous wastes are specifically identified by RCRA, either as "listed" wastes or "characteristic" wastes. In addition, RCRA identifies specific hazardous constituents, which it also regulates.

The RCRA "listed wastes" include approximately 900 types of substances that are either the byproduct of some specific industrial process or chemical reaction, or are off-specification commercial chemical products or container residues. The RCRA "characteristic wastes" include those ignitable, corrosive, reactive (including explosive), or toxic substances not otherwise specifically listed by RCRA. The RCRA "hazardous constituents," include approximately 700 of the chemical compounds found in many "listed wastes" and in "toxic characteristic wastes" that make those substances hazardous.

sites for which responsible parties may, or may not, have been identified, RCRA Corrective Action is intended to address the release of hazardous waste or hazardous constituents at facilities that frequently are still in use. One of the objectives of RCRA Corrective Action is to prevent future Superfund sites.

RCRA Corrective Action can be carried out at any one of three different types of facilities at which a release of hazardous waste or hazardous constituents has been detected:

1) RCRA-permitted facilities that treat, store, or dispose (TSD) of hazardous waste.

2) Facilities that are illegally engaged (do not have the necessary RCRA permit to be involved) in the treatment, storage, or disposal of hazardous waste. (For example, the time period during which a facility that generates hazardous waste may legally accumulate its wastes on-site (without a permit) before shipping it off-site, is limited to either 90, 180, or 270 days - depending on the amount of hazardous wastes generated, and the distance to the nearest permitted disposal facility. After the allotted time period, the further on-site accumulation of hazardous waste is considered to be "storage or disposal," and requires a permit.)

3) RCRA "interim status" facilities (including those that have lost their interim status). "Interim status" is an impermanent designation applied to different types of RCRA-regulated facilities. A RCRA Corrective Action can be conducted at any facility that has interim status, or that had, or should have had interim status. The types of facilities designated as "interim status" facilities have changed slightly over time. When RCRA first became effective, interim status was granted (on an impermanent basis) to those facilities that were already engaged in the activities RCRA was enacted to regulate, the on-site treatment, storage, and/or disposal of hazardous waste. Those facilities were required to comply with the requirements of interim status until such time as they either:

A) Obtained a RCRA permit (Interim status allowed those existing facilities to continue to operate while their permit applications were being reviewed.), or

B) Stopped the activities that required a RCRA permit (on-site treatment, storage, and/or disposal of hazardous wastes and hazardous constituents) and instead agreed to:

i) Ship, ever afterward, all hazardous wastes and hazardous constituents off-site to a permitted RCRA treatment, storage, and/or disposal facility; and, to

ii) Go through RCRA closure. There are two types of RCRA closure: "closure by removal" and "closure in place". "Closure by removal" involves the complete removal of hazardous wastes and hazardous constituents from the site where such materials were previously treated or stored. "Closure in place" generally involves the on-site containment and ongoing monitoring of the site where hazardous wastes and hazardous constituents previously had been treated, stored, and/or disposed.

Now that RCRA has been in place for quite some time, the RCRA phrase "interim status facilities" also is applied

to those existing facilities that suddenly become subject to new RCRA requirements. That is, when RCRA is changed to include processes, activities, or hazardous wastes or hazardous constituents that were previously not regulated by RCRA, but that now are regulated by RCRA, then affected facilities are granted "interim status" while they make any changes needed to be in compliance with the new requirement(s).

As when RCRA first became effective, under the more current usage of the term, "interim status" still is an impermanent designation. Facilities that did not previously have a RCRA permit, but that suddenly find themselves needing a RCRA permit because of changes in RCRA regulations, still must comply with the requirements of interim status until they either:

A) Obtain a RCRA permit, or

B) Discontinue the previously unregulated activities and go through RCRA closure. They still must cease to treat, store, and/or dispose of what is now a regulated hazardous waste, and they still must undergo RCRA closure (either "closure by removal" or "closure in place").

Meanwhile, when facilities that have a RCRA permit suddenly find themselves no longer in full compliance with RCRA (because of changes to RCRA that bring previously unregulated processes, activities, or hazardous wastes or hazardous constituents under RCRA regulation), they may need to either modify their existing permit, or incorporate the new RCRA requirements into their existing permit by way of provisions already drafted in the permit. For a permitted facility, the closure option could simply mean the closing of the affected waste disposal unit(s), or cell(s), not closure of the entire facility. RCRA Corrective Actions must address releases to the air, groundwater, surface water, or soil.

RCRA Corrective Action projects may follow the guidance found in the ARBCA Guidance Manual, a comprehensive

ADEM Guidance or Policy Documents

*The **Alabama Risk-Based Corrective Action** (ARBCA) **Guidance** Manual:*

The ARBCA document has been developed to provide the risk-based approach for the development and selection of appropriate Risk-Based Target Levels (RBTLs) for contaminated sites. The Department's objective is to establish a consistent risk-based, decision-making process for a variety of different state regulatory programs. These include sites regulated under the CERCLA (or Superfund) Program, the Brownfield Redevelopment and Voluntary Clean-Up Program, the Dry Cleaners Trust Fund, the Solid Waste Program, and other sites been addressed through state statutory authority.

*The **Alabama Environmental Investigation and Remediation Guidance** (AEIRG):*

This guidance document presents the requirements for performing environmental investigations and remediation projects in Alabama. These requirements generally represent the ADEM's expectations necessary for complete investigations and remediation projects for programs that manage contamination from hazardous constituents, hazardous waste, petroleum products, and/or petroleum waste.

guidance document that standardizes ADEM's hazardous waste and hazardous substance cleanup practices. ARBCA establishes the contaminant levels for groundwater and soil, at which cleanup action is required, as well as the levels at which further cleanup action is no longer required.

ADEM uses the guidance and policy documents developed by EPA, and the cleanup protocols developed in both the ARBCA guidance manual and the AEIRG guidance manual to carry out RCRA Corrective Action measures. As mentioned previously, RCRA Corrective Action can be conducted at any RCRA-regulated facility that treats, stores, or disposes of hazardous waste or hazardous constituents and that "has, had, or should have had" interim status.

However, while RCRA permitting occurs within a rigid regulatory framework, RCRA Corrective Action is designed to provide the flexibility needed to address the wide range of release scenarios and associated cleanups on a case-by-case basis. The corrective action process of investigation, remedy selection, and implementation (conducting the cleanup) generally comprised of five different activities.

The five activities that can be used during RCRA Corrective Action are:

- RCRA Facility Assessments (RFA), which are conducted by ADEM and which identify potential or actual releases from solid waste management units (SWMUs) and make a preliminary determination about the need for Corrective Action. [A SWMU is a unit at a facility seeking a permit where solid waste has been placed at any time, without regard for whether that unit was actually intended for the management of solid or hazardous waste at the time of placement.]
- Interim/Stabilization Measures, which ensures that short-term actions are taken to address immediate threats to human health and the environment. These measures can be taken after conducting a stabilization evaluation, which is generally completed after a RFA (above) or after an RFI (below).
- The RCRA Facility Investigation (RFI), which is similar to a Remedial Investigation under the Superfund program, compiles information to fully characterize the release in order to better determine the appropriate response action. The RFI typically focuses on the specific units, releases, and exposure pathways identified earlier in the process as being problematic. The RFI is performed by the site owner/ operator, with ADEM oversight.
- The Corrective Measures Study (CMS), which identifies appropriate measures to address the release, is conducted after the RFI is completed. The CMS, which also is conducted by the owner/operator with oversight from ADEM, evaluates alternative cleanup remedies after which ADEM evaluates and approves or denies the remedy proposed by the facility. If it is an interim status facility, ADEM will issue a Statement of Basis that lays out the required corrective measure(s). On the other hand, if it is a permitted facility, the permit may be modified by ADEM.
- The Corrective Measure Implementation (CMI), which also is carried out by the owner/operator with ADEM oversight, involves designing and conducting the cleanup remedy.

ADEM will conduct an RFA to determine whether there may have been any past or ongoing releases of hazardous wastes or hazardous constituents that

would require corrective action. RCRA Corrective Action is initiated at interim status facilities through an enforcement action, while it is initiated at permitted facilities as a requirement of the permit. ADEM or U.S. EPA can issue an administrative order or file a civil action whenever it is determined that there has been a release of hazardous waste or hazardous constituents at any facility that currently is operating under interim status, formerly operated under interim status, or that should have obtained interim status. The order or permit will include a schedule for conducting a RCRA Facility Investigation and, if necessary, require the facility to conduct a remediation (a cleanup of hazardous wastes and constituents, by removal or stabilization) of all areas that are found to present unacceptable risks to human health or the environment.

If the RFI Report establishes that a release has occurred that could pose a threat to human health and the environment, and that corrective measures are necessary, the facility will be required to evaluate an appropriate corrective measure. The facility may be required to submit a CMS Report explaining its justification for proposing a specific remedy.

What opportunities exist for public participation in the RCRA Corrective Action process?

After ADEM has reviewed the RFI Report and the CMS Report, ADEM will make the two reports or summaries of the two reports, along with a description of the proposed remedy, available for public notice. It is at this stage in the process that you, and other members of the public, have the opportunity to participate.

The public notice, which is published in the legal section of the local newspaper, will announce that a remedy has been proposed. Persons interested in viewing the two reports, or report summaries, public notice package, or the facility's justification for the proposed remedy, may view these documents on either the Department's website, or ADEM's file room. The public notice also will announce a 45-day public comment period during which you, and other members of the public, may submit written comments to ADEM regarding the reports and the proposed remedy. The notice will describe how to submit written comments, and where such comments may be sent. It also will announce that interested persons may request a public hearing, and describe how to make such a request, as well as how to obtain access to any public hearing under the Americans With Disabilities Act.

After the public comment period is over, ADEM may modify a facility's permit. The permit modification will also include responses to all significant comments received during the public comment period. Based on the public comments it receives, ADEM will select the remedy. The cleanup option selected by ADEM as the final option will be protective of human health and the environment.

If a corrective measure is required at a RCRA-permitted facility, then the facility's permit must be modified. Only the portion of the permit that is subject to modification is reopened. When the permit is modified, there will be additional opportunities for public participation (see Part 5, pp. 55-56, "What is the public notice process and what are the opportunities for public participation associated with changes (permit modifications) to existing hazardous waste permits?").

Just like any other hazardous waste permit modification, permit modifications to require the selected

corrective measure(s) may be appealed to the Environmental Management Commission, 1400 Coliseum Boulevard, Montgomery, AL 36110. For additional information on appeals, see pages 34-35, "What if you do not agree with ADEM's final decision? How can you file an appeal?"

How is the RCRA Corrective Action process concluded?

Because the permit modification describes what must be done, but not how to do it, the facility must next submit a CMI work plan. All of the specific engineering details associated with a corrective measure(s) are developed during the CMI work plan review process. Generally, the final work plan will require the removal of contaminated material or the onsite isolation of the contaminants or the treatment of the contaminated media (soil or water). A final work plan also could include a combination of complete contaminant removal and onsite isolation or treatment.

A cleanup remedy that calls for onsite isolation or treatment will require an Operation and Maintenance Plan to ensure the ongoing reduction of contaminants, as well as to ensure there will be no further releases. On the other hand, a remedy that results in the removal of the contaminant may result in ADEM issuing a No Further Action letter, which essentially states that the cleanup is considered complete and that no further action is likely to be required. Additionally, remedies that rely on onsite treatment should ultimately reduce contamination to a level where ADEM could issue a No Further Action letter.

Facilities subject to RCRA Corrective Action may be eligible, on a case-by-case basis, to participate in the ADEM Voluntary Cleanup Program (See "The Alabama Voluntary Cleanup Program") to carry out their RCRA Corrective Action obligations. However, such VCP participants will be subject to oversight from both VCP and RCRA Corrective Action staff. In addition, if the facility conducting corrective measure(s) opts to work within the VCP, the VCP's "letter of concurrence" does not necessarily resolve the facility's future RCRA Corrective Action liability.

LEAKING UNDERGROUND STORAGE TANKS

How is the ADEM Underground Storage Tank Corrective Action Program implemented?

Regulated underground storage tanks (USTs) are one or a combination of tanks, including the attached piping, that contain regulated substances, such as petroleum products (gasoline or diesel) or industrial chemicals. ADEM's UST Program oversees the operation of the underground storage tank systems because spills and leaks from USTs can easily contaminate soil and groundwater.

Within 24 hours of detecting a release from an underground storage tank, the owner and/or operator must:

1) Report the release to ADEM;
2) Take immediate action to prevent any further release; and,
3) Identify and eliminate any fire, explosion, or vapor hazards.

Some of the other measures the owner/operator must take are to repair and/or replace portions of the UST system to prevent further releases to the environment, and, to the extent possible, prevent further migration (movement away from the tank site) of any released material. For more information on what to do if you think your home might be affected by a

leaking underground storage tank, call (334) 270-5655, or visit ADEM's Web site at adem.alabama.gov.

For each UST release, the tank owner/operator must characterize the site. This means that the area of soil and groundwater containing the released substance must be determined. The cleanup of materials released from an underground storage tank is referred to as a corrective action. Within 45 to 60 days of a release from an underground storage tank, the owner/operator must submit a site characterization report to ADEM. This report must include information about where and how much contamination is found in the soil and groundwater as well as an analysis of potential exposure to people or the environment. After the initial submittal, additional characterization may be performed; groundwater sampling conducted and site specific cleanup levels established for each release. Afterward, the owner/operator must submit a corrective action plan for responding to contamination of the soil and groundwater caused by the release.

All corrective action plans are placed on public notice in the closest major daily newspaper and on the ADEM website. A 15-day public comment period allows citizens to submit comments about the corrective action plan.

ADEM Leaking Underground Storage Tank Program staff may also hold a public meeting if there is significant public interest. If a public meeting is held, Leaking Underground Storage Tank staff generally will informally record comments and, if possible, respond directly to any questions asked at the meeting.

ADEM will authorize implementation of the corrective action plan only after determining that it will adequately protect human health and the environment. Afterward, the owner/operator will carry out the cleanup plan, and notify ADEM on their progress. The cleanup must continue until contamination is reduced to a safe level.

What are the opportunities for public participation associated with the ADEM Underground Storage Tank Corrective Action Program?

The previous section discusses the notice procedures for corrective action plans. Currently, there are about 1,600 UST release incident sites in Alabama undergoing characterization and/or cleanup, and 100 to 150 new releases are reported each year.

In instances where there is an imminent danger of exposure, members of the public may be notified by personal contact by field staff, or by letters to individual households.

ADEM requires tank owner/operators to submit the names and addresses of property owners in close proximity to all the known releases. ADEM will be issuing letters to these households and businesses to inform them of the release and to offer contact information about the release should questions arise. A listing of all the identified UST release incidents is on the ADEM website. Detailed site release information and ADEM decisions concerning the corrective action plan are available for public inspection, upon request, at ADEM's Montgomery office, and online at www.adem.alabama.gov.

Part 7

What are the specific public notice requirements and opportunities for public participation for other, no-permit/non-cleanup related activities carried out by ADEM?

Agency-Wide Programs

Many of the ADEM programs have developed guidance documents that focus on a specific issue or activity regulated by ADEM. Although these documents are intended to provide guidance on how to stay "in compliance" with the law while engaged in the activity addressed by the document, it is important to remember that guidance documents do not have the effect of law, nor do they represent formal ADEM decisions or final actions. These documents are available on the ADEM Web site or at the ADEM offices; however, they are not subject to public comment.

There are other non-permit/non-cleanup related activities that indeed have associated public participation elements. Part 7 explores those activities further.

What are the public notice processes associated with redesignation of attainment/non-attainment areas for criteria air pollutants?

Air Quality Programs

The Clean Air Act requires that all counties in the United States be formally designated as either "attainment" areas (meeting the required ambient air quality standards), "non-attainment" areas (not meeting the required ambient air quality standards), or "unclassifiable" (area can not be classified based upon available information). Designations apply to the criteria pollutants: ozone (O_3), sulfur dioxide (SO_2), nitrogen dioxide (NO_2), carbon monoxide (CO), lead (Pb), $PM_{2.5}$ (particulate matter under 2.5 microns) and PM_{10} (particulate matter under 10 microns in diameter).

Ozone non-attainment areas are classified on an escalating scale from marginal non-attainment through moderate and serious, up to severe non-attainment. An area may also be classified as either moderate or serious non-attainment for PM_{10} or CO. There are no scales or degrees of classification for $PM_{2.5}$. An area can be in non-attainment for more than one criteria pollutant.

When air monitoring data show that the air quality in a non-attainment area has met the ambient air quality standard, the state may petition or request that U.S. EPA redesignate the area to attainment. A redesignation request includes an analysis of the monitoring data, emissions inventories and projections, and a plan to demonstrate how air quality will be maintained in the area for at least ten years.

When a redesignation request is made, a public notice is placed in newspapers in the affected area notifying the public and other interested parties of an opportunity to request a public hearing and seeking written comments. Copies of the draft redesignation document are available for review in seven sites that represent the seven Air Quality Control Regions of the state. The public can also review the draft document on the ADEM Web site. The public comment

period will last a minimum of 30 days, during which time a public hearing is also held in the affected area.

After the public hearing and comment period, ADEM's Air Division will respond to all comments, and may revise the petition based on the comments it received. ADEM will then send its request to the EPA along with all public comments received, and responses to those comments. The EPA will also hold a 30-day public comment period on its decision to approve or deny ADEM's request to re-designate an area from non-attainment to attainment.

When areas are redesignated from non-attainment to attainment for any of the criteria pollutants, they are commonly referred to as "maintenance areas." The maintenance plan approved as part of the redesignation request outlines how the area will maintain the air quality that meets the ambient air quality standard. Maintenance areas are considered to be attainment areas, since air quality meets the ambient air quality standard. All control measures that were put in place to achieve attainment are required to remain in place. Once attainment is achieved, the area must continue to demonstrate (maintain) attainment for at least 10 years after redesignation.

Prior to designating areas after promulgation of a new or revised air quality standard, the Clean Air Act requires the state to provide recommendations on which areas should be designated as attainment, nonattainment or unclassifiable. Generally, EPA provides a public comment process before finalizing designations under a new or revised air quality standard. The Clean Air Act requires EPA to publish a list of areas that do not meet the standard. These can be found in the Code of Federal Regulations (40 CFR 81) as well as on EPA's website.

Attainment, Non-Attainment and Maintenance Areas Map

A map of the current attainment, non-attainment, and maintenance areas of Alabama can be viewed on EPA's Web site at http://www.epa.gov/oaqps001/greenbk/mapnpoll.html.

On January 25, 2006, US EPA announced in the Federal Register that the Birmingham Area (Jefferson and Shelby Counties) Ozone Nonattainment Area, had monitored attainment of the national air quality standard for ozone based on three years of complete, quality assured, outdoor air monitoring data for 2003, 2004, and 2005 and had met all applicable requirements of the 1990 Clean Air Act Amendments (CAAA). Following this notice, U.S. EPA received public comments on the proposed approval for 30 days.

As a result, Alabama's request to redesignate the area to attainment of the national air quality standard was approved. The final approval for the redesignation request was published on May 12, 2006 in the Federal Register and the redesignation became effective on June 12, 2006. The Birmingham area is currently a maintenance area for the 1997 ozone standard.

On March 12, 2008, EPA significantly strengthened the national air quality standards for ground level ozone. EPA has revised the level of the primary and secondary 8-hour ozone standard to 75 ppb (parts per billion) from the 1997 of

85 ppb. On May 21, 2012 EPA formally designated all counties in Alabama as attainment for this revised standard. This designation became effective on July 20, 2012.

In 2014, EPA is expected to propose a tighter air quality standard for ozone. This standard is expected to be in the 60-70 ppb range based on an 8-hour average.

In 2005, EPA designated the Birmingham area as nonattainment for Annual $PM_{2.5}$ NAAQS, effective April 5, 2005. The Birmingham Annual $PM_{2.5}$ nonattainment area included Jefferson and Shelby counties in their entirety, and a portion of Walker County. On May 2, 2011, ADEM submitted a request to EPA to re-designate the area to attainment for the annual $PM_{2.5}$ NAAQS based on monitoring data that indicated that the area had attained the standard. On January 22, 2013, EPA approved this request with an effective date of February 21, 2013.

On October 8, 2009, the EPA designated Jefferson and Shelby counties and a portion of Walker County as nonattainment for the 24-hour $PM_{2.5}$ standard. The official designations and classifications were printed in the Federal Register on November 13, 2009. This designation became effective on December 14, 2009. On June 17, 2010, ADEM submitted a request to EPA to re-designate the Birmingham area to attainment for the 24-hour $PM_{2.5}$ standard based on monitoring data that indicated that the area had attained the standard. On January 25, 2013, EPA approved this request with an effective date of February 25, 2013. The Birmingham area is currently a maintenance area for both the annual and 24-hour $PM_{2.5}$ air quality standards.

On December 14, 2012, EPA significantly tightened the national air quality standards for $PM_{2.5}$. EPA revised the level of the primary annual standard from 15 $\mu g/m^3$ to 12 $\mu g/m^3$. In December 2013, states will make recommendations to EPA on which areas should be designated attainment, nonattainment, or unclassifiable. EPA is expected to make final designations for this standard in December 2014 with an effective date in early 2015.

ADEM also works collaboratively with other southeast states to address the federal requirements of improving regional visibility in our nation's National Parks and Wilderness areas. On March 9, 2008, the State of Alabama submitted for public comment the proposed revisions to the Alabama State Implementation Plan describing to improve regional visibility in our Nation's Park and Wilderness areas. The comment period ended April 25, 2008.

What is the public participation process associated with amending the state implementation plan?

In order to meet federal clean air standards, each state has developed a SIP. A SIP is a plan submitted by a state to U.S. EPA for approval, which details how the state will meet federal air quality standards. The states have had SIPs in place since the late 1970s. The tools that a state uses in its SIP include permit and compliance programs and rules. The SIP is a dynamic document. As federal standards are established or changed, the state must adopt and implement new programs and air pollution control rules to meet the new federal standards. On an ongoing basis, ADEM amends its SIP to be consistent with federal requirements.

When the SIP is amended, there is a federally required 30-day advance notice of a public hearing. If the SIP will be amended by a rule passed by

EMC, the federal requirements for a public hearing and the state public notice requirements will be addressed at the same time. (For more information on the public notice and hearing process associated with rulemaking, see "Part 2: Who Makes Alabama's Environmental Rules and what is the rulemaking process?")

A non-rule change to the SIP, such as the Small Business Assistance Program required by the CAAA, is submitted to U.S. EPA for approval. Notice is published in a newspaper of general circulation, providing for a 30-day public comment period and an opportunity for a public hearing, if requested, at the end of the 30-day public comment period. The hearing is held before a hearing officer appointed by the department. When all state and federal notice requirements are met, the proposed amendment to the SIP will be submitted to U.S. EPA for approval.

How can you register your concerns about open burning?

Open burning is "the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack, duct, or chimney." Open burning is generally prohibited in Alabama. However, there are a few limited types of allowable burning. To learn about open burning, you can review ADEM Admin. Code r. 335-3-3-.01 or call the Air Division at (334) 271-7861.

If you suspect that someone in your neighborhood is illegally burning, you should call your local ADEM office or local Air Program office, or submit a complaint on the ADEM Website at http://app.adem.alabama.gov/complaints/submission.aspx.

Public Water Systems

A public or community water system means a system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. A community water system may maintain and use its own source of either surface water or ground water or obtain water from an adjacent system and thus be a consecutive system. The Drinking Water Branch of the ADEM Water Division regulates public water systems.

Examples of public water systems include 1) community systems (cities, towns, private water companies, and mobile home parks) and 2) non-community systems (campgrounds, churches, restaurants, highway rest areas, gasoline stations, schools, motels, industries, and other facilities which themselves supply water for human consumption, rather than providing drinking water by way of a connection to another public water supplier, such as a municipal water system). Public water systems must test regularly for approximately 90 contaminants.

Will you be notified if the drinking water you obtain from a public water supplier (as opposed to drinking water from an on-site private well or other private source) does not meet Safe Drinking Water Act Standards? What kind of notification can you

Despite the efforts of water suppliers (public water systems), problems with

drinking water can and do occur. For example, as water suppliers test their water, they may discover that levels of certain contaminants are higher than the standards or maximum contaminant levels (MCLs) set by U.S. EPA or ADEM. These higher contamination levels could be due to a change in local water conditions, heavy rainstorms or an accidental spill of a hazardous substance. Water suppliers may also fail to take one or a series of their required samples.

What is an MCL?
MCL means the maximum permissible level of a contaminant in water delivered to any user of a public system. MCLs are enforceable

Even when there are no violations of drinking water standards, water suppliers (but only those public water systems that are community systems: cities, towns, private water companies, and mobile home parks) are required to distribute an annual consumer confidence report to all of their customers. The report lists any contaminants detected in the most recent sampling cycle, and is a great way for citizens to learn about the quality of the water they consume. Whenever a problem with drinking water quality does occur, the people who drink the water have a right to know what happened and what they need to do. Thus, any time a water supplier fails to meet all U.S. EPA and state standards for drinking water by either: 1) determining that contaminant levels are above safe standards, or 2) failing to test, or to test in a timely manner, to ensure that contaminants do not exceed safe standards, they must inform the people who drink the water. The public notice procedures that must be followed by suppliers that have violated the standards were strengthened by the U.S. EPA in 2000 and adopted by ADEM in 2000. The type of public notice that must be provided by a public water supplier varies. Based on the degree of threat to public health, there are three levels, or "tiers," of notification.

- Tier 1: Notify the public by local area radio, television or newspaper within 24 hours if it is possible that the violation poses a potential immediate impact on human health.
- Tier 2: Notify the public by local media, posting, or mail within 30 days if the violation does not pose an immediate risk to human health. (Notices must be given every three months for as long as the violation exists.)
- Tier 3: Notify the public by way of an annual water quality report within one year of violations that do not have a direct impact on human health. (Notices must be given annually for as long as the violation exists.) These notices may be incorporated into the annual consumer confidence report.

The public notice of violations must:

1) Describe the violation and potential health effects,
2) Identify who is at risk,
3) Establish whether alternate water supplies need to be used,
4) Describe what the water supplier is doing to correct the problem,
5) Outline actions consumers could take (such as advising consumers to boil water before using),
6) Note when the violation occurred and when the water supplier expects to have any problems resolved,

7) Provide a water supplier contact person who can provide additional information, and
8) Include language encouraging broader distribution of the notice and standard monitoring language.

Communities with a large proportion of non-English speaking residents must publish the notice in the appropriate language. Although ADEM may give public notice on behalf of the owner/ operator, the owner/operator of the public water supply system remains legally responsible for providing notice.

Water suppliers that fail to provide public notice for violations may be subject to enforcement actions by ADEM. Such actions could, in turn, provide additional public notice as well as opportunities for public comment or participation.

What is the public participation process associated with water quality planning?

Section 303(d) of the federal Clean Water Act (CWA) establishes that states are to list [the 303(d) list] waters for which technology-based limits alone do not ensure attainment of applicable water quality standards. The 303(d) list is to be submitted by states to EPA on April 1 of each even-numbered year. The 303(d) list includes priority rankings set by the state for the listed waters. Prior to submission to EPA, the Department places its draft 303(d) list on public notice for a 30-day public comment period.

Once the impaired waters are identified and EPA approves, Section 303(d) requires that states establish total maximum daily loads (TMDLs) that will meet water quality standards for each listed water, considering seasonal variations and a margin of safety that accounts for uncertainty.

What is a TMDL?

A TMDL is a tool for reducing water pollution in impaired waters. A TMDL calculates the amount of a pollutant that the waterbody can receive and still meet applicable water quality standards. Basically, a TMDL is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources with a margin of safety (MOS) that accounts for uncertainty. The TMDL also addresses pollutant load reductions needed to meet water quality standards and allocates those pollutant load reductions among the point and nonpoint sources in the watershed. As such, development of TMDLs is an important step toward restoring our waters to their designated uses.

The public may participate in the TMDL development and implementation process through watershed organizations such as the Alabama Clean Water Partnership. Also, anyone is welcome to comment on a draft TMDL(s) during the public notice period. A 30-day public comment period will be held following the publication notice for each TMDL(s). Any comments received during the public comment period will become a part of the TMDL administrative record, and will be considered by ADEM prior to finalizing the TMDL report. Alabama's TMDLs which have been approved by EPA and the TMDLs which are on public notice may be viewed at www.adem.state.al.us/programs/water/approvedTMDLs.htm.

EPA's regulations for implementing Section 303(d) can be found in the Code of Federal Regulations (40 CFR 130) for Water Quality Planning and Management.

Additionally, in accordance with the provisions of Section 303(c)(1) of the federal Clean Water Act, and federal regulations promulgated under 40 CFR 131, the Department reviews Alabama's water quality standards every three years (also called the Triennial Review). A public hearing is held as a part of that process to receive public input and comment on current provisions of two chapters of the ADEM Administrative Code: 335-6-10, Water Quality Criteria, and 335-6-11, Water Use Classifications for Interstate and Intrastate Waters.

The Department evaluates the information presented at the public hearing, relevant technical comments submitted during the 45-day comment period, as well as other information that may be available to the Department (including information presented during the previous triennial review), and will propose appropriate revisions. The proposed revisions will be considered in the context of a rulemaking hearing at the end of the triennial review period, or in several hearings within the review period, as has been the case in recent triennial reviews. Any rulemaking hearings will be scheduled and publicly noticed.

What is the public participation process associated with requirements for owners and operators of animal feeding operations (AFOs) and concentrated animal feeding operations (CAFOs)?

ADEM Admin. Code r. 335-6-7-.03(5) [Chapter Modification and Public Participation] provides for a statewide public notice, 30-day comment period, and public hearing every five years to solicit public participation and comment regarding the current content, implementation, and compliance with provisions of ADEM Admin. Code chapter 335-6-7, entitled National Pollutant Discharge Elimination System (NPDES) Best Management Practices, Registration Requirements, Technical Standards And Guidelines, Construction And Operation Requirements, Waste/ Wastewater And Waste Product Treatment, Storage, Handling, Transport, And Disposal/Land Application, Nutrient Management, And Animal Mortality Management Requirements For Owners And Operators Of Animal Feeding Operations (AFOs) And Concentrated Animal Feeding Operations (CAFOs).
The Department will thoroughly review the hearing record and other citizen comments and information received as a result of the 30-day public comment period and the public hearing. Within 120 days after completion of the public participation process, a subsequent public notice will be provided to inform the public regarding the Department's written response to comments received and a determination of the need, if any, to modify the AFO/CAFO rules to ensure continued consistency with the requirements of the Alabama Water Pollution Control Act and ADEM NPDES regulations. Any rulemaking hearings will be scheduled and publicly noticed if a need is found to revise the regulations.

The NPDES CAFO rules require all AFOs/ CAFOs to maintain structure location and operational setback buffers, and to implement/maintain effective best management practices at all times to minimize odors and prevent discharges regardless of permit coverage status. In fact, the rules prohibit discharges of pollutants form AFOs/CAFOs to State waters. CAFOs are required to formally

register for NPDES permit coverage with the Department. Registration is simply an administrative process to review applications and approve NPDES permit coverage. The approved registration and rules require the CAFO permittee to comply fully with all applicable federal and state NPDES regulatory and permitting requirements, no different than an Individual NPDES permittee. Citizens can contact the Department at any time regarding concerns related to any AFO/CAFO. Citizens also have the ability to provide comments to the Department regarding registration requests. Detailed information regarding the ADEM AFO/CAFO program NPDES regulatory and permitting requirements, including lists of pending and current CAFO NPDES permit approvals, are available on the ADEM webpage.

What is the public participation process associated with watershed management plans?

The Department has adopted a watershed-based approach to improve water quality in Alabama. As part of this approach, ADEM is using grant funds administered under Section 319 of the Clean Water Act to target nonpoint source water pollution on a watershed basis. ADEM has developed Basin Management Plans for each of the ten major river basins in the state, because they provide a valuable resource document for local, smaller scale watershed planning efforts. Basin Management Plans build on existing data, planning efforts, and initiatives. The development of Basin Management Plan documents requires close coordination among stakeholders, organizations, and agencies within the basin.

Section 319 grant funds have allowed ADEM to support the Alabama Clean Water Partnership (ACWP), a coalition of individuals, companies, organizations and governing bodies working together to protect and preserve water resources and aquatic ecosystems throughout the state. The ACWP has played an integral part in the development and implementation of the River Basin Plans. For more information about the ACWP you can visit them on the Internet at www.cleanwaterpartnership.org. Stakeholders in each river basin are encouraged to participate in the early stages of plan development. After a draft of each Basin Management Plan is completed, the document is put forth for comment from the stakeholders and the general public in that particular river basin. This is accomplished through press releases and public meetings announcing the document and requesting feedback. These Basin Plans are meant to be dynamic, ever-changing documents and citizen comments are welcome at any time. The Basin Management Plans are available on the Internet at www.adem.state.al.us/programs/water/nps/resources.cnt.

Before Section 319 incremental funds can be allocated for proposed projects, a Sub-Watershed Management Plan must be developed for the targeted watersheds identified in the basin plans that are eligible for funding under EPA's current grant guidance. Plans must address EPA's "a-i" elements of a good watershed management plan. These requirements can be found at "Nonpoint Source Program and Grants Guidelines for States and Territories." (October 23, 2003 Federal Register, Volume 68, Number 205; pp. 60658-60660). www.epa.gov/fedrgstr/EPA-WATER/2003/October/Day-23/w26755.htm.

In addition, requests for Section 319 grant proposals are placed on public notice each year for projects that address nonpoint sources of pollution that are subject to and meet EPA's grant conditions. Public participation is welcome during this process and throughout the implementation phase for those 319 projects that receive funding.

What is the public participation process associated with the Clean Water and Drinking Water State Revolving Fund (SRF) Programs?

The EPA awards grants to States to capitalize funds that provide financial assistance to communities to construct drinking water or wastewater infrastructure improvements. SRF loan applications are due May 1 of each year and prior to submittal, the applicant is required to have provided the public an opportunity for involvement in the process. The applicant must prepare an Environmental Information Document (EID) which describes and evaluates the environmental impacts of the feasible alternatives of which there should be, as a minimum, at least four: the chosen alternative, no action, and two additional alternatives.

The applicant is required to advertise notice of the proposed permit in a newspaper that serves the affected area for four consecutive weeks. The advertisement(s) should inform the public of notice of a public meeting and existence of the EID, the location of this document during business hours, and that this document is available for public review. At least one copy of the EID is placed in a public facility (the City/Town Hall, the Board/Authority Office, the local Library, the place of the meeting or the local Post Office) for public review from the first day in which any advertisement is published through the time of the public meeting. Public participation culminates in a public meeting, which presents the proposed project to the public and includes discussion of both environmental and financial impacts.

Review of the applications takes place during the subsequent 90-180 days, with funding being made available to qualified applicants, generally in the fall of each year.

What is the public participation process associated with hazardous waste variances?

There are variance provisions that allow for case-by-case exemptions of specific issues such as delisting waste as hazardous, recycling of hazardous wastes that are otherwise regulated, or variances from classification as a solid waste or to be classified as a boiler. However, certain criteria must be met. Those criteria can be found in ADEM Admin. Code r. 335-14-1-.03.

Once a person submits a request to the ADEM Land Division for a variance, ADEM will evaluate the application and issue a draft notice tentatively granting or denying the application. The Department must place a public notice in a local newspaper of the county where the facility seeking the variance is located. The public notice must announce a 30-day public comment period on the tentative decision and the Department may hold a public hearing at its discretion. At the end of the comment period, the Director will issue a final decision.

Should someone in your neighborhood be seeking a variance, you can contact the ADEM Land Division at (334) 270-5637 for additional information.

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Part 8

What are some of the environmental issues over which ADEM has no authority?

Here are the State laws that govern ADEM's authorities and programs. Alabama is an "authorized" state, meaning that it is authorized by the U.S. EPA to administer state environmental law in lieu of most federal environmental laws. This is consistent with Alabama statutes that created ADEM, and which *express legislative intent to have federal environmental laws administered at the state level*. The scope of the Department's statutory authorities is listed below. **These are the only laws under which ADEM can regulate facilities.** Our laws are found under Title 22 of the Code of Alabama 1975. They can easily be viewed on the Alabama Legislative Information System Online at: http://alisondb.legislature.state.al.us/acas/ACASLogin.asp.

Our State authorities are:

- Chapter 22 Water Pollution Control.
- Chapter 22A Environmental Management.
- Chapter 23 Waterworks and Water Supplies Generally.
- Chapter 23B Alabama Drinking Water Finance Authority.
- Chapter 24 Water Well Standards.
- Chapter 25 Water and Wastewater Systems and Treatment Plants.
- Chapter 27 Solid Waste.
- Chapter 28 Alabama Air Pollution Control Act.
- Chapter 30 Hazardous Wastes Management.
- Chapter 30A Alabama Hazardous Substance Cleanup Fund.
- Chapter 30B Fees for Disposal Of Hazardous Waste Or Substances.
- Chapter 30C Chemical Weapons Destruction Limitation Act.
- Chapter 30D Alabama Drycleaning Environmental Response Trust Fund.
- Chapter 30E Alabama Land Recycling and Economic Redevelopment Act.
- Chapter 30F Alabama Land Recycling Finance Authority.
- Chapter 34 Water Pollution Control Authority.
- Chapter 35 Alabama Underground Storage Tank Trust Fund.
- Chapter 36 Alabama Underground Storage Tank and Wellhead Protection Act.
- Chapter 37 Alabama Lead Ban Act.
- Chapter 38 Alabama Agricultural Nonpoint Source Financial Assistance Act.
- Chapter 40A Alabama Scrap Tire Environmental Quality Act.
- Title 9, Conservation and Natural Resources, Chapter 7 Preservation, Development, Etc., of Coastal Areas.

Other local, state, or federal agencies exercise authority over numerous issues outside of ADEM's influence and authority. The following information will identify some of the agencies which address these issues.

What agency has authority regarding the location of activities which could require a permit from ADEM?

When ADEM receives a permit application from a commercial or industrial facility that may emit air pollutants, or may discharge water pollutants, or perhaps an application for the disposal of solid or hazardous waste, the site of the proposed facility was selected by the applicant. ADEM has no legal authority over site selection. State law is specific in the case of landfill siting. ADEM may not consider a new permit application for a landfill until the local government has approved the siting of a landfill in that area. This is commonly referred as "local host governmental approval."

A crucial function of local government is the determination of how land is used. The Alabama Constitution provides that only the State Legislature can provide for "home rule." A law enacted by the Legislature empowers local governmental entities to hold referendums to determine whether or not residents support local zoning. If a source or facility is located in an area where zoning exists, the applicant's site selection was likely based upon allowable land use patterns established by the local zoning authority.

What agency has authority over strong odors?

ADEM, like most other environmental agencies, has no measurable odor limitations because of the subjective nature of odors. However, odor is defined as an air pollutant and is subject to the ADEM Air Program. New emission sources, which are required to obtain air construction and/or operating permits, must design their facilities so as to minimize odors. In the case of existing permitted sources, if objectionable odors are reported to ADEM, and the source of odors can be determined, ADEM will investigate the problem and make a determination about requiring the source to implement technically and economically-feasible control systems and/or work practices in order to mitigate odors. Persons annoyed by obnoxious odors should check with county or city officials to determine if there are local ordinances governing obnoxious odors.

What agency has authority over "noise" pollution?

ADEM has no authority to regulate noise. However, two important pieces of noise legislation are the Federal Noise Control Act of 1972 and the Federal-Aid Highway Act of 1970.

Under the Noise Control Act of 1972, EPA was given the primary role for controlling environmental noise, including the responsibility for coordinating all Federal programs for noise research and control. EPA must be consulted by other Federal agencies prior to those agencies publishing new noise regulations. If EPA feels that proposed new or existing Federal regulations do not adequately protect the public health and welfare, it can call for public review of them. The Federal Aviation Administration (FAA) retains authority to set aircraft noise regulations, but EPA is required to recommend to the FAA any regulations it feels are necessary.

EPA also has the authority to set standards for any product or class of products which have been identified as a major source of noise. The U.S. Code of Federal regulations prescribes noise emission standards for interstate rail carriers, motor vehicles used in interstate commerce (vehicles used to transport commodities across State boundaries), as well as construction and transportation equipment (including

motorcycles and medium/heavy duty trucks).

The Federal-Aid Highway Act of 1970 designated the Federal Highway Administration (FHWA) as the lead agency for administering the Federal-aid highway program. This program is a federally-assisted, State administered grant program that provides Federal funds to State and local governments to construct and improve highways. State and local governments have jurisdiction of approximately 97% of the U.S. roads and streets. This law mandates the FHWA to develop noise standards for mitigating highway traffic noise and the law further provides that FHWA not approve the plans and specifications for a federally aided highway project unless the project includes adequate noise abatement measures to comply with the standards.

The FHWA has developed traffic noise-level criteria for various land use activities. More information on traffic noise may be found at: www.fhwa.dot.gov/environment/probresp.htm.

Persons annoyed by obnoxious noise should also check with county or city officials to determine if there are local ordinances regarding noise.

What agency has authority over blasting operations from mining?

ADEM has no authority to limit or deny legal blasting. The Alabama Department of Labor (ADL) is responsible for mine safety and inspections and abandoned mine reclamation. The ADIR's mine safety and inspections program includes statutory authority to regulate open pits and quarries for the prevention of accidents in mining operations. As such, the ADIR is responsible for regulating blasting under Administrative Code chapter 480-3-4, Open Pit and Quarry. These regulations provide for the safe handling and transportation of explosives used in quarrying operations as well as the timing of blasting operations. The mission of the reclamation program is to restore land and water resources which have been adversely affected by past coal mining. Reclamation is conducted on abandoned surface mines, coal processing areas, and underground mine entries.

The U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regulates the storage and commerce of explosives. For more information, visit www.atf.gov. The State Fire Marshal (www.aldoi.gov/FireMarshal) certifies blasters for those activities not regulated under the Alabama Surface Mining Commission.

ADEM is responsible for permitting and compliance activities relative to water discharge permit coverage for treated wastewater and stormwater discharges from surface and underground mining operations (coal and noncoal mineral/ore mining such as sand, gravel, clay, stone, etc.), regulated construction activity, coalbed methane gas exploration, development, and production. ADEM is also responsible for permitting and compliance activities relative to surface mining operations that have the potential to increase particulate emissions.

What agency has authority over activities potentially affecting endangered or threatened species?

Some background on the Endangered Species Act (ESA) may be helpful in understanding the state' s relationship to the ESA. Pursuant to that Act, which is found at 16 U.S.C. § 1531 *et seq*., the U.S. Department of the Interior is the lead agency for implementation of the provisions of the ESA. 16 U.S.C.

§ 1531 states that the purpose of the Act is "to provide for conservation, protection and propagation of endangered species of fish and wildlife by **Federal** action.." (Emphasis added). Thus, the federal Endangered Species Act sets forth certain requirements for federal agencies with regard to endangered species but does not establish requirements for states to implement the Act.

While the Act does provide for consultation with the states regarding endangered species, and provides for cooperative agreements between the federal government and the states for the conservation of endangered species, there are no requirements imposed upon the states by the ESA.

The National Marine Fisheries Service, Office of Protected Resources is charged with the implementation of the ESA for marine and migratory species, and the U.S. Fish and Wildlife Service implements programs and regulations for terrestrial and freshwater species under the ESA.

The Alabama Department of Conservation and Natural Resources (ADCNR) protects many nongame species through their regulations under Administrative Code r. 220-2-.92. More information can be obtained from the ADCNR website at: www.outdooralabama.com/watchable-wildlife/regulations/nongame-species.cfm.

What agency has authority over transfer stations and the transportation/hauling of garbage?

While ADEM does have permitting authority over the operation of landfills throughout the state, the Department does not have regulatory authority over the actual transportation or hauling of solid waste between its collection point, the garbage transfer station and its eventual disposal in permitted landfills. The Solid Waste Collection and Transportation section of the Alabama Administrative Code specifies that the Alabama Department of Public Health has responsibility for oversight of potential problems associated with solid waste or garbage that might escape from trucks designed for its transportation to permitted landfills.

Specifically, the law states that all spillages of solid, semi-solid, or liquid waste resulting from, or which occur during, the collection operation shall be promptly remediated by the collector to the satisfaction of the Local Health Officer. Additionally, all solid waste containing garbage shall be collected and transported in vehicles approved by the Local Health Officer, and deposited at an approved facility. Further, state law requires that effective control of wind-blown litter or other waste shall be maintained through the use of adequate restraints where necessary, including tarps and other devices, while the vehicle is in operation or contains solid waste containing garbage.

Citizens with questions or concerns about this issue are encouraged to contact their local county Public Health Department. For more information, visit www.adph.org/scraptire/solidwasterules.pdf.

What agency has authority over the application of pesticides?

The U.S. EPA is responsible for regulating the production and use of pesticides in the U.S. under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). In Alabama, the Alabama Department of Agriculture and Industries' Food Safety and Consumer Division, Pesticide Management Section oversees and certifies pesticide

applicators and enforces the regulations that govern their operation. To learn more about pesticides and their intended uses, visit the Alabama Cooperative Extension System web site, www.aces.edu.

What agency has authority over the remediation of indoor mold?

Generally, the presence of mold in the household can be no more than a nuisance, and in some cases, its presence can be a respiratory irritant. There is no practical way to eliminate all mold and mold spores in the indoor environment; however, the key to mold control is moisture control in the home. Presently, there are no state agencies that have responsibility for remediation of indoor mold. The U.S. EPA offers valuable information about mold and indoor air quality on its web site, www.epa.gov/iaq/molds, including tips for basic mold cleanup, ten things you should know about mold, health and mold, and numerous other mold-related resources and links.

Citizens who encounter mold problems indoors and do not wish to attempt cleanup or who may be otherwise sensitive to airborne mold spores may wish to seek the help of a professional contractor or other service provider. Those with sensitivity to airborne spores or who may be otherwise affected by the presence of indoor mold should consult a health professional before beginning cleanup.

What agency has authority over the amount of water in Alabama's streams and rivers?

The Alabama Department of Economic and Community Affairs (ADECA) Office of Water Resources (OWR) administers programs for river basin management, river assessment, water supply assistance, water conservation, and water resources development. Further, OWR serves as the State liaison with federal agencies on major water resources related projects and conducts any special studies on instream flow needs as well as administering environmental education and outreach programs to increase awareness of Alabama's water resources. For more information, visit www.adeca.alabama.gov.

Part 10 of this document provides a list of agencies and authorities with appropriate telephone numbers concerning topics of interest to the general public.

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Part 9

Getting Started: What are the first steps to Public Participation?

Many of the environmental regulations that states adopt are first proposed by the U.S. EPA. The first steps to public participation often occur at the federal level.

EPA's public involvement Web pages have been expanded to include new materials and links to useful information about tools and techniques in use all over the world [www.epa.gov/publicinvolvement]. The site also includes a new Feedback section with ready-to-use surveys for activities such as: hearings, meetings, listening sessions, Federal Advisory Committee Act (FACA) groups, community advisory groups, small group discussions and stakeholder negotiations [www.epa.gov/publicinvolvement/feedback]. In addition, the Public Involvement Resources and Training (PIRT) database, previously on EPA's intranet, is now publicly available. [www.epa.gov/publicinvolvement/pirtdatabase] Not only can you use the information it contains, you can suggest additional resources, conferences and trainings.

How do I get on the ADEM mailing lists?

ADEM is happy to include new listings on its mailing lists. Neighborhood associations, grassroots citizens groups, or other civic organizations or church groups are particularly welcome, because a single notice to such a group is an effective way for ADEM to reach larger numbers of people. If you would like to be on ADEM's permit program mailing lists so that you will know when environmental permits are proposed for issuance in your county, or some other county in which you are interested, you can contact the Permits and Services Division at (334) 271-7714 or e-mail permitsmail@adem.state.al.us. If you would like to learn when a permit application is received, for a specific source or facility that is of concern to you, please see the ADEM web site at www.adem.state.al.us/MoreInfo/permitApps.cnt. You can also find out "What's happening in your county" at www.adem.state.al.us/County/default.cnt.

Where are ADEM's files located and what types of information can be found there?

Many of the Alabama Department of Environmental Management's public files are located in ADEM's Central offices, located at 1400 Coliseum Boulevard in Montgomery, AL 36110. File reviews are by appointment only and hours are 8 a.m. to 5 p.m., Monday through Friday, excluding state holidays. However, the Department offers a new electronic means of accessing files (eFile) at http://edocs.adem.alabama.gov/eFile/. Because of the existence of significant volumes of documents that are not in electronic format, no representation is made that the documents retrieved by this system represent the entirety of documents that exist for a particular area of concern.

If you would like to review available public records, your request must be made in writing and should be submitted to the ADEM Public Records Officer [contact: (334) 271-7712. Please submit your request well in advance of the time that you need to

review the records because the documents you request may not be immediately available. Requests may be submitted via e-mail at records@adem.state.al.us, fax to (334) 271-7950, or mailed to ADEM Public Records Officer, P.O. Box 301463, Montgomery, AL 36130-1463. Responses to such requests shall be made within ten working days after receipt. Copies of documents will be provided for a nominal charge. These charges are outlined in ADEM Admin. Code r. 335-1-1-.06.

Files That Can Be Viewed at ADEM's Central Office

The following are examples of types of files maintained at ADEM, but is by no means an exhaustive list.

Air Quality

- Files on Continuous Emission Monitoring, Permits and Stack Tests
- Files on Attainment Demonstration Plans and other Air Quality-related files.

Land Management

- Files on Hazardous Waste Facilities, Solid Waste
- Facilities, Closures, Corrective Action; Financial Assurance
- Files on State Cleanup, Department of Defense, and Superfund
- Files on cleanups with the Voluntary Remediation Program (Note: Because of the voluntary nature of the program, VRP applications do not become public information until ADEM and the applicant both sign the Voluntary Remediation Agreement.)

Water Quality

- Files related to the National Pollutant Discharge Elimination System (NPDES) Program
- Files on Leaking Underground Storage Tanks, Underground Storage Tanks, and Environmental Spills
- Files related to the State Indirect Discharge Permit Program

Confidential Information

Persons requesting to review files should be aware that although most ADEM documents are public records, there are some documents associated with specific ADEM-regulated facilities that are "confidential". They are not public documents, and are not available for public review. Confidential materials may include information required to be kept confidential by state or federal law, records containing commercial or industrial trade secrets, internal agency deliberations, information regarding negotiations or legal or criminal investigations, and other various other materials.

For a more complete understanding of your rights to view and copy public records held by ADEM and other state agencies, please refer to the Alabama state law on public records, found in the Alabama Code, Title 36, Public Officers and Employees, Article 3, Inspection and Copying of Records (available at most public libraries) or on the Internet at [http://alisondb.legislature.state.al.us/acas/ACASLogin.asp]. Ala. Code § 36-12-40 (2001 Rplc. Vol. and Cum. Supp.), "Records Which May Not Be Disclosed," will provide a more complete listing and explanation of documents held by ADEM and other state agencies that are considered confidential.

Also, in January 2006, under state law at Ala. Code § 31-9A-5 (1998 Rplc. Vol. and Cum. Supp.), The Alabama Department of Homeland Security has promulgated rules that specify certain information as "sensitive security information" that is not to be disclosed to the public. Some environmental information such as the locations of drinking water supplies cannot be made available to the public.

- Files on the NPDES permitting of mining operations
- Files on the Stormwater Construction Program

Field Operations

- Files on Animal Feeding Operations (AFO) and Concentrated Animal Feeding Operations (CAFO)
- Files on the Coastal Area Management Program

Other Files

- Alabama Drinking Water Finance Authority Revolving Loan Fund
- Director's Files
- Alabama Environmental Management Commission Service Records

Code Books Containing Environmental Laws and Rules That Are Available in Public Libraries

Most libraries in Alabama have a copy of the Alabama Code and the Alabama Administrative Code (see this page and "Internet Access at Public Libraries"; p. 99), as well as a copy of the monthly Alabama Administrative Monthly (see "How can you view a copy of the Alabama Administrative Monthly?" page 16).

In addition, there are 22 libraries throughout Alabama that have been designated by the U.S. Government Printing Office as federal depository libraries. The U.S. Code (federal laws) and the U.S. Code of Federal Regulations (both of which are discussed in Part 1 of this guide) are among the federal publications available to the public at each federal book depository. For a list of items which should be available at all federal depository libraries, visit: [www.access.gpo.gov/su_docs/fdlp/coll-dev/basic-01.html].

Federal Depository Libraries in Alabama

Auburn University
Ralph Brown Draughon Library
231 Mell Street
Auburn University, AL 34849-5606
Phone: (334) 844-1702
lib.auburn.edu/govdocs/

Birmingham Public Library
2100 Park Place
Birmingham, AL 35203-2744
Phone: (205) 226-3620
bplonline.org/resources/subjects/gov/default.asp

Birmingham-Southern College
Rush Learning Center/Miles Library
900 Arkadelphia Road
Birmingham, AL 35254
Phone: (205) 226-4749
panther.bsc.edu/~libref/govdoc/govdoc.htm

Jefferson State Community College
James B. Allen Library
2601 Carson Road
Birmingham, AL 35215-3098
Phone: (205) 856-1200
jeffstateonline.com/campuses/jefferson

Samford University
Harwell G. Davis Library
800 Lakeshore Drive
Birmingham, AL 35229-7008
Phone: (205) 726-2847
library.samford.edu/about/govdocs/gdmenu.html

Enterprise-Ozark Community College
Learning Resources Center
600 Plaza Drive
Enterprise, AL 36330-9998
Phone: (334) 393-3752, ext. 2271
eocc.edu/library/index.htm

Bevill State Community College
Fayette Learning Resource Center
2631 Temple Avenue
Fayette, AL 35555
Phone: (205) 932-3221, ext. 5141
bscc.edu/lrc.asp

University of North Alabama
Collier Library
One Harrison Plaza
Florence, AL 35632-0001
Phone: (256) 765-4241
www2.una.edu/library/libgovi.htm

Gadsden Public Library
254 College Street
Gadsden, AL 35999-3101
Phone: (256) 549-4699
library.gadsden.com/

University of Alabama, Huntsville
Salmon Library
301 Sparkman Dr. NW
Huntsville, AL 35899
Phone: (256) 824-6530
uah.edu/library/about/department/government_documents.htm

Jacksonville State University
Houston Cole Library
700 Pelham Road North
Jacksonville, AL 36265-1867
Phone: (256) 782-8195
jsu.edu/depart/library/government/

Air University
Air University Library
600 Chennault Circle
Maxwell AFB, AL 36112-6424
Phone: (334) 953-6484/5947
au.af.mil/au/aul/commun.htm

Spring Hill College
Thomas Byrne Memorial Library
4000 Dauphin Street
Mobile, AL 36608
Phone: (251) 380-3875
camellia.shc.edu/govdocs/index.htm

University of South Alabama
307 N. University Boulevard
Mobile, AL 36688-0002
Phone: (251) 460-7025
southalabama.edu/univlib/govdocs/

Alabama Supreme Court
Supreme Court and State Law Library
300 Dexter Avenue
Montgomery, AL 36104-3741
Phone: (334) 242-4347
alalinc.net/library

REGIONAL

Auburn University at Montgomery
7440 East Drive
Montgomery, AL 36117-3596
Phone: (334) 244-3650
aumnicat.aum.edu/govtdocs/

Faulkner University
George H. Jones, Jr. Law Library
5345 Atlanta Highway
Montgomery, AL 36109-3390
Phone: (334) 386-7219
faulkner.edu/jsl/library.asp

Alabama A&M University
J.F. Drake Memorial Library
4700 Meridian Street
Normal, AL 35762-0489
Phone: (256) 372-4732
aamu.edu/portal/page/portal/library/library_home

Troy State University
Library, Wallace Hall
George Wallace Drive
Troy, AL 36082-2000
Phone: (334) 670-3000
library.troy.edu/html/library.html

REGIONAL

University of Alabama
Amelia Gayle Gorgas Library
Capstone Drive
Tuscaloosa, AL 35487-0266
Phone: (205) 348-6047
lib.ua.edu/govinfo/

Bounds Law Library
University of Alabama School of Law
101 Paul Bryant Drive
Tuscaloosa, AL 35487-0266
Phone: (205) 348-5925
library.law.ua.edu/links/fed.htm#general

Tuskegee University
Ford Motor Company Library/Learning Resource Center
427 Old Montgomery Road
Tuskegee, AL 36088
Phone: (334) 727-8894
tuskegee.edu/Global/story.asp?S=1182818&nav=CcXC

ADEM-Related Files Placed in Public Libraries

Some ADEM programs may require that certain materials be made available to the public at a local library in the area in which the Department has made a preliminary determination on an applicant's permit application. Generally, this is the case for draft permits for hazardous waste treatment, storage, and/or disposal facilities, and cleanup plans. Included is a copy of the original application, a fact sheet, and a copy of the public notice announcement.

Public notices for proposed permit actions are placed on the ADEM Web page. These notices give detailed information on where you can obtain a copy of the materials available for viewing.

Internet Access at Public Libraries

Nearly all public libraries in Alabama provide free public access to the Internet. Persons unfamiliar with using the Internet can ask for assistance from a librarian. With a little assistance, most citizens will be able to use the Internet effectively. Once you are on the Internet, there are a number of very useful resources that can be accessed.

ADEM resources on the Internet include:

- ADEM homepage, from which all ADEM Web pages can be accessed: adem.alabama.gov
- The ADEM Public Notice and Public Meeting Calendar
- ADEM List of Received Permit Applications
- Information on the meeting dates, agendas and past meeting minutes of the Environmental Management Commission
- The Alabama Code (State environmental laws are Title 22): www.legislature.state.al.us/CodeofAlabama/1975/coatoc.htm
- The ADEM Administrative Code
- The Alabama Administrative Monthly:

  www.alabamaadministrativecode.state.al.us/monthly.html
- ADEM's eFile application
- ADEM's eComplaint web page
- "What's Happening in Your County" online feature
- ADEM Guide for Citizen Participation, a complete copy of this guide

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Part 10

Helpful Contact Information

By Topic

Agricultural Pesticides

- ***Herbicide Use and Application*** Pesticide and herbicide use is regulated through the Alabama Department of Agriculture & Industries. Improper use of pesticides or over spray from aerial application of pesticides (crop dusting) is also handled by this Department.
  Agriculture & Industries.....Pesticide Management .....(800) 642-7761

  NPDES Permit - Pesticide Application ....*(334) 394-4318*

- ***Pesticide Applicator License*** Pesticide applicators are required to get a license from the Department of Agriculture and Industries.
  Agriculture & Industries.....Pesticide Management .....(800) 642-7761

- ***Pesticide Residues on Food***
  Agriculture & Industries.....Pesticide Residue Laboratory .....(334) 844-4705

- ***Pesticides*** Pesticide spill or fish kill due to pesticides, refer to the nearest Field Operations Office (See Spills).
  ADEM - Field Operations..... .....(334) 394-4382
  ADEM - Water ....(334) 271-7823
  Proper Disposal of Pesticides or Pesticide Containers
  ADEM - Land.....Industrial Hazardous Waste.....(334) 270-5637

Antifreeze

ADEM - Land.....Industrial Hazardous Waste.....(334) 270-5637
ADEM - Water ..... Industrial .....(334) 271-7943
Earth 911 (http://earth911.org/)..... 1-800-253-2687

Asbestos

- ***Removal***
  ADEM - Air..... .....(334) 271-7879

- ***Disposal***
  ADEM - Land..... Solid Waste .....(334) 271-7988

Batteries Disposal or Recycling (Universal Waste)

ADEM - Land.....Industrial Hazardous Waste.....(334) 270-5637

Blasting

Alabama Department of Labor.....Safety .....(205) 254-1275

Boat Sewage The U.S. Coast Guard and the Alabama Department of Conservation and Natural Resources - Marine Police have regulations governing discharge of sewage from boats. Look in your local phone book for the office nearest you, or contact:

Alabama Department of Conservation & Natural Resources - Marine Police....(334) 242-3673

Marina pump-outs for boats
ADEM - Clean Vessel Act Program..... .....(334) 394-4352

Bottled Water

- ***Sale of Bottled Water*** ADEM does not regulate the sale of bottled water; that is regulated through the FDA.
  U.S. Food & Drug Administration .... (888)-463-6332
- ***Bottled Water Production*** To use an Alabama water source (a spring for instance) to bottle drinking water, you must certify that the source meets public drinking water standards.

  ADEM - Water.....Drinking Water ..... (334) 271-7773

Brownfields Cleanup Brownfields are old industrial sites that are often targeted for cleanup so that they can be used again.
ADEM - Land .....Environmental Services ..... (334) 271-7984

Chemical Spills/Dumping into Stream Report to nearest Field Operations Division Office for investigation (See Spills).

Coastal Permitting Coastal permits to build structures on the beaches of Dauphin Island, Gulf Shores, and Orange Beach, or for permits to build commercial and residential developments in the coastal area which will be greater than five acres in size.

ADEM Coastal / Facility Unit .... (251) 432-6533

Community Water Systems
ADEM - Water.....Drinking Water ..... (334) 271-7773

Concrete Debris Disposal Clean concrete debris is not regulated as a solid waste and can be used as rip-rap in ditches or as fill material without a solid waste permit from the ADEM Land Division.
ADEM - Land .....Solid Waste ..... (334) 271-7988
If the area where the debris might possibly be placed is a water body or a wetland, contact the U.S. Army Corps of Engineers prior to placement because a permit may be required.
U.S. Army Corps of Engineers ..... Nashville District..... (615) 736-7161
U.S. Army Corps of Engineers ..... Mobile District..... (251) 690-2505

Construction Stormwater Permits These permits are issued for construction sites of one acre or more, and in some cases, sites of less than one acre.

ADEM - Water..... Stormwater Management Branch..... (334) 271-7836

Drinking Water Testing For private wells, refer to your local county health department for information on testing for bacteria. This is the only free testing available. For a list of private laboratories that do more complete testing:

ADEM - Water.....Drinking Water ..... (334) 271-7773

Emergency Management The Alabama Emergency Management Agency (AEMA) is responsible for keeping Alabamians safe from potential disaster and minimizing physical or financial suffering from these events.
Alabama Emergency Management Agency..... ..... (205) 280-2200

Endangered Species These are rare or threatened plants and animals that are regulated under the Federal Endangered Species Act that is administered through the U.S. Fish & Wildlife Service.
U.S. Fish & Wildlife Service.....Daphne Office..... (251) 441-5181

Alabama Department of Conservation and Natural Resources
Wildlife & Freshwater Fisheries.....(334) 242-3465

Environmental Education Legacy, Inc. provides comprehensive fact-based educational programs and materials to the citizens of Alabama.
Legacy, Inc. .....(800) 240-5115
ADEM — External Affairs.....(334) 260-4502

Environmental Health
Alabama Department of Public Health .. Environmental Services.....(334) 206-5373

Federal Register This is where federal agencies post proposed new rules and actions. Available on the internet from the National Archives and Records Administration at www.gpoaccess.gov/fr/index.html

Fish

- ***Fish Consumption Advisory*** ADEM performs limited fish sampling and tissue analysis, but the results are turned over to the Alabama Department of Public Health for determination if an advisory is needed.

  Public Health..... State Epidemiologist.....(334) 206-5973

- ***Fish Kills*** These should be reported to the nearest Field Operations Division Office for immediate investigation, who will also alert the Alabama Department of Conservation and Natural Resources.
  ADEM - Field Operations .....Montgomery.....(334) 260-2700

Flood Maps These are maps developed by the Federal Emergency Management Agency (FEMA) and copies can be obtained from them.
Federal Emergency Management Agency ....(800) 358-9616

If you wish to determine if property(ies) lie(s) in a floodplain in your area, contact the local building official or county engineer's office.

Fluorescent Lamps (Disposal) Certain types of fluorescent lamps must be handled as a type of hazardous waste due to mercury unless recycled properly.
ADEM - Land .....Industrial Hazardous Waste.....(334) 270-5637

Forestry (Cutting Timber) ADEM works closely with the Alabama Forestry Commission to ensure that effective Forestry Best Management Practices (BMPs) are implemented for the control of all pollutants that have the potential to enter waters of the state.
ADEM - Field Operations .....NPDES Compliance.....(334) 394-4311
Alabama Forestry Commission .....(334) 240-9300

Freon Disposal (CFCs) The regulation and disposal of these substances is guided by federal law and ADEM has no jurisdiction.
U.S. Environmental Protection Agency .....(800) 296-1996

Garbage Household garbage must be properly disposed in a permitted Municipal Solid Waste Landfill.
ADEM - Land .....Solid Waste .....(334) 271-7988

For information on regulations regarding pick-up, transportation or hauling of garbage from its collection point to the landfill, including transfer stations.
Public Health ..... Environmental Services..... (334) 206-5373

Hazardous Waste Hazardous Waste Container Standards, Hazardous Waste Transporter Information, or List of Soil Remediation Companies
ADEM - Land..... Industrial Hazardous Waste..... (334) 270-5637
List of Soil Remediation Companies
ADEM - Land..... Environmental Services..... (334) 271-7984

Indoor Air Pollution (Community Environmental Protection)
Public Health ..... Indoor Air..... (334) 206-5373

Industrial Waste
(Hazardous Waste - General Information)
ADEM - Land..... Industrial Hazardous Waste..... (334) 270-5637

(Non-Hazardous Solid Waste) disposal or permitting an industrial waste landfill
ADEM - Land..... Solid Waste..... (334) 271-7988

Junk Yards / Salvage Yards These facilities are required to obtain National Pollutant Discharge Elimination System (NPDES) Stormwater permits.
ADEM — Water……General Permits..... (334) 271-7799

For concerns regarding mosquito control or other possible disease-causing organisms:
Public Health ..... Environmental Services ….. ..... (334) 206-5373

Lake Water Quality
ADEM - Water ..... Water Quality ..... (334) 270-5604
ADEM - Field Operations ..... Montgomery ..... (334) 260-2700

Lead

- ***EPA Hotlines:***
  Environmental Protection Agency..... www.epa.gov/lead/nlic.htm ..... (800) 424-5323,
  .... (800) 532-3394
- ***Lead & Copper Monitoring in Drinking Water***
  ADEM - Water ..... Drinking Water..... (334) 271-7773
- ***Lead Abatement*** Certification of contractors who perform lead-based paint inspections, risk assessments and abatement activities in targeted housing complexes and child-occupied facilities is handled by the Alabama Department of Public Health.
  Public Health .....Indoor Air Quality/Lead Branch ..... (800) 819-7644
- ***Lead Based Paint – In the Home*** There are U.S. Department of Housing and Urban Development (HUD) regulations concerning lead-based paint in the home that require disclosure when a home is sold, and certification requirements for contractors who remove lead-based paint.
  Public Health ..... Environmental Services..... (334) 206-5373
- ***Lead Based Paint – Disposal*** A waste determination must be made on this material before disposal is approved.
  ADEM - Land..... Industrial Hazardous Waste..... (334) 270-5637

Mining

- ***Acid Mine Drainage***
  U.S. Department of Interior – Office of Surface Mining ..... (205) 290-7282
  The Alabama Surface Mining Commission (ASMC) ..... (205) 221-4130
  ADEM – Field Operations..... NPDES Compliance ..... (334) 394-4311

- ***Rock Quarries***
  ADEM - Air ..... (334) 270-5657
  ADEM - Water..... Mining and Natural Resource Section..... (334) 271-7975

- ***Sand, Gravel, and Dirt Pits*** For rules on reclaiming the land after the pit is finished, and information regarding the performance bonds required for reclamation:
  Industrial Relations .....Abandoned Mine Land Reclamation Section .... (334) 242-8265

  Water pollution discharge permit requirements:
  ADEM - Water..... Mining and Natural Resource Section..... (334) 271-7975

Mold Indoor Air Pollution from mold

Public Health……..Indoor Air ..... (334) 206-5373

Mold in homes, schools, or offices
Safe State Environmental Programs 1-800-421-7141
Information on mold and indoor air quality …….U.S. EPA…….www.epa.gov/iaq/molds

Noise Refer to local city or county governments to determine if they have noise ordinances. The Noise Pollution Clearinghouse is a national non-profit organization that may be able to offer suggestions.

Noise Pollution Clearinghouse .... (888) 200-8332

Oil (Used Motor Oil)

Regulations On Disposal
ADEM - Land .....Industrial Hazardous Waste ..... (334) 270-5637

Where to recycle used oil
Earth 911 (http://earth911.org/) 1-800-253-2687

Ombudsman HOTLINE

ADEM Office of Environmental Justice..... Ombudsman..... (800) 533-2336

Open Burning

- ***Burn Permits*** ADEM does not issue burn permits. For controlled burns out in the county, refer to Alabama Forestry Commission or the local Alabama Forestry Commission Office.
  Alabama Forestry Commission .....Fire Control Section ..... (334) 240-9335

- ***Regulations***
  ADEM - Air .... (334) 271-7879

OSHA (Occupational Safety and Health Administration) An OSHA complaint form can be downloaded at www.osha.gov/as/opa/worker/complain.html. The site also provides an explanation of the complaint investigation process.

Birmingham Office:..... ..... (205) 731-1534
Mobile Office:..... ..... (251) 441-6131

Radon Gas

Public Health.....Radiation Control ..... (334) 206-5391

Recycling

ADEM –Land.....Solid Waste ..... (334) 271-7988

Regulations ADEM Regulations (see adem.alabama.gov)

ADEM Office of General Counsel..... ..... (334) 394-4360

Right-to-Know Law (SARA Title III)

ADEM - Field Operations ..... Montgomery..... (334) 260-2700

Septic Tank To report a problem with a septic tank or obtain a permit for the installation of a septic tank, contact your County Health Department. To obtain proper design information or information on alternative systems:

Public Health.....Environmental Services ..... (334) 206-5373

Soil Erosion Regarding soil erosion and sedimentation impacts to surface water quality, refer to the ADEM - Field Operations Division for investigation.

ADEM - Field Operations……..NPDES Compliance……..(334) 394-4311

Construction Activity Refer to the Field Operations office above for investigation.

- ***Timber Harvesting*** ADEM works closely with the Alabama Forestry Commission to ensure that effective Forestry Best Management Practices (BMPs) are implemented for the control of all pollutants that have the potential to enter waters of the state.
  ADEM - Field Operations .....…NPDES Compliance ..... (334) 394-4311
  Alabama Forestry Commission .... (334) 240-9300
- ***Resources*** For information on how to control soil erosion, contact your local County Extension Agent or Natural Resources Conservation Service (NRCS) office.

  The Alabama Soil and Water Conservation Committee (ASWCC) can provide guidance and educational materials on proper erosion and sediment control practices.

  ASWCC .... (334) 242-2622
  NRCS..... ..... (334) 887-4500

Spills

After Hours (5pm-7am)

Emergency Management Agency 1-800-843-0699

(7am-5pm)

ADEM - Field Operations ..... Montgomery..... (334) 260-2700
ADEM - Field Operations .....Birmingham ..... (205) 942-6168
ADEM - Field Operations ..... Decatur..... (256) 353-1713
ADEM - Field Operations ..... Mobile..... (251) 450-3400

Stormwater

Stormwater Permitting For Construction Sites

ADEM - Water ..... North or South Stormwater Section..... (334) 394-4318

Stormwater Permitting For Mining Sites

ADEM - Water .....Mining and Natural Resource Section..... (334) 271-7943

Stormwater Permitting For Industrial / Municipal Operations

ADEM - Water Industrial .... (334) 394-4318
ADEM - Water Municipal .... (334) 271-7810

Tires

- ***Tire Disposal***
  Scrap Tire Program and Processing Facilities
  ADEM - Land ..... Solid Waste ..... (334) 271-7988
- ***Tire Manufacturing***
  Air Permits For These Facilities
  ADEM - Air .... (334) 271-7875

  Permitting of Discharge of Stormwater or Process Water from These Facilities
  ADEM - Water .....Industrial..... (334) 271-7808
- ***Tires (Used)***
  ADEM - Land..... Solid Waste..... (334) 271-7988

  Transport of Used Tires Between Collection Point and Disposal Facility

  Alabama Department of Public Health.. Environmental Services..... (334) 206-5373

U.S. Geological Survey (USGS)

U.S. Geological Survey..... Montgomery, Alabama ..... (334) 213-2332

Water Quality of Rivers & Streams and Water Quality Standards for Surface Water

ADEM - Water ..... Water Quality..... (334) 270-5604

Wells

- ***Licensed Drillers***
  ADEM - Water ..... Drinking Water..... (334) 271-7773
- ***Private Water Wells*** To test your private well for bacteria, please contact your local County Health Department.
  A list of certified private water well drillers or private water well construction problems.

  ADEM - Water ..... Drinking Water..... (334) 271-7773

Wetlands

- ***U.S. Army Corps of Engineers*** Filling of wetlands is regulated by the U.S. Army Corps of Engineers
  The Nashville District covers activities in the greater Tennessee River Watershed.
  U.S. Army Corps of Engineers.....Nashville District ..... (615) 736-7161

  The Mobile District covers the state from the Tennessee River Watershed south.
  U.S. Army Corps of Engineers.....Mobile District ..... (251) 690-2505

- ***401 Water Quality Certification and Coastal Construction Certification*** These are certifications that ADEM provides on permits issued by the U.S. Army Corps of Engineers for fill in wetlands or federal waters, on dredging water channels, or construction of structures in navigable waters.

  U.S. Army Corps of Engineers.....Nashville District ..... (615) 736-7161

  For projects in Mobile, Baldwin, or Washington County
  U.S. Army Corps of Engineers.....Mobile District ..... (251) 690-2505

  ADEM - Field Operations..... Coastal / Facility Unit..... (251) 432-6533

  For projects in all other counties in the state
  ADEM - Field Operations..... NPDES Compliance ..... (334) 394-4311

Wildlife

- **Endangered Species**
  U.S. Fish & Wildlife Service .....Daphne Office ..... (251) 441-5181

- **General Information on Wildlife**
  Alabama Department of Conservation and Natural Resources
  .....Wildlife & Freshwater Fisheries..... (334) 242-3465

ADEM Montgomery Office
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
(334) 271-7700

ADEM Montgomery Field Operations Annex
1350 Coliseum Boulevard
Montgomery, AL
(334) 260-2700

ADEM Field Operations Decatur Office
2715 Sandlin Road SW
Decatur, AL 35603-1333
(256) 353-1713

ADEM Field Operations Birmingham Office
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168

ADEM Field Operations Mobile Office
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400

ADEM Field Operations Coastal
3664 Dauphin St. Suite B
Mobile, AL 36608
(251) 304-1176

	TELEPHONE NUMBER	FAX NUMBER	EMAIL ADDRESS
Administration	(334) 271-7710	(334) 271-7950	Permitsmail@adem.state.al.us
Air	(334) 271-7861	(334) 279-3044	Airmail@adem.state.al.us
External Affairs	(334) 260-4502	(334) 279-3051	Oeomail@adem.state.al.us
Field Operations	(334) 260-2700	(334) 394-4326	Fieldmail@adem.state.al.us
Groundwater	(334) 270-5655	(334) 270-5631	Grdh2omail@adem.state.al.us
Laboratory	(334) 270-2700	(334) 277-6718	Labmail@adem.state.al.us
Land	(334) 271-7730	(334) 279-3050	Landmail@adem.state.al.us
General Counsel	(334) 271-7855	(334) 394-4332	Ogcmail@adem.state.al.us
Ombudsman	1-800-533-2336	(334) 394-4383	edl@adem.state.al.us
Permits & Services	(334) 271-7714	(334) 271-7950	Permitsmail@adem.state.al.us
Personnel	(334) 271-7807	(334) 271-7950	Personnel@adem.state.al.us
Public Relations	(334) 260-4501	(334) 279-3043	Public.affairs@adem.state.al.us
Water	(334) 271-7823	(334) 279-3051	H2omail@adem.state.al.us
Webmaster	(334) 271-7920	(334) 271-7950	Sjackson@adem.state.al.us

LIST OF ACRONYMS

AAC	Alabama Administrative Code
ACAMP	Alabama Coastal Area Management Program
ACWP	Alabama Clean Water Partnership
ADCNR	Alabama Department of Conservation and Natural Resources
ADECA	Alabama Department of Economic and Community Affairs
ADIR	Alabama Department of Industrial Relations
AEIRG	Alabama Environmental Investigation and Remediation Guidance
AEMC	Alabama Environmental Management Commission
AFOs	Animal Feeding Operations
AHSCF	Alabama Hazardous Substance Cleanup Fund
ARARs	Applicable or Relevant and Appropriate Requirements
ARBCA	Alabama Risk-Based Corrective Action
ATF	After-The-Fact
AWPCA	Alabama Water Pollution Control Act
BACT	Best Available Control Technology
C/DLF	Construction/Demolition Landfill
CAA	Clean Air Act
CAAA	Clean Air Act Amendments
CAFOs	Concentrated Animal Feeding Operations
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CERCLIS	Comprehensive Environmental Response, Compensation, and Liability Information System
CESQG	Conditionally Exempt Small Quantity Generator
CFR	Code of Federal Regulations
CMI	Corrective Measures Investigation
CMS	Corrective Measures Study
COE	U.S. Army Corps of Engineers
CWA	Clean Water Act
DERP	Defense Environmental Restoration Program
DoD	Department of Defense
ESA	Endangered Species Act
FAA	Federal Aviation Administration
FACA	Federal Advisory Committee Act
FHWA	Federal Highway Administration
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act

LIST OF ACRONYMS

FOST	Finding of Suitability to Transfer
GPM	Gallons Per Minute
HAP	Hazardous Air Pollutant
HSWA	Solid and Hazardous Waste Amendments
ILF	Industrial Landfill
JPN	Joint Public Notice
LAER	Lowest Achievable Emission Rate
LQG	Large Quantity Generator
LRS	Legislative Reference Service
MACT	Maximum Achievable Control Technology
MGD	Million Gallons Per Day
MOS	Margin of Safety
MSWLF	Municipal Solid Waste Landfill
NO_2	Nitrogen Dioxide
NOD	Notice of Deficiency
NPDES	National Pollutant Discharge Elimination System
NPL	National Priority List
NSR	New Source Review
O_3	Ozone
OWR	Office of Water Resources
Pb	Lead
PIRT	Public Involvement Resources and Training
PM_{10}	Particulate Matter Under 10 Microns
$PM_{2.5}$	Particulate Matter Under 2.5 microns
POTW	Publicly- or Privately-owned Treatment Works
PRP	Potentially Responsible Party
PSD	Prevention of Significant Deterioration
RAB	Restoration and Advisory Board
RBTLs	Risk-Based Target Levels
RCRA	Resource Conservation and Recovery Act
RFA	RCRA Facility Assessments
RFI	RCRA Facility Investigation
RI/FS	Remedial Investigation and Feasibility Study
ROD	Record of Decision
SACA	Support Agency Cooperative Agreement
SDWA	Safe Drinking Water Act

LIST OF ACRONYMS

SIC	Standard Industrial Classification
SID	State Indirect Discharge
SIP	State Implementation Plan
SIU	Significant Industrial User
SMOP	Synthetic Minor Operating Permit
SO_2	Sulfur Dioxide
SQG	Small Quantity Generator
SRF	State Revolving Fund
SWMU	Solid Waste Management Unit
TCLP	Toxicity Characteristic Leaching Procedure
TMDL	Total Maximum Daily Loads
TPY	Tons Per Year
TSD	Treat, Store or Dispose
UIC	Underground Injection Control
USDW	Underground Sources of Drinking Water
U.S. EPA	United States Environmental Protection Agency
UST	Underground Storage Tank
VCP	Voluntary Cleanup Program
VRP	Voluntary Remediation Agreement