Amended 3/18/15

DRAFT

Minutes
Meeting and Work Session of the
Rulemaking Committee of the
Alabama Environmental Management Commission
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
February 20, 2015

DRAFT

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Convened: 1:00 p.m.
Adjourned: 3:15 p.m.

Part A

Transcript
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Attachment 1 - Agenda

Part A

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MEETING AND WORK SESSION OF THE

RULEMAKING COMMITTEE

OF THE

ALABAMA ENVIRONMENTAL MANAGEMENT

COMMISSION

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
Alabama Room
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400

February 20, 2015
1:00 p.m.

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Taken by: Bridgette W. Mitchell,

ACCR 231

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APPEARANCES

COMMITTEE MEMBERS PRESENT:
W. Scott Phillips, Chair
Mary J. Merritt

COMMITTEE MEMBERS NOT PRESENT:
Terry D. Richardson, Ph.D.

ALSO PRESENT:
Lanier Brown, II, Chairman of the Commission
Robert Tambling, EMC Legal Counsel
Debi Thomas, EMC Executive Assistant
Lance LeFleur, ADEM Director
Marilyn Elliott, ADEM Deputy Director
Trey Glenn, Business Council of Alabama
Jessica Trotman, Rushton, Stakely, Johnston & Garrett
Mitch Reid, Alabama Rivers Alliance
Adam Johnston, Alabama Rivers Alliance
Cindy Lowry, Alabama Rivers Alliance
Katie Robertson Shaddix, Alabama Rivers Alliance
Eva Dillard, Black Warrior Riverkeeper
Nelson Brooke, Black Warrior Riverkeeper
Michael Mullen, Choctawhatchee Riverkeeper, Inc.
Ben Eaton, Black Belt Citizens Fighting for Health and Justice
Ellis Long, Black Belt Citizens Fighting for Health and Justice

ALSO PRESENT (continued):
Esther Calhoun, Black Belt Citizens Fighting for Health and Justice
Mary Shaeffer, Black Belt Citizens Fighting for Health and Justice
Dick Bronson, Lake Watch of Lake Martin
Keith Johnston, Southern Environmental Law Center
Sarah Stokes, Southern Environmental Law Center
Beth Stewart, Cahaba River Society
Myra Crawford, Cahaba Riverkeeper
Joe Howle, Vulcan Materials Company
Misha Mitchell, Black Warrior Riverkeeper
Isabella Trussell, Logan Martin Lake Protection Association

COMMITTEE CHAIRMAN PHILLIPS: Welcome to the Rulemaking Committee. Acknowledge we do have a quorum. We do not have Commissioner Terry Richardson. He didn't want him to get snowbound from the north, so he asked to not be able to come today. But we're going to move forward regardless.

We'll start with Agenda Item No. 1, which is consideration of the minutes from our meeting that we held on December the 12th. I'll entertain a motion.

MS. MERRITT: So moved.

COMMITTEE CHAIRMAN PHILLIPS: Second?

MS. MERRITT: Second.

COMMITTEE CHAIRMAN PHILLIPS: All in favor signify and say aye.

MS. MERRITT: First and second.

(Unanimous.)

COMMITTEE CHAIRMAN PHILLIPS: That was easy. Agenda Item No. 2. Agenda Item No. 2 is really the working

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session that the Rulemaking Committee crafted. Many of you were in the room when we thought of that, and that's why you're here today. What I'd like to do is to start off -- I know most everyone in the room, but everybody may not know everyone else. So I'm going to ask that we go around the room, make a very quick introduction of yourself, who you're representing, but keep it short because there's a lot of us in the room. I'll start, and then I'm going to ask you, as we engage, for our court reporter, we really need for you to start with your name and your organization so we can get it on the record. All right?

I'm Scott Phillips. I'm the vice chair of the Environmental Management Commission and the Chair of the Rulemaking Committee.

MS. MERRITT: And I'm Mary Merritt. I'm the commissioner at large.

COMMITTEE CHAIRMAN PHILLIPS:

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Robert?

MR. TAMBLING: Robert Tambling. I'm legal counsel for the Commission.

COMMITTEE CHAIRMAN PHILLIPS: Chairman, we'll go with you and then go around.

COMMISSION CHAIRMAN BROWN: Lanier Brown, Chairman of the Commission.

MS. SHAEFFER: Mary Shaeffer with Black Belt Citizens Fighting for Health and Justice, from Uniontown.

MS. LONG: Ellis Long, also with Black Belt Citizens Fighting for Health and Justice in Uniontown.

MR. BROOKE: Nelson Brooke, Black Warrior Riverkeeper out of Birmingham.

MS. DILLARD: Eva Dillard, Black Warrior Riverkeeper.

MR. JOHNSTON: Keith Johnston, Southern Environmental Law Center out of Birmingham.

MS. STOKES: Sarah Stokes, Southern Environmental Law Center.

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MS. CRAWFORD: Myra Crawford, Cahaba Riverkeeper, Birmingham.

MR. BRONSON: Dick Bronson, Lake Watch of Lake Martin.

MR. MULLEN: Mike Mullen, Choctawhatchee Riverkeeper, Troy.

MR. EATON: Ben Eaton, Black Belt Citizens Fighting for Health and Justice, Uniontown.

MR. GLENN: I'm Trey Glenn on behalf of Business Council of Alabama.

MR. HOWLE: I'm Joe Howle, Vulcan Materials Company.

MS. CALHOUN: I am Esther Calhoun from Uniontown, Alabama, Black Belt Citizens Fighting for Health and Justice.

MR. REID: Mitch Reid from the Alabama Rivers Alliance based out of Birmingham.

MS. TROTMAN: Jessica Trotman from Rushton-Stakely. I'm here for Dennis Bailey.

MS. STEWART: Beth Stewart with

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the Cahaba River Society.

MS. LOWRY: Cindy Lowry, Alabama Rivers Alliance.

MS. SHADDIX: Katie Shaddix, Alabama Rivers Alliance.

MR. JOHNSTON: Adam Johnston, Alabama Rivers Alliance.

MS. ELLIOTT: Marilyn Elliott, ADEM.

MR. LeFLEUR: Lance LeFleur, ADEM.

COMMITTEE CHAIRMAN PHILLIPS: In the back?

MS. MITCHELL: Hi. I'm Misha Mitchell, and I'm the legal intern for Black Warrior Riverkeeper.

COMMITTEE CHAIRMAN PHILLIPS: And in the back?

MS. TRUSSELL: Isabella Trussell, Logan Martin Lake Protection Association.

COMMITTEE CHAIRMAN PHILLIPS: Debi?

MS. THOMAS: I'm Debi Thomas with

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the Environmental Management Commission.
COMMITTEE CHAIRMAN PHILLIPS: Okay. I want to thank all of you for being here. I know it's cold outside. And by the swarm of people who wanted to know when we were going to finish after the Commission meeting, I know everybody's anxious to get about it and get on with it. So what I want to do is start by saying we're going to open the floor up, but don't everyone jump in all at once. And hopefully we'll cover the very topics that we've heard for quite a while and the Commission shares in. If I don't hear people who jump in, then I'm going to throw them out one at a time and then we can kind of debate those.
This is intended to be a dialogue, a productive dialogue. It's not about a decision that's coming out of this room today. It's really to get your views of what enhancements, if any, could be made to our public-comment rule for us to

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consider. We will then take this information, look back over it, talk to Commissioner Richardson, who's not here, and decide at our next meeting, which will be in April, what, if anything, we want to take to the Commission. Okay? Anybody have any questions about the process?
(No response.)
COMMITTEE CHAIRMAN PHILLIPS: Good. Anyone want to start with an issue that they believe would make our public-comment period more productive? Mitch.
MR. REID: So I'm just sort of trying to frame maybe the ideal that I see, and -- and recognizing that that may not be what the actual rule looks like, but I feel like it's -- as an advocate for not only the groups that we represent that are staffed organizations but also the groups that we represent that are citizens groups that don't do this as their full-time job, that they're just

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people who care about the, in this case, the rivers in their backyard, we would -- I personally would like to see a public participation ethic that is in favor of someone being able to come and approach the Commission in a -- in a way that says, Look, this is something that I see that's on my mind that we're having problems with or I'm concerned about, without it being something that -- that takes someone on a staff with a law degree to work their way through the process.
Now, recognizing that there's -- and fully understanding Commissioner Richardson's sort of other end of that spectrum, but as -- if there was any way of sort of putting the thumb on the scale towards people being able to have an open voice -- I understand that they don't need to come and say things that you don't need to hear about and that they don't need to come and litigate their

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case in front of you if you're going to hear an appeal. I understand that there are parameters. But if there's a way of just putting the favor in -- towards someone being able to speak.
The example that I think of is the Water Resources Commission in OWR's meeting. At the end of the meeting, it's not a formal process. I've never seen anyone say, I want to present to the Water Resources Commission, but at the end of the meeting they say, Is there anybody in the back that would like to say anything? And that -- that's a public participation, a really informal way of doing it but it still allows people to say, I appreciate what you're doing or I've got some issues. So maybe just framing the question.
COMMITTEE CHAIRMAN PHILLIPS: That's a good start, because I think it -- it raises kind of an end state that you believe we should be working toward.

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I think it's one that we believe we should be working toward. I think our experiences give us concern in some areas, and one of those areas that I'll throw out for the group to help us think about how to manage is people that come to the Commission and want to address us about issues that we have no mechanism in law, regulations, or otherwise to help them with. And while I'm all for putting the thumb on letting people get up and talk about what they want to, if I can't help them, if I'm not legislatively authorized to do something, they're really wasting their time, and we don't want to waste their time. We don't want to frustrate them.

And a good example of this is land-use planning. We don't do land-use planning. That's a local responsibility. It's something that when people come to us and say, We don't want this landfill in our county, well, if it meets the

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permit requirements, we really don't have the wherewithal to do anything about that other than to look at them after they've finished ten minutes and say, Have you spoken with your local representatives, your local governments? So on the hand of letting people get up and talk, I think we're for that when it really is something that we can do something about.

So one of the thoughts that we've had is to make sure that we do a better job of helping the public know what it is we can do something about, whether it's about setting policy, setting rules or regulations, or holding the Department director accountable. Beyond that, the only other thing we do, which we don't take public comment about, is hearing appeals or hearings that come before us.

How do we manage that, the two of those? Any thoughts?

MS. DILLARD: I have a quick question, maybe, before we answer that.

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I'm Eva Dillard with Black Warrior Riverkeeper. I've been attending the EMC meetings for about five years, and I don't think I have -- and I could be wrong -- I don't think I've ever witnessed a public presentation that wasn't in some way related to the responsibilities that the EMC has or that -- or that address items that ADEM oversees. I would just like to know, how big of a problem is this? How big of an issue are off-topic citizen presentations? because I don't know that I've ever witnessed one, but I might lead a sheltered life.

COMMITTEE CHAIRMAN PHILLIPS: Well, I've been here a lot longer than five years --

MS. DILLARD: Right.

COMMITTEE CHAIRMAN PHILLIPS: -- so maybe I'm relying on things. But it is an issue and it's one that we would like your help in at least addressing.

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If it doesn't happen, that's great.

MS. DILLARD: Right.

COMMITTEE CHAIRMAN PHILLIPS: Then we don't have to deal with it. But if it does, how do we make sure that we get people where they need to be? Cindy?

MS. LOWRY: One suggestion I think that -- I think we made in our comments -- we maybe evolved it a little since then -- was that there be some kind of template for the request or the submittal so that it says exactly what you need to hear, and that could -- you know, obviously who you are and what your issue is, but another category could be what is the EMC's role in resolving -- what do you see as EMC's role? So that puts it on us a little bit to say -- to make the case that we have the responsibility that we're -- you know, we understand what we're asking you to do, but also gives you a chance to tell us what you need to hear from us. That

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could be on a website form, could be -- obviously needs to be downloadable as well for people that don't have Internet. So that's an idea for that.

COMMITTEE CHAIRMAN PHILLIPS: That's a good idea and I think that really kind of touches on the edge of where I was talking about an example, for example, a landfill in the county. Even when individuals come -- and I think many of you that have come before us in the last year have seen a difference of us really asking you, when you talk to us, What do you think we could do, which kind of gets to your -- and maybe we should be a lot more proactive about a template.

I think the other item that we've learned from the group of many of you in this room is there's this perception that we don't take comments except right before our meeting or at the end of our meeting. We really -- and not everyone wants to travel here from across the

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state to make a comment, so one of the thoughts that Commissioner Richardson had was we really need to be a little more proactive in letting people know that they're welcome to provide comments to us at any time, written -- written, and e-mail. Right now you can't really -- can't even do e-mails; right? So, I mean, that's really an area where we need to catch up with the technology that passed us.

MR. TAMBLING: Well, I think they can make e-mail comments, but I don't think you can make a request to appear before the Commission through e-mail.

MS. STEWART: I have a pretty simple request. Beth Stewart, Cahaba River Society. I think that it be changed to allow e-mail requests and, in doing so, we'd like to ask you to do what everybody else does, which is 5 p.m. is not really a meaningful deadline for an e-mail request because nobody at 5:01 on

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staff is going to sit down and look through all those, so having it be a midnight on day of deadline would be tremendously helpful.

COMMITTEE CHAIRMAN PHILLIPS: Someone raised their hand over here. I'm sorry.

MS. CRAWFORD: Mine is very similar. Myra Crawford, Cahaba Riverkeeper. I was wondering, would you be comfortable receiving e-mail requests to speak? Would that be a way that you would be comfortable receiving that request?

COMMITTEE CHAIRMAN PHILLIPS: You mean personally?

MS. CRAWFORD: I mean, would that be -- that be helpful if you had --

COMMITTEE CHAIRMAN PHILLIPS: I think what's helpful, if we decide that e-mail requests are okay for requesting coming before the Commission to talk, I think we would still want it to go

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through Debi, because I get two or three or four hundred e-mails a day.

MS. CRAWFORD: I didn't mean personally.

COMMITTEE CHAIRMAN PHILLIPS: Oh, okay.

MS. CRAWFORD: I mean to a single person.

COMMITTEE CHAIRMAN PHILLIPS: I mean, Debi, you deal with e-mails. Is that cumbersome?

MS. THOMAS: No. I think e-mails would be fine, an e-mail request. For my logistics standpoint, I think that would be fine.

MS. MERRITT: Probably just like we do the -- you know, the way we did before, you just got to have rules with the e-mail, you know, it's got to be in a certain day. That's what I'm thinking about.

COMMITTEE CHAIRMAN PHILLIPS: That may be a way to help with the

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templating that Cindy was talking about.
MS. MERRITT: Yeah.
COMMITTEE CHAIRMAN PHILLIPS: I mean, it doesn't bother me. Seems like everything I do nowadays is on e-mail.
MR. JOHNSTON: I have a comment, Commissioner. Adam Johnston, Alabama Rivers Alliance. I do think it's important that we provide a variety of avenues for individuals to contact. I do agree that e-mail should be a way. Added to it, I also feel like a phone call should be able to call in Debi and say -- we live in a time and age where not everybody deals on e-mail, or we still have individuals who don't necessarily in our state rely and survive on e-mail; and I'd like to be able to see somebody be able to pick up a phone, call the executive assistant, and be able to go through that process. We still rely on phones and people should be able to do this person-to-person thing and not --

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and so I would like to see there be able to be a call-in option to be on the agenda.
MS. DILLARD: Eva Dillard. I think Adam makes an excellent point. And, you know, there was some recent information released that about 35 percent of the households in Alabama don't have a computer at home, and so I think if we can expand the opportunities, you're going to reach some folks who may not have a computer. And chances are, if they don't have a computer, they're certainly not going to have a fax machine, because the fax machines are on the way out. I don't know of many folks who even use them anymore.
COMMITTEE CHAIRMAN PHILLIPS: Okay. Thanks.
MR. GLENN: Trey Glenn on behalf of Business Council. And obviously I have a very different perspective now than I may have a few years ago on this.

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But with regard to different people around the state and their ability to send e-mails/not send e-mails, that also -- I think someone mentioned their ability to drive down here, willingness/ desire to stand in front of a commission and make remarks. You know, that's -- takes a different thought process to do that. I'm a big believer if somebody, no matter whether you're on the environmentalist side, the business side, or just the, most importantly, the citizen side, wants to reach out to you as the policy-setting board to tell you something, say Lance and the Department are doing a great job, doing a bad job, whatever, whatever they want to tell you, I mean, you need to consider this, you need to consider that, they should be able to do that. And there's a lot of mechanisms for doing that.
The one thing, though, from a business standpoint that concerns me

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about comments is, sometimes when people stand up and start talking, maybe you don't -- you're not hearing what they're trying to say, maybe their words are different and so the messages sometimes get a little garbled and may get even misinterpreted, and that may have negative ramifications on folks who are -- then spend time, energy, and money and resources and -- to respond to something, and maybe they don't even need to respond to it, it was just misunderstood.
So I'm a big fan of doing this kind of stuff in writing, because it gives y'all absolute clarity and it gives the person who may be snowed in today up in wherever Alabama the opportunity to tell you something. I mean, I'm assuming put it on the record so everybody in the world can see it and it's part of the minutes and -- but not have to get in a car and drive -- drive down here. They

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can do that for y'all, then if y'all get it, have some time and you have to get a letter in from somebody for this commission meeting and if you see it and you have a question, say, Listen, this is important, I'd like you to come, we have questions for you, do you mind coming and addressing the Commission? We'd like to talk to you about it. Give them a certain amount of time. Y'all can invite them down and talk to you about it. But that would just cut down on some of the confusion and maybe some of the back and forth that comes from the comment period.

MR. MULLEN: Mike Mullen, Choctawhatchee Riverkeeper. I think what Trey said is important, too. I think we've had instances where people have come all the way down here and then their request is denied, and maybe the better process would be if we don't know whether it's going to be approved or not is for them to make the request and defer that

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to the next EMC meeting so that somebody's not driving all the way -- give them the option if they don't want to drive down here for that meeting to get the approval and come to a later meeting.

COMMITTEE CHAIRMAN PHILLIPS: So if they request --

MR. MULLEN: Say they made a request for the April --

COMMITTEE CHAIRMAN PHILLIPS: And we're not sure, because it's the full Commission that makes that determination. Wait until that determination's been made.

MS. LOWRY: Cindy with the Alabama Rivers Alliance. That brings up a couple of thoughts, one as to the -- your mention earlier, taking in written comments all the time. You know, I don't think that's a bad idea. I do think there needs to be some mechanism, which will put more work on you guys, to follow

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up with those and not -- they not just go into a black hole, because then that sort of makes those seem useless for the public that's doing it.

And then this is, I guess, maybe a more difficult subject or more -- not contentious but I think there's a perception on our part maybe at times that when you guys want the written comment or the written work ahead of time and the certain criteria and all that, it's so that you can posture yourselves for defense because maybe we're -- we are perceived that we're coming to you with some kind of complaint or some kind of problem at ADEM, which often -- at the EMC, which often we might be. So these perceptions of sort of getting a defense posture both sides to say, Okay, we need all this time to prepare ahead of time so that we can defend ourself. And we're like, Why do you need all this time just to hear from the public? So I guess I

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just want to throw that out on the table as -- I'm not saying that those perceptions are correct on either side. I'm just saying --

COMMITTEE CHAIRMAN PHILLIPS: Well, perception is reality.

MS. LOWRY: So I think that we don't -- as we said in our comments, we understand the need to prepare for our presentations and especially if -- some of these subjects are pretty -- need some education level ahead of time, and I think that's good. I guess I just want to throw that out there as -- prepare so that you can ask questions to the presenter is one thing. Prepare so that you can -- so they can set up some kind of rebuttal or something is -- is something that was brought up in comments I think warrants discussion.

COMMITTEE CHAIRMAN PHILLIPS: I agree.

MR. MULLEN: It's sort of like

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there's a prebuttal, and it makes it appear at times that the Commission is not really giving a lot of thought to something when as soon as the person finishes their presentation they're getting a prebuttal. And if you're really going to digest something, I think it'd be more professional, look a lot more seemly if -- the Commission shouldn't feel like it has to make a response to that presentation at the meeting, and it seems like we've got more and more of those cases. And some of those -- I'm not going to point any fingers, but some of them have almost been condescending type of rebuttals. And it would be much better if the Commission took that presentation under advisement, got back in communication directly with that individual organization or brought it up at a later meeting.

COMMISSION CHAIRMAN BROWN: But

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wouldn't it be better just to do that in writing --

MR. MULLEN: Yeah. Right. That'd be --

COMMISSION CHAIRMAN BROWN: -- rather than have --

MR. MULLEN: The exchange, that response, could be in writing.

COMMISSION CHAIRMAN BROWN: But rather than come up here and speak to me and me say nothing but write you a letter later, wouldn't it be better for you just to write me and I write you back?

MR. MULLEN: There is one -- there is one value of making that presentation. It takes -- some people need to vent a little bit and get rid of a little bit of the anger and -- and I think there's some benefit in the presentations that they just don't get in writing. I know I send things to the Commission. And to get to another something somebody brought up -- it'd put

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more work on Debi or Lance's crew or whatever -- but if that written communication to the Commission could go on e-file and the responses could go on e-file, as long as they're not -- as long as they're appropriate, that might help make people more amenable and make less presentation -- fewer presentations.

MR. REID: Just to -- this is Mitch Reid. Just to dovetail off of that, which I don't really see the presentations that I give as necessarily a way of venting, but I think it is a way of -- of sort of standing in the public eye and saying this is something that we see, like, for instance, today, on the horizon that we want to be a part of and sort of let everyone know that it's something we're working on.

If -- communications in writing can be a much more efficient way, but I think there does have to be a way of recording that so that people can see that that

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conversation is happening; otherwise, you do lose that -- that public exchange, like the Commission has been asked to work on this issue, it's within their wheelhouse, according to the regulations, and someone stood up and said it; that's a very public act. And a writing can -- can meet that as long as it's also open and -- and available for people to say, Okay, we see that exchange. So that's sort of -- kind of what Mike was saying but a little different.

MR. GLENN: Trey Glenn on behalf of Business Council. And I can happily say I have not read y'all's minutes in about five years or so. But I'm assuming, though, there's some mechanism if we've got an industry person who wants to say, ADEM Commission, there's a policy and there's a rule coming out, I just want you to be aware of it, much like Mitch did today, there's something coming out, I want to make sure you're aware of

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it. Good. I mean, that's good. Most of my guys are running plants right now. They can't -- they can't drop everything and get down here and spend hours talking to you about this stuff because they're working and doing items they can't get away from. So if that is the case, if they wrote something very clearly and said, Commissioners, I want you to be aware of this, can y'all put that -- attach it to the record? I mean, as long as you get it in a certain amount of time and everything so, therefore, it's very clear, there's no reason -- I mean, we can point to it and say, You got this letter. You can't ignore it. We're concerned about coal ash as well and we want to make sure it's fair and not, you know, unnecessarily harmful jobs and the like. But could you take that written correspondence and put that in the record so that it's publicly out there?

COMMITTEE CHAIRMAN PHILLIPS:

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Yeah. I'm sitting here listening to that and I'm thinking I don't know if there's anything that would prevent us from doing it now. It's public --

MR. GLENN: Like you acknowledge it or something at the meeting.

COMMITTEE CHAIRMAN PHILLIPS: Yeah. I don't see any reason we couldn't do that. Good suggestion. And I think it gets to -- I don't remember if it was Mike or -- the whole issue of kind of that seamlessness that happens between that exchange. Beth?

MS. STEWART: Beth Stewart, Cahaba River Society. I agree that it would be wonderful to be able to make comments in writing and it would be excellent if those would be recorded and it would be excellent if there were responses in writing. But I'm a little uncomfortable. What I think I'm hearing is some indicating that that would be a substitute for coming down and making

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personal presentations and appearing before you, that that would then substitute. And I strongly recommend against that. Having that time to have face-to-face, build relationships with the EMC on issues is critically important. We're losing that kind of personal communication and connection in our society in so many ways, and that's really vitally important. Plus, there are people who communicate in various ways, and there are some people who may communicate really well in writing and there are other people who communicate really well in conversation and directly. There are some people who like to use presentations where photographs might be essential, and the rest of us often want to hear as well what's being presented to the Commission and be able to think about that. And it's part of a community conversation around environmental conservation in the state. And so I

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think it's very important to maintain that, not to substitute the written. But I think adding the written is really valuable.

COMMITTEE CHAIRMAN PHILLIPS: And, once again, while we don't specifically say in the rule written -- written comments are always welcome, written comments are always welcome. I mean, maybe we need to be more deliberate in the way we lay that out. But we would always take written comments. I don't know that at this point we've kind of talked about whether we attached them to the record or not like you suggested. That's something I think we need to think about.

MR. REID: Before we lose this subject -- Mitch Reid -- I just would like to take the opportunity to commend ADEM and their e-file system, which is, given our work with other agencies, state and federal, the ability to -- to always

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have the record. I would certainly like to see some improvements on the search function of it, but the idea and the ability is -- is leaps and bounds above some others. I don't know if e-file is the appropriate clearinghouse for EMC documents going forward. I mean, certainly I think saying we received this letter on this topic in the intervening time is something that would be helpful on this -- you know, on that meeting. But, you know, to sort of keep that in the -- in the -- in storage, e-file is a wonderful way of doing that with some additional search capability, if we can get that.

COMMITTEE CHAIRMAN PHILLIPS: Lance, can you address that? I mean, is that capability there?

MR. LeFLEUR: Yeah. We have already on there Director's correspondence. We also have the Commission minutes and so forth on there.

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There's a place that it can be slotted. I don't think that's any problem.

COMMITTEE CHAIRMAN PHILLIPS: Thanks. Have we kind of beat that one to death or do you have anything else to say about that one?

(No response.)

COMMITTEE CHAIRMAN PHILLIPS: Okay. Any other big topic that jumps to your mind before I throw one out?

MS. CALHOUN: I'd like to ask a question.

COMMITTEE CHAIRMAN PHILLIPS: Yes, ma'am.

MS. CALHOUN: Okay. You say you guys give out permits; right?

COMMITTEE CHAIRMAN PHILLIPS: Uh-huh.

MS. CALHOUN: Okay. What procedures do you go through? Like, Uniontown is a big environmental injustice place. You know, we're always dealing with problems. Why is it that we

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the citizens always have to come bring you the problem that's going on in Uniontown? Is there an overseer of ADEM that goes around to check different things? You know, like, for instance, the water is leaking into whatever-whatever or there's something going on, you know, that's not right. Is there a ground person like there's a water person, there's a land person? Who does that with ADEM? What do ADEM do? That's what I'm asking. You know, we come in and we say, This is going on. I'm trying to get an understanding because I'm a citizen, you know, from Uniontown, and we deal with a lot of environmental problems.

Okay. ADEM gives the permit, but then you know it's a lot of things that's not right in, you know, that whole thing. But what I'm saying is, what does ADEM do to -- I know a permit is okay, but if it's the wrong kind of permit, what I'm

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saying is, if it's right -- the person's house is right there and then you go give them permit to have a landfill -- we'll just use that as an example -- what makes it right to give a person -- give the landowner a permit when it's going to be environmental injustice or racial injustice? You know, it's just too close to a house. What kind of rules do y'all have to say they don't need a permit because it's too close to these people's home? Does that person that goes ground -- I'm not talking about on the computer. Everybody's doing the computer. But the 911 stuff don't really direct you to my house, not in Uniontown. You may go to 105 Jones, but you're not going to be at 105 Jones because we don't have a real -- so how do you determine that the landowners can have a permit? That's what I'm asking.

COMMITTEE CHAIRMAN PHILLIPS: Well, we have rules and regulations that

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set whether or not something can be permitted. So whether they can get a permit is based on the rules and regulations that are set by ADEM. However, that doesn't necessarily include location or placement, for example, because if your local council or commission has authorized land use -- that was the example I gave earlier -- then that's their jurisdiction to deal with. Ours is to deal with the environmental impacts of that. And we do have a process. And once that permit is issued, then ADEM is responsible for making sure that whoever has that permit is operating in compliance with that permit.

MS. CALHOUN: Okay.

COMMITTEE CHAIRMAN PHILLIPS: The best way we have to know whether people -- because this is a big state and a lot of people -- is when people tell us that there's a problem. That's why we

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have an e-complaint system.

MS. CALHOUN: Okay. What about ADEM, why not -- they're not going to do a second look? You know, when you have a project done, why don't they come back and say, Well, let's see how well this is working?

COMMITTEE CHAIRMAN PHILLIPS: Well, they do have periodic inspections; right? I mean, you're better at walking through the process than I am because you do it.

MR. LeFLEUR: Well, certainly. People can file complaints either, like you say, on the computer, but they can also just call us up.

MS. CALHOUN: I mean, why do we have to call y'all up and you're ADEM? Why can't ADEM come out -- if they got a new project going on, they just started and you have a lot of complaints from certain people from, like, from California -- they're always coming. So

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you know, evidently, there's going to be some problems. So what I'm asking is, why not, when you know that these -- that there's always environmental problems, why don't they do a second check?

MR. LeFLEUR: Well, normally if it's generated from a complaint, we will go out and investigate the complaint. And if we find that there's some sort of a violation, we'll take action to -- to tell these people to correct the violation. And then we go back and check to see if they've actually done what they were supposed to do. Now, we take -- we do a number of inspections on sites where there is no complaint. We just go out and inspect to sample, to see if people are doing what they're supposed to do. Now, we don't do every site every, you know, year. We try to go where the highest risks are or where we've received complaints. Now, we're not always perfect. I can readily concede that.

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But if our people are not being responsive, then you can call me. I don't -- I don't make the inspections, but if somebody is not making an inspection in your area, I can certainly go and talk to those people and make sure that they are. It's a communication sort of thing and we don't want people to suffer through things that they believe are not the way they should be. But we have to know about those things before we can react.

COMMITTEE CHAIRMAN PHILLIPS: And at the same time, as the Director said, there is a schedule of doing inspections even if there's not a complaint. But there are just so many people at ADEM and so many facilities that have to be inspected, so it's a matter of time. So it can be much quicker if somebody calls and says there's a problem than potentially if we have to wait till we get a cycle where we're going to check on

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somebody. You know, we hope we get there sooner, but if somebody sees something, that's why we encourage those complaints.
MR. LeFLEUR: We've tried to streamline the complaint process and some people have access to computers and certainly some do not, but if somebody does have access to a computer -- they can go to their library, for example, and access their computer -- and the e-complaint system, you don't have to say your name or you can if you want to. If you want to tell us your name, we'll get back to you and we'll tell you what we did. You can go on there and look and see what's happened on that complaint day by day. But that's sort of an education communication process. We want to get that word out.
COMMITTEE CHAIRMAN PHILLIPS: And for us, it's an early-warning system. It's a way for us --
MR. LeFLEUR: Oh, absolutely.

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COMMITTEE CHAIRMAN PHILLIPS: -- to hear about things sooner than we may otherwise know. It may -- I'm sure it feels like it takes forever and why aren't we just out there looking anyway.
MR. LeFLEUR: Well, some people -- some people are bothered by complaints. We want complaints. The reason we want complaints is we can go to ten sites just randomly and we might find one violation. If somebody sends us a complaint, the chances are very good we can go out one time and find a violation. It saves us a lot of time and a lot of effort if we can get people to file those complaints. We want to encourage people to use that system. And, please, you know, we'd be happy to help you -- we have an education process, a couple of them, over in Uniontown to work through that, but we can come back and have another one or two of those.
MS. STOKES: Speaking of

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welcoming complaints, the idea of allowing a public comment period after presentation, such as Virginia, Oregon, there are EMCs across the country that allow a public comment period to give a three-minute complaint for people -- for people in the meeting. How do you guys feel about that? What are your -- what are your -- I know the Alabama legislature, for example, when you have a legislative committee hearing, it allows for anybody who wants a public comment period or public hearing to speak. You have to ask for that in advance, but they allow for that. So I was wondering what your thoughts are.
COMMITTEE CHAIRMAN PHILLIPS: When you said that you have to ask in advance, I assume you mean you sign up at the beginning of the meeting or --
MS. STOKES: Well, you sign up, but then you -- anybody who wants to request a public hearing, you can request

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it 24 hours in advance, depending on when the notice was published. So you can request a public hearing 24 hours in advance, you know, based on when the notice was -- for the hearing was, and that's how it works there. So I wondered if that would work --
COMMITTEE CHAIRMAN PHILLIPS: I'm easily confused, so --
MS. STOKES: So what happens is --
COMMITTEE CHAIRMAN PHILLIPS: Before -- well, let me --
MS. STOKES: Yeah.
COMMITTEE CHAIRMAN PHILLIPS: -- explain why I'm confused --
MS. STOKES: Okay.
COMMITTEE CHAIRMAN PHILLIPS: -- and maybe that will help. I thought we were -- you started with kind of an open get up and say three minutes from anybody that's in the room.
MS. STOKES: Right.

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COMMITTEE CHAIRMAN PHILLIPS: And now we've kind of progressed to requesting a public hearing. Which one are we dealing with?

MS. STOKES: Well, they would be one and the same, really. I mean, I guess my -- any way you want to do it, because y'all are obviously the decision-makers. So it would be you could do where people sign up when they get here to speak three minutes at the end of -- at the end of the meeting or you can do it where somebody if they feel like there's going to be a lot of people to discuss an issue can request a public hearing 24 hours in advance of the meeting. However y'all wanted to do it. My only point is, how do you feel about allowing people, anybody, who wants to register a complaint to speak at the end of the meeting? That would be my only -- that would be the goal, to get people -- you don't have to register 14 days or

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seven days in advance to allow the public to speak.

COMMITTEE CHAIRMAN PHILLIPS: Do you want to jump in or I'll start?

MS. MERRITT: You can start.

COMMITTEE CHAIRMAN PHILLIPS: I'm all for the public speaking, but I'm for the public speaking in things that we can do something about. You say somebody wants to make a complaint. We would hope that if they really had complaints they would have dealt with the Department prior to a Commission meeting with a complaint that the Department was working toward resolving, either determining that there really was a violation or, yeah, there's something but it's not really a permit violation that we need -- that we can do much about other than trying to assist people.

If someone's before our Commission, we hold the Director accountable for the Department. We promulgate, modify,

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repeal rules and we set environmental policy. So if your complaint is about one of those three items, I want to hear about it. If your complaint is, I've complained to him for six months and he hasn't done anything about it, we want to hear it, because that's one of our responsibilities. But if you're coming before us to say -- and this has happened -- Eva, this has happened -- we've got a complaint about an environmental issue and then we ask the question have you talked to the Department, the answer is no.

So for us, you know, our immediate turn for a real environmental complaint is has it gone through a process where the Department's been engaged? If they have and you're unhappy with the outcome, we want to hear it. If you have and you're very happy with the outcome, we'd love to hear that, too. But if it's to really tell us for the first time that --

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that somebody's discharging something off their property onto your property, the first question we're going to ask is have you talked to the Department; and if the answer is no, we're going to ask the Director to get with you right after the meeting.

So from the standpoint of hearing that, I want to hear it. But it's going to be a much more efficient process for you if it's a complaint that the department should be dealing with that you go to the Department first.

I'm intrigued by the concept of the three-minute period. I think we've always -- I mean, the real issue for us is managing the meeting, and our meetings last short times and sometimes they last long. And for us to be prepared -- and someone said this earlier -- I don't recall whom -- said, you know, sometimes maybe you don't have to respond to it right there in that meeting and you just

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let it go and maybe at the next meeting you have to do that. I don't think we've done a very effective job of doing that. I think we try to -- if somebody comes to us, we kind of take it on and we try to deal with it right then. Maybe we need to relax that a little bit. But it's managing how many people do we hear from in a day.

And maybe it's our perception -- maybe it's the wrong perception -- that there's this thought that if somebody's really got an issue that they're passionate about that the more people that they put in front of us and the more times they tell us that it's a problem that it makes it more significant. And to me it doesn't matter if one person tells me or ten people tell me about the same complaint/issue. As long as it's in my wheelhouse and responsibility, I weigh them the same.

So what we're trying to do is

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balance management of a meeting and giving people the opportunity to talk while at the same time not going through an hour -- and it's been a long time since it's happened, but it has happened, where we've had many, many people who want to come up and tell us about the same thing. And we hear it, but then we still have the struggle -- and this is what really started this whole process with Commissioner Richardson -- is I want to help, I want to do something about them, what do I do differently so that I can do something about it.

So do you think if we said, Okay, we've got people that have responded in writing, we made that a part of the record, we've got someone who wants to make a presentation -- coal ash, like you did today -- we've got someone who's kind of gotten on the agenda to do that, is going before the Commission, and then at the end we say, And for any of you that

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have signed up to talk for two or three minutes, will that be productive for people?

MS. STOKES: Absolutely.

COMMITTEE CHAIRMAN PHILLIPS: As long as it's around the areas where we can --

MS. STOKES: Right. Sure. Make that a rule.

MR. REID: In preparing for -- for a presentation today, I wanted to have a slide show that had some pictures and sort of put some thought into that, that -- you know, and I knew I had a ten-minute block that I wanted to fill. That wouldn't, I don't think, personally, be appropriate for me to show up with a PowerPoint and say, I'd like to get on the agenda for my ten-minute presentation, you know, because that -- I mean, as far as my personal expectation of being able to get that in, it would just -- I don't think I should expect

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that.

So I do think that there is a role for saying, I would like to be on the agenda for the -- an allotted amount of time -- ten minutes is a fair amount to me -- and I would expect that I would provide that if I was going to use some sort of aid like a PowerPoint that I would send that in ahead of time so we're not trying to load that in.

I also think that there can be a role for I'm -- I've got an issue and I'd like to just say something about it at the end of a meeting and sign up. My -- my sense of the way that that would work, if I were setting something up, would be that there was a sign-in sheet that said, you know, here's -- here's sort of the requirements. If you've got something on that subject, please sign up. And if -- you know, to the extent that there's time at the end of the meeting, I think the Commission should absolutely be able to

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say we've had -- we've got five appeals that we had to hear today plus three rulemakings that ADEM brought before me plus two people who signed up ahead of time with presentations, we're just out of time for that meeting.

I think -- and I think that also saying that there is -- that public comment for people signing up can be limited to, you know, 20 minutes at the end of the meeting, 10 minutes, 30 minutes, or whatever is the appropriate time to say we're not going to stay here all day because 400 people have signed up. I mean, if you -- using the example of the Legislature, they take in a sign-in sheet and it's for and against, because that's sort of the nature of that game, but it's for and against to the extent that there's time allotted. You may have hundreds of people signed up against a bill, two people signed up for. Those X hundred people are not all going

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to get to speak. It's only going to be the people who signed up first. If you want to come back -- certainly if you want to get on the agenda, let us know ahead of time; that's the best and preferred way of doing something. And, also, I think every time that there is a chance to sign up there should also be this is what we can hear, this is what we're -- this is what we're here for, so that it -- so someone's saying I want to --

COMMITTEE CHAIRMAN PHILLIPS: So it can be managed.

MR. REID: Right. I think that's -- I mean, think -- there has to be -- and David Ludder, I think, made that comment in his letter -- that reasonable restrictions are absolutely necessary so that you can make this meeting work.

COMMITTEE CHAIRMAN PHILLIPS: Just the definition of "reasonable."

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MR. REID: That's always the -- that's why lawyers get involved.

COMMITTEE CHAIRMAN PHILLIPS: That was a good topic. Thank you. Yes, ma'am?

MS. LONG: Ellis Long, Black Belt Citizens. Going back to the idea of sending in a presentation and then getting a response before the meeting that might tell you that it's okay to come this meeting or maybe we'd have to put it off till the next meeting, to me that's not very practical, because some of the issues are more urgent than that. And so I would suggest that when Debi gets the presentation -- and we've always sent ours by e-mail. I didn't realize that was unusual. But, anyway --

COMMITTEE CHAIRMAN PHILLIPS: I think getting the document is not unusual, by e-mail.

COMMISSION CHAIRMAN BROWN: The request comes by fax.

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MS. LONG: The request. When she gets it, I know she sends it to the Chair, and I think that I've understood that the Chair sends it around to the other members of the Commission. Is that not right? Yes?

COMMITTEE CHAIRMAN PHILLIPS: Chair --

COMMISSION CHAIRMAN BROWN: I think Debi does it, but --

COMMITTEE CHAIRMAN PHILLIPS: About what his disposition of it is, yes.

MS. LONG: Yeah. What I'm trying to say is, the Chair either recommends that the person can speak or recommends against it. So I don't see really why the whole Commission couldn't make a decision by getting the presentation. Why couldn't they make a decision ahead of time so that the person -- if the person is going to be allowed to speak, they could get a final decision?

COMMISSION CHAIRMAN BROWN: I

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think -- I think the law requires us to have a meeting to have a decision.
MS. LONG: Does it?
COMMITTEE CHAIRMAN PHILLIPS: To take an action.
COMMISSION CHAIRMAN BROWN: To take an action. So I can make --
MS. LONG: You have to actually have a physical meeting?
MR. HOWLE: You have to have a quorum.
COMMISSION CHAIRMAN BROWN: You have to have a quorum. You have to have a meeting. So I can make a recommendation or announce that I will recommend it. And I think I've only been bucked once.
MS. DILLARD: Not to pull us too far down in the weeds, but our board has a similar policy and we have authorizing regulations that allow an e-mail vote to be taken if everyone unanimously agrees that there can be an e-mail vote without

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a meeting, and then there has to be a quorum for the decision. So there might be a way -- and obviously Robert would know this, whether y'all have the ability to do that -- or you could always ask for, you know, the Legislature if you don't have the ability to do that under your regulations and can't -- can't change that, you can ask for help from the Legislature, because at the end of the day, what you want to do is make your process work for you, obviously, but also work for the citizens.
MR. HOWLE: Let me weigh in on that. If -- I'm Joe Howle, Vulcan Materials Company. That would require certainly changing the Sunshine Laws in the state of Alabama. And, you know, one of the -- and just so you know, I'm on the Water Commission for the State of Alabama, so we're -- we fall under the same rules that these guys do, from a meeting standpoint. One of the things

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that's important about those rules is that we do have an open and public process when decisions are made, when votes are taken, and to do it by e-mail, even though, you know, from a technology standpoint that that's very achievable -- and I understand that a group like yours would do that -- it makes things work a lot easier.
From a public standpoint, though, and a public group, a commission, I just don't see that that's tenable, and the reason being is the threat of -- of accusations. And I certainly know that none of these guys up here want to be in front of the Ethics Commission because somebody sent in a complaint about an e-mail vote that they had or maybe somebody hacks their e-mail account or, you know, all these different things. So I think that the Sunshine Law itself is in place for a very good reason, and -- to take these public votes so that you

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are -- you're in the spotlight when you take those votes. That's just --
MS. DILLARD: I think your point is well taken, but I also point out there are different kinds of votes. There's substantive votes and there are votes that fall more on administerial or the administrative kind of aspect, and to me -- and the Commission obviously might look at this differently -- if you are going to have a robust public participation and public comment process, then these sorts of decisions you can't and won't be discriminating on people's viewpoint or the content of their presentation or what they want to say; it will just be a topic and you either want to hear it or you don't. But I do think you've raised some good concerns about, you know, some other things in play that might make it more complicated.
MR. HOWLE: I don't think that the law discriminates as to what you can

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and can't do. You have to --
COMMITTEE CHAIRMAN PHILLIPS: Yes, please.
MS. TROTMAN: Any kind of -- I'm Jessica Trotman. I'm with Rushton-Stakely, and we do a lot with the APA, the Alabama Press Association. And Dennis Bailey, who I'm here for, I believe, was a big help with the Sunshine Laws when they were admitted back in 2005. Regardless, this is a government agency. Any kind of vote, any kind of rule or whatever it is that you guys make, it has to be made in an open forum. Even discussions about what is going to be voted on has to be open to the public. And the whole purpose, like he said, behind the Sunshine Law is to make sure that the agency isn't viewed as somebody having closed-door meetings so, you know, nobody can come in and say you're doing something unethical or you're doing something behind closed doors and you

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didn't give another person an opportunity to come in and speak and give their viewpoint. It's kind of like having serial meetings, going from office to office asking people, Well, what's your opinion, how are you going to vote, and going ahead and deciding how you're going to vote before you actually submit it to the public for them to understand what you're dealing and why you're voting on that.
But, I mean, it's state law. So right now there's no way possible to have an e-mail vote for a state agency. That would be a direct violation and anything you voted on would be overturned and subject to, you know, lawsuits and all that stuff, not something you definitely want.
COMMITTEE CHAIRMAN PHILLIPS: You guys most certainly said it better than I was going to say it. All I was going to say is through the training that we were

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given after that law was passed, we were told there was no such thing as a distinction between a decision.
MS. DILLARD: Okay.
COMMITTEE CHAIRMAN PHILLIPS: That a decision was a public meeting event regardless of what the decision was. So we have abided by that. And he makes sure.
MS. LOWRY: So that brings us back to -- this is Cindy with Rivers Alliance. That brings us back to the problem that she was talking about, is how to -- how do citizens prepare for potentially being denied when they get here? And, you know, they're going to take off work to get here potentially. You know, I mean, obviously it's not a problem for me. I'm a staff organization. I think Mike's suggestion was potentially -- you know, recommend that we can't promise you'll be done at -- you know, we'll vote at this

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meeting, you can speak at the next meeting, if it's not an urgent issue. But if it's a more urgent issue, that's still -- and I believe that the Commissioners have also brought up a concern about the Chair being -- sort of recommending approval.
COMMITTEE CHAIRMAN PHILLIPS: I think their concern is that we're putting the Chair in the middle of something that he's making a recommendation that --
MS. LOWRY: Yeah.
COMMITTEE CHAIRMAN PHILLIPS: -- the Commission needs to act upon. I'm not speaking for all the Commissioners. I'm speaking for me. But what that basically does is, if the Commissioner sits there and really doesn't want to hear it, truly doesn't believe that that's a good recommendation -- no offense -- that they have a right to vote, that they don't agree with that recommendation. And that puts the

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Chairman -- he makes the recommendation, but he really doesn't make the decision on who speaks before the Commission.
MS. LOWRY: So not being an attorney and exploring this concept, the Chair is allowed to make a recommendation. Can the other Commissioners just also send in a letter that says I would recommend this be approved and it would all just be individual letters saying recommendations?
COMMITTEE CHAIRMAN PHILLIPS: Well, I mean, I'm not a lawyer either and I'm not going to practice law, but I think the reason we did that was to manage meetings so that information came to Commissioners prior to a meeting. Now, I'm going to throw -- I'm going to get back to your urgency one, because I think "urgency" was the basis of yours. We have time. I think, Mike, your idea is a good model, maybe, to go to, much

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more deliberate in preparing and having the person who comes before us prepared where we can do more of a dialogue.
An urgency, though, I think we -- if it's really urgent, we need to be acting on something. But the Chair does have the right to call a special meeting.
MR. MULLEN: Mike Mullen, Choctawhatchee River. I don't understand what the urgency is. If it's urgent, there's an environmental threat or something, then it goes to the Department.
VIDE CHAIRMAN PHILLIPS: I would hope it would go to the Department.
MR. MULLEN: I don't see what the Commission does as being urgent.
COMMITTEE CHAIRMAN PHILLIPS: It's not day-to-day extreme. It really should be the Director dealing with those. If it's urgent to the point that we would need to meet and make a --
MR. MULLEN: Y'all are managing a

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director. I don't see y'all doing urgent day-to-day --
COMMITTEE CHAIRMAN PHILLIPS: And maybe that's the answer. But when you're talking about the other, what I was going to throw out there is we also have this issue that we do not get anyone telling us they want to talk to us until the deadline that we set that says you have to tell us by this day, and then there's a flood, a flood as in two, three, four, sometimes five. But everybody then wants to tell us. And the reason we moved it where we did was so that we actually have time, because if we put it 24 hours before, we'd get it 24 hours before, would be our perception, because that's what happens now. We get it -- how many days, Debi? Fourteen?
MS. THOMAS: Yes.
COMMITTEE CHAIRMAN PHILLIPS: Fourteen days before we need to know, and that's when we find out, for the most

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part.
MR. MULLEN: Mike Mullen again, Choctawhatchee Riverkeeper. I'm probably saying too much, but one way to -- I think a lot of things that come before you are policy or policy-related, that one way that we're not making quite that many presentations that would be productive is to once or twice a year -- I assume there's a policy committee or if there isn't, perhaps there should be a policy commission --
COMMITTEE CHAIRMAN PHILLIPS: The Rulemaking Committee. It's this one.
MR. MULLEN: But maybe once a year you set aside a meeting for people to bring policy things, everything that people around this table may think is important policy that may not be coming down as an EPA directive. It may be something unique to Alabama. And say occasionally, once a year, circulate and see if there's enough interest and maybe

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do that and have some things done in a more constructive -- like we're doing today, more constructive manner.

COMMITTEE CHAIRMAN PHILLIPS: That's a good point. And I think maybe the answer to the urgency is really what is it that would come before us that would be so urgent that we would need -- I mean, we do have mechanisms for gathering the Commission quickly, but I don't -- I don't know of much of anything that's ever come before us that needed something that quickly.

MS. LONG: Well, we thought it was urgent that toxic wastewater was going into the creeks around our town, but I guess it's not so urgent because it's been happening for decades.

COMMITTEE CHAIRMAN PHILLIPS: And you've called on the Department to deal with that?

MS. LONG: Yeah. For a long time. But, you know, just the idea of

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waiting another two months since you -- I think you-all meet only every two months; right?

COMMITTEE CHAIRMAN PHILLIPS: That's right, every other month.

MS. LONG: That seems like a long time to have to wait when you prepared for one month, a certain month.

COMMITTEE CHAIRMAN PHILLIPS: Well, I mean, if we do something like Mr. Mullen said, I mean, that could mean that we get it, we talk about it, and we decide, and then it's another two months.

MS. STOKES: Right. It'd be four months.

MS. LOWRY: Yeah. That case where they feel they've tried to address it with ADEM and it hasn't been addressed satisfactory would be, I guess, the one where it would be more urgency to the person that's involved.

COMMITTEE CHAIRMAN PHILLIPS: But I do believe that in that case, if

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something came to the Chair, the Chair would have that conversation. And if -- I'm not putting words in your mouth, so you shouldn't have stayed.

COMMISSION CHAIRMAN BROWN: You mean I would make a phone call and read somebody the riot act?

COMMITTEE CHAIRMAN PHILLIPS: Yeah, I do. And if it necessitated anything beyond that, you would take that into consideration.

MR. REID: Just to dovetail in on that. Mitch Reid. The idea of the recommendation from the Chair I do see as serving a purpose not to say that the Commissioners should or should not vote on it. I think that the voting process -- what the recommendation does for me is, is allows me to at least get a first-blush idea of whether I've met the criteria. If the Chair says, I'm not going to recommend this because this doesn't fall under the purview, it still

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has to come to a vote of the EMC, I would imagine, and the Chair would say my -- my recommendation is that it doesn't meet the vote or meet the requirements.

Also, under the current way rules are set up, the Chair lets you know that you didn't meet the deadline or if it came in. So we had a situation where we mailed something that we thought would be received in the correct amount of time and for whatever reason didn't get in, which is probably saying more about the federal postal service than anything. The fact is, is that the recommended -- the notification from the Chair about us being tardy with meeting the rules kept us from bringing down a whole host of people to come down and make a presentation that was denied, essentially. Had we not got that notice and had it been -- somebody has to be the gatekeeper to say, This looks like it's what we're looking for.

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And I -- I completely understand that my recommendation to have people sign up outside is going to monkey with that, but for a presentation you're asking for a full ten minutes, that sort of thing, that seems fair to have somebody say, you know, this is really a question for ADEM. On that note, the -- there are times where ADEM, the Director or his staff, should be brought in ahead of time, the situation where you have asked for relief of an environmental problem numerous times and you don't feel like action is taken, then you want to speak to the EMC. You're essentially asking the EMC to exercise its oversight authority over the Director.

On other cases where you're asking the EMC to develop environmental policy, there is no reason for me to go to ADEM and ask them about what the EMC should do on environmental policy as far as the rules read. I mean, it may be good

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practice. They're smart people. I would not talk about environmental or water policy without going to Glenda and trying to figure out what's going on. But as far as just who makes the rules, the requirement that I go to ADEM and exhaust that avenue before going to the EMC just really doesn't fit in with the way that it's set up.

COMMITTEE CHAIRMAN PHILLIPS: I don't think I was -- if you're referring to my reference to that, mine was more toward the complaints of environmental issues.

MR. REID: This is in the -- in the sort of recommended proposed actions that we read on -- online --

COMMITTEE CHAIRMAN PHILLIPS: Oh, in the notice?

MR. REID: -- that all reasonable avenues of approach or something with ADEM --

COMMITTEE CHAIRMAN PHILLIPS:

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Were taken. Yeah.

MR. REID: -- were taken. So I just want to make sure that if it's within the wheelhouse of the EMC, development of environmental policy, well, that's fully in that wheelhouse.

COMMITTEE CHAIRMAN PHILLIPS: I mean, unfortunate --

MR. REID: I just jumped two subjects there, so I'm sorry.

COMMITTEE CHAIRMAN PHILLIPS: I'm going to kind of go back to the other one, the first one. On behalf of Commissioner Richardson -- and I'm not speaking for him. Just from what we've heard him say to us in meetings. And you guys have heard some of this. I don't believe that Commissioner Richardson's concern is that there shouldn't be an evaluation of someone's request and how it meets the requirements of the rule. He thinks it's unfair that the chairman gets put in the position of being the one

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that has to do that because he believes that the criteria are objective enough that, frankly, Debi could do that, I mean, go through the requirements, as she really does anyway. And what -- I mean, the Chair making a recommendation, Debi sends to all the Commissioners, this requirement came in, met the timeline, has the materials, covers the areas that the EMC is responsible for checked. It's really at that point we all can vote on it at the meeting, so it really -- I mean, you said you really like that recommendation from the Chair, but he's really doing what she could do.

MR. REID: I like the gatekeeper.

COMMITTEE CHAIRMAN PHILLIPS: Okay. All right. So it doesn't really matter --

MR. REID: -- if it's Chairman Brown or you or Robert.

COMMITTEE CHAIRMAN PHILLIPS: That helps me, because I was wondering

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the merit of really continuing to have the Chair do it or just let Debi give it to us as this one meets, this one doesn't.

MR. TAMBLING: The Commission office.

COMMITTEE CHAIRMAN PHILLIPS: Yeah, the Commission office. Yes, sir.

MR. EATON: Ben Eaton, Black Belt Citizens. On the many different ways of making the request, whether it's a presentation, e-mail, letter, or e-file, I would like to ask if ADEM can increase their files so that a citizen can send a photo that will -- you know, we all heard that a picture is worth a thousand words. But when the files are so small that one can't send that picture to actually explain or demonstrate what they're saying, I'm asking if they can consider increasing --

COMMITTEE CHAIRMAN PHILLIPS: Is that an issue that we've encountered?

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(Multiple people speaking.)

MR. LeFLEUR: We have the ability to upload photographs. I don't know what the outer limit on size of file.

MS. LONG: Two kilobytes.

MR. EATON: Two.

MS. LONG: Two kilobytes?

MR. EATON: Two megabytes.

MS. LONG: That's the limit. And that's too small.

MR. LeFLEUR: Of course, you could make multiple entries. Or if you would like to contact us about providing those photographs in another format, either an e-mail or something like that. You know, if you call, we can make arrangements to deal with the situation. I don't know. Can we go higher than two megabytes?

MS. ELLIOTT: Maybe.

MR. JOHNSTON: Please. Please.

MS. ELLIOTT: I don't know the answer to that, but I'll look into it.

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We ought to be able to do it as long as the Internet will allow us to do that.

MR. LeFLEUR: We are limited by transmission capabilities.

COMMITTEE CHAIRMAN PHILLIPS: And, Marilyn, when you look into it, think of a way or see if there's a -- I call it Drop Box now, but it used to be called something else. I just can't remember what it was. But basically where you can upload to something that takes the pressure -- because I know you use the Internet for your day-to-day. So see if there's at least someplace where they can be uploaded to be retrieved or dumped at a more reasonable time for you. Yes, ma'am.

MS. CALHOUN: Just a question. Like, can y'all consider video presentation? You know, like, for instance -- I'm not saying putting the job on y'all, but sometimes you can take out time, like a person just want to

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video what they wanted to say to you and you can have a special meeting that you can just view that?

COMMITTEE CHAIRMAN PHILLIPS: We've actually had videos come before us where people played a video; the individual wasn't at the meeting and they just played the video.

MS. CALHOUN: So, you know, because sometimes people are not --

COMMITTEE CHAIRMAN PHILLIPS: So we have that capability.

MS. CALHOUN: -- comfortable in doing presentations.

COMMITTEE CHAIRMAN PHILLIPS: Right.

MS. CALHOUN: And that saves time. And then you have a limit, too. Well, you respond to their presentation within so many days.

COMMITTEE CHAIRMAN PHILLIPS: Yeah. Yeah, I think we can do that. I think -- I know we've accommodated that

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in the past.
MS. CALHOUN: That will save time for -- you know, you say you got so many people you have to tend to.
COMMITTEE CHAIRMAN PHILLIPS: Right.
MS. CALHOUN: So if they send in, you know, like a presentation that Ben had one time, that he could just be talking about it. Not no long one. You have a limit of time how long you can talk and get to a point, you know. And so the, you know, Commissioners and the Chairman could video -- I mean, you know, view it.
COMMITTEE CHAIRMAN PHILLIPS: View it, yeah.
MS. CALHOUN: And then make a decision within so many days.
COMMITTEE CHAIRMAN PHILLIPS: I think we have that capability to do that, so yes, I think that's something we need to take as part of this.

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But let me ask a question relative to that, because we've kind of -- we've talked about this item as a piece of everything that's been said, and that's the response. What is the expectation that you guys have -- business, environmental, citizens -- of when you bring something to the Commission around policy, rules, regulations, the Department, what type of response are you looking for?
MS. CALHOUN: Action.
COMMITTEE CHAIRMAN PHILLIPS: Action. That's a good word.
MS. LONG: Solve the problem.
MR. JOHNSTON: Yeah. And more response from -- Adam Johnston. I feel like part of the -- part of the initial response from Commissioner -- I believe it was Richardson, and he's not here. I wish he was able to be here.
COMMITTEE CHAIRMAN PHILLIPS: He really wanted to be.

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MR. JOHNSTON: Yeah, because he was one of the first person who made public comments in regards to some of these things that y'all brought up, and one it seemed like he was -- he was interested in the amount of times individual organizations were coming in front of you, very much similar to what your comment was. And I see it very, very differently, and I feel like a citizen or an organization or a community should be able to come in front of you every single time until they feel that situation has been dealt with adequately, and that requires a response and followup from the EMC on what the Director and his agency is actually doing to go back to the community and actually deal with these issues. And we're not seeing that one, I don't think, adequately, from ADEM's stance on complaints. That's a whole other situation.
But on the issue of the EMC actually

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addressing public issues, what is being done after this? And I don't feel like the Director's rebuttal is a chance to dictate that. And I think that there should be a very formal stance on how the EMC follows up with these situations, what the agency is doing. And not just a rebuttal from the Director right there, an actual written piece of whatever we're talking about. Have something written that you can put on the file that says that we went and we did this investigation, listening sessions, monitoring, whatever it needs to be to -- so that the citizens aren't coming up here every two months with the same type of complaints because there's not satisfactory issues being done with the Department and these communities.
And my experience has been that, is that the citizens are coming up here because they're not being dealt with in a very satisfactory manner. And so I would

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see that there be an unlimited amount of opportunity for any citizen group, any individual, to continue to come up here until their situation is, you know, sufficiently dealt with. And so, yeah, it might be -- you know, maybe it's limiting in time if you have a community come, next time the community is still coming, but to me, there's a need for the community to come. They wouldn't be coming up here and addressing and driving miles out of the way and leaving family members if there wasn't an issue that needed to be addressed. And to be able to then go back home and not have the Commission follow back up, to be able to say, Well, thank you for coming in, thank you for taking time out of your day to address these complaints, we have followed up on these matters with our Department. I mean, can we have that? I mean, that should be --

COMMITTEE CHAIRMAN PHILLIPS:

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That's what I asked. What should we have?

MR. JOHNSTON: That should be the least. You know, we should at least have that.

COMMITTEE CHAIRMAN PHILLIPS: So what's the most? I mean, you're giving me the least. What's the most?

MS. SHAEFFER: Final resolution. Solve the problem.

MR. LeFLEUR: If I might, I -- Uniontown is a special problem that's come up time after time.

MS. SHAEFFER: Well, why has it?

MR. LeFLEUR: And there seems to be some miscommunication. The people responsible for correcting the problem is not ADEM. It's the elected officials in Uniontown. And to continually bring the problem to ADEM to solve is -- you're asking the Department to do something that is not within its authority to do. Now, we work with people. And sometimes

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that answer is not a very satisfactory answer to people, but it happens to be the correct answer. And for people to not like the answer and keep coming is not as productive as it might be.

COMMITTEE CHAIRMAN PHILLIPS: Before anybody jumps in -- because I see hands everywhere -- remember the purpose of the meeting today.

MR. LeFLEUR: And I'm sorry. I was out of line.

COMMITTEE CHAIRMAN PHILLIPS: The purpose of the meeting today is for you to share with this Committee what you believe would be better. We're not going to make a decision today. I said that when I began the meeting. I want to hear everything, though. It's more -- I heard resolution. I got it. But I'm not really going to take the time to debate the issue of Uniontown other than an example of what we could do differently that would make our public-comment

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sessions better. So with that said, who wants to talk?

MS. CALHOUN: I do again.

COMMITTEE CHAIRMAN PHILLIPS: Yes, ma'am.

MS. CALHOUN: Look, I just want to ask a -- when you're in a violation and then you can't afford to fix it and then a violation continue and continue and continue and you never have the money to fix it, what do the ADEM do? I mean, you know, like for say -- I'm just using this for example, which we have a problem. But how do you -- you know, you're in the violation and it keeps flowing. If you don't have the money to fix it, so how far do ADEM allow to keep going and going and going? Because it's not going to get correct for a long, long, long time.

COMMITTEE CHAIRMAN PHILLIPS: Well, once again, I'm not solving Uniontown's issues today. That's not the

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purpose of this meeting.
MS. CALHOUN: I'm not -- okay.
COMMITTEE CHAIRMAN PHILLIPS: But what I will say --
MR. LeFLEUR: Perhaps you and I can talk after the meeting.
COMMITTEE CHAIRMAN PHILLIPS: But what I will say is this. I know that the Department has gone above and beyond spending time to try to help in every way that they can. And we can say, Well, the answer is it keeps having violations. We'll just stop it. That doesn't help anybody if the toilet's backed up in the houses, because then we'll just get the complaint that the toilets are backing up and it's because ADEM shut down whatever solution may be there.
What I'm trying to get to relative to public comment is probably more touched by what the Director said, is there are going to be times -- we all experience this in life -- that we're

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going to hear something that we don't necessarily agree with or like. And if part of the resolution -- what I want to be clear about when you say get it to a resolution or get it -- you know, action, I think, I heard from you, is within the framework of the law that we have to operate under. And we as Commissioners are bound by rules and regulations and laws and authorities that we have. When we use them as best we can to get to a point and it still doesn't make the person giving us a public comment satisfied -- because I kept hearing the word we want to be satisfied -- it may be that that's just where it is. We may not be able to get everyone to the point of being satisfied. What I'm trying to do in this Rulemaking Committee, though, is to understand what we can do within our rules and regulations to get as close as we can or at least to move action.
I think the Department's still

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working with people on Uniontown; correct?
MR. LeFLEUR: Oh, yes.
COMMITTEE CHAIRMAN PHILLIPS: Trying to get to that resolution that you're talking about. I mean, if they weren't showing up and doing anything, then I would say that's a different issue than if they're trying to get to a resolution. Well, I mean, maybe so. But unless they're -- unless they're doing something that we need to know that's -- they're able to do and they're not doing, I don't know how else to help you with that solution other than what they're doing.
MS. LOWRY: I think that one thing that could get to that -- and I can even switch to another example that Mitch brought up today of -- well, first let me say, one thing the Commission could do in situations like that -- it's not going to remedy because that is a difficult --

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that particular issue and many of those around the state are difficult and can't be remedied immediately by the Commission. But one thing the Commission could contribute to -- to working toward the solution on is brainstorming and -- with the citizens or just with yourselves in developing -- looking back at the record and seeing are there policies that can be changed that may have prevented this from happening.
COMMITTEE CHAIRMAN PHILLIPS: Lessons learned?
MS. LOWRY: Yeah. Another example would be the permitting situation, discharge permits on the coal-ash ponds that have been administratively renewed for sometimes eight, nine years. Oftentimes we get those permits -- we're not going to bring those up for renewal because there's federal regulations pending. But in this case, the federal regulation's been pending for years, you

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know, seven, eight years, so let's go ahead and renew permits when we should and not wait just -- now we want you to wait because it's September, so might as well just wait. But, you know, you see what I'm saying.

COMMITTEE CHAIRMAN PHILLIPS: I get the point.

MS. LOWRY: There's policies that can prevent things. You know, sometimes we get so far down a road of a huge mess like what's happened in Uniontown that we don't -- we can't even see the solution. But oftentimes the solution is going back and looking at what could have prevented it to start with. And maybe that is a Commission thing. Maybe it's not.

COMMITTEE CHAIRMAN PHILLIPS: Nelson?

MR. BROOKE: I mean, I think we're kind of batting around what's appropriate to come before you and what isn't, but also the efficacy of what does

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come before you and how it's dealt with. So obviously I get having rules around what you should and shouldn't hear and you should just be able to tell people upfront we're not going to hear that because that's not relevant and here's why or come on down.

In terms of, you know, continuing to have people come back, that's obviously a symptom of a situation that people don't feel like it's being dealt with. I think the process during the meeting has a lot to do with that. So if you come down with the understanding that you're going to be heard, only to feel like at the end of that what you have said has been either discounted or slapped back in your face in an unprofessional way, then you're going to go home feeling like, well, maybe I didn't get my point across. I have to keep trying and I'm going to keep coming back until I get a thoughtful resolution.

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So I think the key word there is "resolution." When I get done with a presentation, if you give the Director the opportunity to stand up and tell you that I am misinformed and disingenuous and that what I have said is misleading and that's the resolution that I have for bringing something before you, it's incredibly unprofessional and it's going to leave me thinking, Wow, something's messed up here and I may need to keep pressing as a citizen that's acting on behalf of thousands of people and their best interest of public health until we get a thoughtful resolution.

So in the term of this situation, it's pretty hard not to talk about what we're talking about because that's why we keep coming back. And Uniontown, if he's given the chance to tell you you're supposed to hold him accountable that what I said is untrue and ADEM's doing everything above and beyond their power

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to address it and that I must be misinformed, then you're not giving yourself as the oversight entity the opportunity to hear the whole truth. So if he gets a rebuttal, I get a rebuttal.

All right. So if ADEM has done everything in their power, then why is it that ADEM is not upholding the law and the rules set out in actual permits as written and saying that they are? I'm going to keep coming back and saying this is not happening until I see it happen. And if we want to get literal about it, it's adequate public notification to the public that ongoing many thousands or millions of gallons of raw sewage are being spilled in creeks, through people's property, in their yards, their livestock are in it on a daily basis and an outright refusal by your agency to force Uniontown to adequately notify the public.

MR. LeFLEUR: I have -- I have to

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object, Commissioner. Refusal of the agency. We're getting into something that has been an issue for quite some time, and I don't think this is the proper forum to address that.

COMMITTEE CHAIRMAN PHILLIPS: And I've said that at least three times and we're continuing to go down this as a public meeting on Uniontown.

MR. BROOKE: Y'all brought it up. But the point is, is that --

COMMITTEE CHAIRMAN PHILLIPS: I don't believe I brought it up.

MR. BROOKE: Well, I mean, he's sitting at the table with you.

COMMITTEE CHAIRMAN PHILLIPS: I said I didn't bring it up. I brought up that we aren't here to resolve a Uniontown issue. We're here to talk about public comment.

MR. BROOKE: I don't want to resolve the issue here, but we're talking about the idea of us coming before y'all

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and providing y'all with comments and --

COMMITTEE CHAIRMAN PHILLIPS: So you want to be provocative with the Uniontown issue to get him then to come back and rebut with you.

MR. BROOKE: I don't.

COMMITTEE CHAIRMAN PHILLIPS: So I'm asking you to either put it in place with the public comment on what we can do differently to make it better or don't talk about it.

MR. BROOKE: That's what I'm trying to do. So if y'all are concerned, No. 6, about groups coming back repeatedly, what I'm trying to say is, is that we're going to keep coming back if we feel like we're --

COMMITTEE CHAIRMAN PHILLIPS: And I heard that loud and clear, but then you added all of the Uniontown words that you wanted to get directed to him into that. So if the answer is help us get to a satisfactory resolution and we won't keep

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getting back, I understand that.

MR. BROOKE: Okay.

COMMITTEE CHAIRMAN PHILLIPS: I got that.

MR. BROOKE: Cool.

MS. DILLARD: And I think certainly that is one of the most important objectives of public comment, is getting action or satisfactory resolution. But I think you're selling public-comment opportunity short if that's all that you look at, because you-all are the commission that oversees our state environmental agency and you make state environmental policy.

Another important purpose of these public presentations is to share information and to educate the public about important issues, and this is the very forum I think to do that. Another important part of it is to provide you with information you need to do your job, whether it's oversight of the Director

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or, you know, other aspects of your job. Another important role of the public comment process in my eyes is the ability -- and it is the fundamental ability that our country affords us -- to petition our government for redress of grievances. And obviously not to use Uniontown as an example, but the ability for those folks to come directly to you and make those grievances known is a very healthy kind of process.

Finally, it affords a check and a balance because, you know, every EMC meeting starts the same way. First you consider and you vote on your minutes and then you have the Director's report which is very constructive and I learn and you learn about what's going on at ADEM and what the priorities are and what's coming up on the horizon that the agency is going to have to address. But it's a little bit about like that parable that everybody's familiar with, six blind men,

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you know, who all feel a part of an elephant and then they come together and they have a violent disagreement as to what an elephant really looks like because they've all just had one part of the elephant.

If you just rely on your very capable agency or your Director who reports directly to you, you are going to get very valuable and important information. And it's also going to be accurate information in many respects but it also is one subjective viewpoint. And if you really want to be able to understand as a Commission that entire elephant, my hope and expectation would be you would want to hear from the public in a fairly meaningful and robust way in a process that, again, makes the most of your time and the idea that you-all basically do this not for the glory or for the money or anything else but you do it as a public service.

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And I certainly recognize that. But you have to make some important, you know, balancing acts about how important is this opportunity, how important is this process, how integral is it to the job you do, and is it worth it to you to sometimes take on a presentation that may not be relevant or it may not be something that you can directly go out and have that action or resolution but is there another important role that it plays, whether it's providing information or just giving citizens an opportunity to come to you and share with you a problem that may educate you about important issues in this state.

And, again, if you're going to do your -- your job, which is to oversee our state environmental agency and make environmental policy, both of which are extraordinarily important, being able to ground truth that information by hearing from people who are directly affected by

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some of those decisions and some of those actions I hope is -- is worth the occasional foray into off-topic conversations or other things. I hope that whatever you come back with will be a robust public participation opportunity that, as Mitch said at the very beginning, makes it easy for people to come to you as opposed to more difficult.

MS. STOKES: Yes. With that said, the technicalities of Consideration No. 6, when you talk about the Commission needs -- we have some concerns that when you say people cannot address the Commission on the same topic more than once in a short amount of time except under special circumstances, it's just very -- there's a huge potential for abuse, because what is exactly the same topic? You know, sometimes you have an expert on a specific topic that may need to come to you at the same time or two months later to tell you an update to

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give you that more information. That person may be the person that is the person that knows the most about that issue. So I would just caution you on how you, you know, how you write that rule, especially keeping in mind that some people may need to come on the exact same topic, on the exact same thing.

Also, another technicality would be the -- we haven't touched on the PowerPoint, addressing that, seven days in advance, having to present that seven days in advance. And I think Commissioner Richardson has said that he supports the idea of allowing or submitting a manuscript as well as the PowerPoint seven days in advance, and I think that's going to be very burdensome for people to write out exactly what they're going to say, no edits can -- you know, part of the rule is no edits can be part of it. This is Consideration No. 7, changes cannot be made to the

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presentation following the submission, and I think that's hard for anybody to stay on script with a presentation. And it's certainly hard to write out exactly everything you're going to say, so we just request that just generally you give -- the 14 days in advance, give the topic. And there's really no need to add in seven days prior that you give a PowerPoint, that you give a manuscript. That's just an added -- thank you.

MS. DILLARD: Just very briefly. And Robert can advise you on this ably. There are also First Amendment issues, I think, in requiring, you know, ahead of time, you know, certain aspects of a presentation. And if you go too far down that road, there's some issues there that you will want to address with your counsel.

COMMITTEE CHAIRMAN PHILLIPS: Go ahead, Beth.

MS. STEWART: I just want to

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really support that and ask that you not make that requirement. I agree with Mitch it can be reasonable to ask for a PowerPoint to be provided some short period of time in advance simply to allow that to be loaded so that the meeting is moving along swiftly; but to require that, it just -- it feels like -- it feels to the public like a potential for -- for censorship based on what is intended to be said. And it also -- and I don't believe that that's what the Commission wishes to convey about your process at all. It seems that if a topic meets the criteria, then it meets the criteria. And it may be a moving issue; it may be that more information is available prior to the meeting and after some seven-day-in-advance-required-deadline and that that additional information would be valuable for the Commission to have. And the way this is written, you would not be able to have

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current information in necessarily. And I think it simply would be burdensome to many people to have to provide it in advance in either manuscript or PowerPoint form. That's simply not the way some people communicate most effectively. So it does feel like an abridgment of rights of being able to speak openly with you. And we really would like to see that not followed and not included in the rule.

COMMITTEE CHAIRMAN PHILLIPS: That being?

MS. STEWART: The requirement that you have to have some sort of a presentation of a manuscript or a PowerPoint or something seven days in advance. I can understand the 14-days-in-advance basic criteria. And we really like the idea that Cindy raised earlier about why not and would it make it easier for you if you had a downloadable form that either -- that could be

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electronically submitted or otherwise that has a set of questions and those standard set of questions are answered and that is your basic criteria. And we all know exactly what information you need in advance. And then if it's Debi that's making that determination or whoever it is that's screening that, there it is. It's clear how that is screened according to the responses to your questions. And then there's greater clarity to that.

COMMITTEE CHAIRMAN PHILLIPS: I'm going to speak once again for me. The intent of a document coming before the Commission probably came -- evolved from the whole issue of people were always making presentations to us and our desire to at least be engaged and prepared for what we were going to hear so that we weren't just sitting there listening and really having no idea -- I mean, we were kind of getting it first time, because I

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think our perception was people expected us to engage or respond then. What I'm -- what I've heard today, this afternoon, is that that's not as big of an urgency as we probably perceived that it was, and so there may be other ways to manage that.

MS. STEWART: And if I may add, I think that the way that has actually played out most frequently feels to us -- it was mentioned earlier -- like there has been a prebuttal prepared, and it -- and I don't believe this is your intent, but it comes across to the public that folks have made the effort to come and present information and they're being slapped down. That's what it feels like. It feels defensive and it feels that the Department is giving the message we're rejecting what you have to say. That's how it's felt. And I'm sure that's not how it's meant, but that's how it comes across.

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COMMITTEE CHAIRMAN PHILLIPS: Yes.

MR. JOHNSTON: Keith Johnston with the Southern Environmental Law Center. Just to sort of dovetail onto some of what was being said, and addressing No. 8, I think, was the one they were addressing about the presentations. I think you guys have said that almost anyone can sort of make that decision about presentation if it falls within the parameters. And I think you could almost have, like, a checklist of, you know, does this have a certain -- does it concern a certain issue, will you have a PowerPoint presentation or something like that -- just a general description maybe of what you are doing and what your intent is to give you guys a full notice and understanding of what people are going to come up and present to you. I think one of the problems we had with No. 8 was the second sentence

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there, Failing to do so will result in default denial of request. And I think that's a real red flag for us. I think you can certainly put in those checks and balances to satisfy your needs to know what people are going to be presenting at the meeting, you know, and I think you can do that with some sort of checklist process.

The other thing I wanted to comment on was just the same thing that people were talking about earlier about commenting more than once on the same topic. And I think it's important for the Commission, I mean, one -- as part of fulfilling your duties, you need as much information as possible. And I think when certain issues are not getting addressed or there is no change, that's information you need. And so if somebody is presenting the same topic but there may not have been a lot of change on that issue, that's something the Commission

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needs to know about. So I think in considering 6, I hope you consider that as well when you sort of hear some of these reoccurring themes.

COMMITTEE CHAIRMAN PHILLIPS: Thank you. That's good. I think -- I should have probably said this at the beginning, but the areas that you see there are not things that we have presupposed our answers. They're not -- they are areas that have come up either from Commission members or members of the public that seem to be the only real issues that we continually hear about around public comment. And so the real desire was to get your sense, the room's sense, on those items. So it's helpful that you're kind of referencing to ones that we listed. But those are not predisposed answers by any stretch of the imagination, so just be aware of that. It's -- if nothing else, it was the hot topics that were sure to generate

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dialogue.
MR. REID: The question of what the answer should be, what we expect of the Commission, I think, is -- I mean, it probably is the most pressing and burning question. You give a presentation and then it -- you're actively looking to see how much interest is displayed. And it would certainly be great to say, Well, let's -- let's form a special committee to take this on and study this right there, but that's really not what I'm expecting from --
COMMITTEE CHAIRMAN PHILLIPS: Although we have done that in the past.
MR. REID: And I think that this -- I think that the example of this sort of working group and that -- I'm thinking of the -- the air toxic work that was done in the past. That was a situation where something was brought in and then it resulted in a very deliberate process of addressing an issue. And

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that's -- that is fantastic, but it is also probably not what I am expecting with every presentation. So I don't necessarily have an answer to what the answer should be to a presentation. I do like the idea of a response when -- when the Chair or when the Commission says, This is something we want to take on and we've talked about it or a discussion, you know, deliberation by the Commission saying, Let's look into this some more, and then action taken. I don't think that that needs to be written into the rules, but it is always helpful to see deliberation in action.
But the -- what I see the presentation being, a public comment, whether it's someone signing up at the door or coming in with a premade presentation, is the start of a conversation or the continuance of a conversation if things are not going on. But it goes to the idea of if I submitted

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my manuscript two weeks in advance or seven days in advance, then really I should just stand up and say do you have any questions. But since I'm giving a presentation, there is an infinite amount of time relatively going forward for the Commission to work on this issue.
So I've given a presentation, coal ash being an example today. There's Rulemaking coming up. EPA's going to do something in February, they're going to do something maybe in September. This is now the chance for a conversation to occur going off into the next year or more. That was the point of the presentation. Not that I would get an answer today on this is what we're going to do about coal ash and not for the Director or anybody else to say, Well, here's what the -- here's what the world looks like to us and for it to become a debate. I do think that it gets tedious when it -- because then I'm -- you know,

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that just seems like, Well, I've got to come back to say something else, and that's probably unnecessary.
So my just gut feeling is that the presentation at the meeting becomes the entrée into the followup. And if we don't hear from you again and things still occur, then we would request to come back and -- and, you know, it would always be within our best interest, I think -- and I don't think you need to write this as a rule -- but in our best interest to say, Here's the next steps or here's what we want you to do, because then that would tell you what we want. But I don't know how you write that into a rule that says you've got to tell us what to vote on. But, anyway, that's my -- my sense, is that it starts --
COMMITTEE CHAIRMAN PHILLIPS: I think we have a rulemaking process for that.
MR. REID: Sure. Right. I mean,

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we can always do a petition for rulemaking.

COMMITTEE CHAIRMAN PHILLIPS: That's helpful.

MR. MULLEN: I think that applies not just to presentations but also the correspondence. If you want us to do more written correspondence, some kind of feedback -- we're considering it; if there's an answer, an answer; if there's not, here's what we're planning on doing with it; the Director's the one you ought to be talking with, or staff, instead of us. Almost a menu of things there. And then, very importantly, if there's a suggestion from the Commission how the individual or group can be productively involved, you know, what that individual or group can do to be productively involved and then how can we all cooperate and solve it, you know, whether it's a committee meeting or whatever. Just more -- just more give and take

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after a presentation or correspondence.

COMMITTEE CHAIRMAN PHILLIPS: I think the one thing that I'm hearing -- and I think Eva said this in some form -- I think too many times there's the expectation that there is an answer, that every presentation is for one purpose, and we know that it's not. I mean, we know that sometimes people want to educate us or at least share information with us for us to consider future policy or future regulations that may be coming, for example. But in other instances, it's because they feel like something hasn't been -- has not been done to meet their expectations. And then other times it's -- they're -- I mean, we rarely get what I would call happy news, but that's okay. Occasionally, we do. We have someone come and talk and say, you know, this happened but, you know, I still think the Department did a good job with

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this. So there are different reasons we know that the public come to us.

I think in the past, though, we've tried to fit -- fit everything into one box, what one means for someone to come and make public comment to us. And, once again, I'm sharing my view, not the Commission's view. And I think this has helped us. And I mentioned in the last meeting that by far the public comment that came back relative to us looking for improvements was don't do away with public comment, and that was never our intent, to do away with public comment. It was to make it better. And not make it better just for the public but to make it better for the Commission, because there was frustration growing on the Commission that everything was really kind of stuck in one box and not everything demands a response and why does it always come two weeks before a meeting? Because that's when we say we

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accept; right? So we're kind of creating our own issue.

And the purpose of this whole session really came out of a dialogue that occurred after a meeting and then we realized that it was after a meeting so we had to wait until the next meeting to set up the meeting we wanted to have. So our intent -- and we know that there are issues. We're all human. We're not perfect. But we're trying to get better at what we do, and the only way we know to get better is to hear from you. You mentioned why does it always have to be about us calling you. Well, that helps us, because it's a complaint and we just can't be everywhere all the time. And so it's helpful to hear your concerns, your issues, and probably more valuable for me, Ms. Merritt, to hear --

MS. MERRITT: It's been very, very --

COMMITTEE CHAIRMAN PHILLIPS: --

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perceptions, because many of the perceptions that you have -- you know, we kind of have our own perceptions of why things get brought to us. And so I think it's helpful for us -- for you to share with us your perceptions of why things are done. And they really don't match. But the only way we're ever going to get them closer to matching is to have dialogue like we're having here.

Yes, ma'am.

MS. CALHOUN: Hi.

COMMITTEE CHAIRMAN PHILLIPS: Hi. You're back. And we're glad.

MS. CALHOUN: Okay. I'm cool. With the presentation, like you give them so long to respond -- seven, 14 days, because, you know, I don't do those. I'm not with them. But why can't you guys have a deadline with the presentation, you know, well -- or your secretary or whoever, well, I haven't had a chance to get back with John yet. Debi, would you

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send him a note that I'm still looking at it, so it won't be on a, you know, Oh, I went and did my presentation today and, okay, they sit up there and looked at me, they did listen, I guess they did. But a response would really kind of ease the -- saying that you're listening or, you know, fooling us or something.

COMMITTEE CHAIRMAN PHILLIPS: Well, hopefully we're not going to fool you. Our intent -- I heard loud and clear out of this session today, which I don't even think was one of the items -- maybe it was -- was we really need to do better at responding at what we are thinking about what we heard, even if it means it's going to take time. And it may be months before we really get to dealing with it. We should at least communicate that. And whether we do that in writing or whether we do it at the next meeting where we just revisit what we heard and talk about it, I don't know

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yet. But it most certainly is something that was not lost on us about responding. Beth?

MS. STEWART: I really like what was said earlier by Mitch about the way that if the public presentations are a way to either begin a conversation or continue a conversation, well, then, how does that conversation happen? So if we're making a presentation and then the EMC is having to go away because of your, you know, formal setup and talk about it with the Department and in the various ways you're looking into it and then it eventually gets back, there's not really a conversation happening. So if there were some issues in which the EMC were to say, you know, on a policy issue, obviously the Rulemaking Committee, as mentioned earlier, could say, you know, we would like to have a situation like this where we invite conversation and we share perspectives.

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And I think a difficulty with the requirements on your deliberations is when you're up there and someone's here and they speak for ten minutes and there's not -- that's not a conversation. It's a great way to present information, it's a good conversation opener, but it doesn't let us do what we're doing here, and this has been really, extremely valuable. And if there were ways that you could figure out how to work into your process on those topics brought to you that are of interest and you feel it's worthwhile that there's more communication about it, that there could be -- the followup could include a true conversation.

MR. GLENN: And I'll -- personally I'll close here because I'm fixing to get a winter advisory up around I-20, so I'm fixing to cut out.

MS. LOWRY: There have been a lot of weather things pop up.

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MR. GLENN: Yeah, they're popping up. But, number one, thank y'all for having this meeting. And on behalf of a lot of industry representatives, again, clarity of communications is important, whether they're communications that our members want to have with you as the policy-setting body, either something we like that's going on, don't like is going on, wish you would do faster or slower or whatever the situation may be. And, you know, I like the idea of the clarity of some kind of communication. I like the idea of written communications. I like the idea before the meeting, too. I mean, get stuff in a couple weeks before or whatever, give y'all time to think about it. You've got places in your agenda where you can stop and talk about it. And if you need information from somebody, I think you can ask for that in a meeting. I think you can do that any time you want to do that.

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COMMITTEE CHAIRMAN PHILLIPS: I assume you mean at the other business?

MR. GLENN: Yeah. Exactly. Or time to add stuff to the agenda or maybe ask for information and collect stuff in advance. You can always add it to your agenda. There's time limits on all that, I know. But just a big fan of written communication for clarity, because unlike Christmas morning, not everybody likes surprises all the time. So we walk into a meeting and all of a sudden an issue or a member of ours is under attack, if you will, either directly or indirectly, it's nice to know that so we can prepare for that and what that brings with it. Again, thank y'all for having this conversation.

COMMITTEE CHAIRMAN PHILLIPS: Thank you, sir, for those comments. Because I heard the weather comment, I'll ask, have we covered -- I mean, I know we covered the items that were put in the

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notice, but have we covered the things that -- I guess we did not cover that. I think someone mentioned it earlier about what we could or could not hear and the issue of the Commission hearing things when there's pending or ongoing litigation is something that we'll continue to have an issue, that we can't hear those things. We know, and I've heard people say, Yeah, but there are -- just because it's about that topic doesn't mean that you shouldn't be able to listen to that from the standpoint of an environmental policy.

And that may be true, but we still have to gauge it when it comes in. That's part of the reason that we ask what are you going to talk about, who are you going to talk about, because in our early days, we did have a lot of people that would come up and just really go to town and then we'd find out a month later that we were -- there was litigation

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pending. And so we really have to be careful with that. So we would ask for your understanding at least in that arena. Thanks for reminding me of that, Robert.

But is there anything else that's on your mind that would be valuable for us, and then I'll let Ms. Merritt make a closing statement.

MR. JOHNSTON: This is Keith Johnston with Southern Environmental Law Center. Just on that point, I would make sure that when you interpret that rule and that responsibility -- and I understand it and certainly respect that -- that you do it in a narrow fashion so you're not being too broad in that interpretation. I think you have counsel at these meetings. You know, you can certainly -- you can cut that off if need be. So I think there's a couple of safeguards there that can really --

COMMITTEE CHAIRMAN PHILLIPS: And

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we will defer to our counsel.
MR. JOHNSTON: -- help you there and just making sure that you're not, you know, going too broad in that interpretation if it's just hitting on an issue that you may have before the Director.
COMMITTEE CHAIRMAN PHILLIPS: Well, we do depend on our counsel.
MR. TAMBLING: And, Keith -- this is Robert Tambling. I'm sure all the lawyers here can appreciate they don't want their clients who are involved in litigation to publicly discuss any facet of that litigation. As the oversight body for the Department, I don't think it's appropriate for the Department to engage in any kind of public discussion about litigation or administrative petitions, for instance, at EPA involving the Department. So that's kind of the concern with having a rule like that.
That said, when we first drafted the

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rule many years ago and worked with Dennis Bailey, we were at that time really only concerned about matters that might come before the Commission. But it's been our experience since then that we've had a lot of matters involving ADEM that are under litigation that people want to talk about. We were able to nuance the prohibition by placing that squarely on the Commission where the rule basically discourages the Commission from engaging in the nondeliberative discussion of any matter that might come before them. Well, in the like manner, I think if we did adopt a rule like that, it would be phrased in the same manner. We're not telling the public what they can talk about, what they can't talk about. We're discouraging the Commission from engaging in any kind of discussion involving litigation.
COMMITTEE CHAIRMAN PHILLIPS: Is that okay?

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MR. TAMBLING: Would that be narrow enough for you?
MR. JOHNSTON: I think it would depend on how the Commission puts that in practice. I think that's the --
MR. TAMBLING: But facially? I mean, is --
MR. JOHNSTON: Yeah. Facially, if it's a matter before the Commission that has two parties, there should be safeguards for those parties to not try to --
MR. TAMBLING: That's the rule right now --
MR. JOHNSTON: Right.
MR. TAMBLING: -- but we're talking about expanding it to litigation involving the Department. We really don't want the Commission members discussing any kind of litigation involving the Department.
MR. REID: Robert --
MR. TAMBLING: Any matter that is

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the subject of litigation involving the Department.
MR. REID: If the Department -- if there is something between the Department and the --
COMMITTEE CHAIRMAN PHILLIPS: Go ahead.
COMMISSION CHAIRMAN BROWN: They're listening.
MR. REID: If it's something between the Department and the EPA, you're saying that the EMC would not then need to have a discussion about that type of subject?
MR. TAMBLING: I think if there was something that is the subject matter of a petition involving the Department that is pending at EPA, then I would -- I would advise my client, the Commission, not to engage in any kind of nondeliberative discussion involving that matter publicly. If the matter is resolved, then I think we can talk about

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it.
MS. DILLARD: And, Robert, by "discussion," do you mean even passively listening to a presentation made by a member of the public?
MR. TAMBLING: Well, I mean, I don't know if there is such a thing as passively listening when you come in front of the Commission. I think the Commission really wants to be prepared and wants to be able to engage you, you know, and not just sit there stoically and just listen to you. What's the purpose of that?
MS. TROTMAN: I can make a comment.
MR. TAMBLING: Yes.
MS. TROTMAN: I completely understand this, being an attorney. You don't want your clients in here discussing something that is going through litigation, and the main purpose is I wouldn't want to subpoena each and

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every one of you to come and testify to what my client said in court or what the, you know, opposing person said in court. You just don't want to bring those outside. And then, also, you don't want to waive any kind of privileges that you may have with attorney-client or anything like that. And you definitely don't want to speak outside what's going on in the litigation.
MR. REID: And I'm just not sure that applies --
MS. TROTMAN: Right.
MR. REID: -- here with the EMC versus the Department. And I think -- if I could -- this may be something we could table, because I think --
COMMISSION CHAIRMAN BROWN: I think -- I think where it applies is if the Department is a party to the litigation and somebody wants to kind of speak to it, the issue you get is that once we hear what you say, we always want

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to hear what the Department says. Eva keeps saying all of the parties having their say, and you -- as a lawyer, you know, I tell my clients to get off Facebook, get off Twitter, get off everything, shut down. If you open your mouth, we're going to have a problem. You don't talk to anybody but me about it. And I think that's what Robert is saying he would counsel the Department, not to speak about it. For us, you know, I don't want to sit up here like a bump on a log. I don't want to sit up there to the effect that you may as well be that congressman that nobody's ever heard of that's on C-SPAN at ten o'clock at night speaking to the empty senate or house chamber. And sometimes I feel like, you know, I'm just -- I may as well be -- have rolled over in bed, cut the TV on, and I'm watching because we're not engaging the process. We're listening to people come, have some comments with no

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discussion about, well, where does it go from here, what are you asking us to do, what is the point of this. And so it's like, hey, thank you for coming, have a nice day, you know.
COMMITTEE CHAIRMAN PHILLIPS: And I heard some of you say that's how it feels.
MS. DILLARD: It does.
COMMISSION CHAIRMAN BROWN: Right. And, you know, for us -- and I think that's why Commissioner Richardson gets -- is passionate about this issue, is why I asked the Rulemaking Committee to look at it, because, I mean, I just -- you know, it's like, hey, thank you for coming, and that's all we have to say. And, you know, if I'm going to sit up here and devote my time, you know, almost gratuitously -- may as well be -- I want to be able to engage the process, for there to be a process, to do something. And, you know, a lot of times I sit

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there, I listen to the presentations and it's like, okay, I've heard that before. Yes.

And I hate to use the word "Uniontown" again, but -- but, you know, a lot -- I keep up with what's going on, and so -- and I know what's going on and I -- you know, I get reports about what's going on and where the process stands, and so it's like, yes, thank you for coming. And I found sometimes that some of the most productive meetings or conversations have not been up there but in the little room over there.

COMMITTEE CHAIRMAN PHILLIPS: Eva, I'll call on you.

COMMISSION CHAIRMAN BROWN: I know you've got something to say.

MS. DILLARD: I always do.

COMMISSION CHAIRMAN BROWN: But, I mean, that's sort of -- you know, and now I'm hearing, I guess, that maybe we don't need to make a response right then.

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And, you know, my feeling is that is completely -- I don't know -- opposite of what I have always thought. You know, I've always looked at it as people come seeking redress of grievances. Well, I'm supposed to do something. And if you come in and tell me that -- that's why I like getting the information beforehand. I want the information. I've gotten a little more proactive recently to where some of the letters that say I'm going to recommend, you know, you for speaking I put in, "but you need to address these points in your presentation." And, you know, maybe by exercising some discretion in that manner, some of these issues can be -- can be addressed.

COMMITTEE CHAIRMAN PHILLIPS: I would hope you've seen a difference in the last few meetings.

MS. DILLARD: I was actually going to make it easier for you. I know that that's a shock. And that is, I

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think we can all agree that if a matter is in active litigation that it is not appropriate for discussion. No question. And by the same token, if it's subject to a final order or closed, it obviously is. What I think Keith was touching on and it's a concern that I share -- and Robert and I have had this discussion as well -- is there's a continuum of kind of cases in between that maybe might be appropriate for comment because of the subject matter and the comment wouldn't be directed to the litigation, it would be maybe the underlying problem. So that's my longwinded way of saying there's certain things that it's not appropriate to comment on and there's certain things that there are if there's a continuum in the middle. And what we would respect fully, is when you're looking at that rule, please don't in an overabundance of caution define it so broadly that you're actually going to be

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excluding some things that folks should be able to talk about. But it's one of those things the devil's in the details and you're going to have to play around drafting it and we'll let you know.

COMMITTEE CHAIRMAN PHILLIPS: Have any suggestions, share.

MR. TAMBLING: Absolutely. I'm going to do everything I can, as you would, to protect your client.

MS. DILLARD: Right. And that makes sense.

MR. JOHNSTON: Yeah. Absolutely. There's no question about that. It's just that interpretation of how far you go in protecting your client when you have maybe Party A against Party B, you know, but you want to discuss an issue in front of the Commission that's a broader issue that goes beyond what those two parties are arguing about. I think that's where -- we just don't want the rule being used to wipe out potential

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issues that the Commission needs to know about.
COMMITTEE CHAIRMAN PHILLIPS: Mitch.
MR. REID: That was -- that's it in a nutshell. And we would certainly, if there -- if Robert has concerns about something we're asking to talk about, we would like to at least provide our assertion or justification for why this doesn't meet the bar, it doesn't -- shouldn't be barred by that. The situation I'm thinking about is a situation where the Department is involved in something that the EMC is not and -- and we --
COMMITTEE CHAIRMAN PHILLIPS: I don't want to hear about it, but how can the Department be involved in something that the EMC is not as an oversight body of the Department?
MR. REID: A --
COMMITTEE CHAIRMAN PHILLIPS: I

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don't want to hear specifics of what you're talking about.
MR. REID: Sure. A specific situation where the Department is involved in a -- in a dispute with the EPA specifically which is not going to require the oversight or adjudication of the dispute by the EMC, it's not going to come before the EMC as a matter that the EMC is then deciding on. So it is not -- it's not a situation where you would then be sort of predeterminational on an issue. That's -- but I guess you can -- you can probably draw Venn diagrams to where that particular issue would look at something else, but I can draw you a significantly big enough Venn diagram and we can't talk about anything.
COMMITTEE CHAIRMAN PHILLIPS: Now we're talking. I'm an engineer.
MR. REID: Line diagram. We want lines, not Venns.
COMMISSION CHAIRMAN BROWN: I

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guess the issue I have, though, is how can -- if the Department can't talk about it because it's in litigation, how do we consider something related to a litigative matter without being able to hear from the Department on the issue?
MR. REID: I -- I would -- I can definitely see this as being a working group session for -- because we can -- I can go through hypotheticals and it would probably require more research than I've got on my phone right now.
COMMITTEE CHAIRMAN PHILLIPS: Is there anything else we didn't touch?
MS. CALHOUN: I'd like to say one more thing.
COMMITTEE CHAIRMAN PHILLIPS: Yes, ma'am.
MS. CALHOUN: I enjoyed this, you know. It seems like y'all are not sitting up there, that you're down to the level that we are. And I see y'all have a little heart -- little heart. But

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thanks for -- I'm just -- it's just me. I have to laugh sometimes. But it's --
CHAIRMAN PHILLIPS: That's okay. That's some praise, at least.
MS. CALHOUN: But, see, it's a learning process. What you tell us, well, don't do this or we don't do that, we don't know that you don't do this or you don't do that. Then you can know what we don't do: We don't go away.
COMMITTEE CHAIRMAN PHILLIPS: That's fair.
MS. CALHOUN: Thank you.
COMMISSION CHAIRMAN BROWN: And I guess I think to me it's always been -- you know, people want to make a lot of times the citizens that aren't involved professionally with the Commission or with the Department, you know, they -- they for some reason come to the Commission first, but going to the Department first I think helps that educational process that you're talking

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about. And I think that's been a lot of our frustration, is you're coming to us and, you know, well, the permit's either issued or not issued or, you know, the fine has been levied or it's in litigation and there's really nothing we can do except say go down yonder to Director LeFleur's office. And I just feel useless sitting up there in that standpoint. I mean, I don't feel like I'm doing any good for anybody.

MS. CALHOUN: We thought y'all was the big dogs.

MS. LOWRY: Commissioner, I just wanted to report that Michael Churchman from the Environmental Council was on the phone for a little while. He said he really couldn't hear anything so he just got off.

COMMITTEE CHAIRMAN PHILLIPS: Well, that's a good lesson learned on that one.

MS. LOWRY: We have that same

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problem with our board meetings. It's a challenge.

COMMITTEE CHAIRMAN PHILLIPS: Well, we want to thank all of you, but before we go, do you want to say anything else, Mr. Chairman?

COMMISSION CHAIRMAN BROWN: I can't believe I've stayed as long as I did.

COMMITTEE CHAIRMAN PHILLIPS: We're glad you did.

COMMISSION CHAIRMAN BROWN: Now I'm late to -- way late to be somewhere else. But I enjoyed it.

MS. MERRITT: I just want to say that I've learned a lot today, and I just want to thank our Chairman. You know, I know this came out of conversation after our last meeting, and I've been -- I mean, I've only been on a short time, and this is my -- this Rulemaking Committee, I've been reading. But today has been really a learning -- I've learned a lot

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from you. It will help me make -- I can talk more knowledge on it now with the Committee after seeing -- you know, hearing anybody talk. And, you know, I think this was the best thing that could have ever happened. So thank you so much.

COMMITTEE CHAIRMAN PHILLIPS: Well, I want to thank all of you. I want to thank Ms. Merritt and Chairman for sending this to Rulemaking. But I really want to thank those of you in the room -- and you know who you are -- that really helped conceive the concept of us doing what we did today. It's something that's much -- much more valuable, I think, to the Commission, but most certainly more valuable to the Rulemaking Committee to try to put reality and to hear what perceptions are really on both sides of -- of that counter when we're sitting up there. We have this belief that we're having those conversations, but what

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we're not doing is letting you know we're having those conversations. So I think it's been very good to hear how it feels from your seats, because many times we, unfortunately, being human, we think about how it felt sitting in our seats. And we juggle that with a whole host of other obligations and commitments just like you do. And I think the more we can talk about how to get to an end point together, the more likely that we'll get there. Most certainly we're not going to get there if we don't talk about it.

So I want to thank all of you for your ideas. And then I want to remind you that the process is we'll take all this in, we'll have it in transcript so that you can look at it also. We'll get it to Commissioner Richardson. We'll have our next meeting in April. I encourage you to be there, if you can. If you can't, feel free to send written comments, videos, anything you want to

send. We'd love to hear from you. And -- and I guess the final is be safe on your way from here.

MR. LeFLEUR: I would like to invite everybody to come to the meeting between the Department and the environmental community after the April meeting.

COMMITTEE CHAIRMAN PHILLIPS: That's right. What time is it?

MR. LeFLEUR: At one o'clock.

COMMITTEE CHAIRMAN PHILLIPS: Your office?

MR. LeFLEUR: Attendance started drifting off, and we'd like to see it jump back up on these meetings. It's an opportunity to address some of these issues that y'all have brought up today.

COMMITTEE CHAIRMAN PHILLIPS: I know the Chair has gone to some of those. So I'll commit to go to those if you guys will stay next time and go. We can all see each other again.

MR. JOHNSTON: I'm sorry. Was I under the impression that we were going to have another Rulemaking Committee stakeholder meeting after the EMC at one o'clock or -- in April?

COMMITTEE CHAIRMAN PHILLIPS: In April, it's probably at ten. If that changes, we'll let you know. But right now I don't think we're expecting to have another one o'clock session in April. That's not what we had talked about.

MS. STOKES: Would you mind e-mailing all of us? I think last time we didn't know whether to RSVP or whether to send in comments. Do you mind sending an e-mail out or is it going to be on your website?

COMMITTEE CHAIRMAN PHILLIPS: It will be a notice on our website. But, Debi, you have everybody. They're all on the list, right, the mailing list?

MS. THOMAS: Yeah.

COMMITTEE CHAIRMAN PHILLIPS: So we'll get it out to you.

MS. STOKES: That will be great.

COMMITTEE CHAIRMAN PHILLIPS: Thank you once again and be careful driving home. I need a motion to adjourn.

MS. MERRITT: So move.

COMMITTEE CHAIRMAN PHILLIPS: Second?

MS. MERRITT: Second.

COMMITTEE CHAIRMAN PHILLIPS: All in favor?

(Unanimous.)

(The Rulemaking Committee meeting and work session concluded at 3:15 p.m., on February 20, 2015.)

REPORTER'S CERTIFICATE

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I do hereby certify that the above and foregoing transcript was taken down by me in stenotype, and the questions and answers thereto were transcribed by means of computer-aided transcription, and that the foregoing represents a true and correct transcript of the testimony given by said witness.

I further certify that I am neither of counsel, nor any relation to the parties to the action, nor am I anywise interested in the result of said cause.

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ELMORE COUNTY)

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Part B

Attachment 1

1/21/15

AGENDA*
MEETING AND WORK SESSION OF THE
RULEMAKING COMMITTEE
OF THE
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
DATE: February 20, 2015
TIME: 1:00 p.m.
LOCATION: Alabama Department of Environmental Management (ADEM) Building
Alabama Room (Main Hearing Room)
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400

	ITEMS	PAGE
1.	Consideration of minutes of meeting held on December 12, 2014**	2
2.	Rulemaking Committee work session on Division 335-2 ADEM Administrative Code Rule 335-2-3-.05, Agenda, Sections (1) through (3)	2 & Attachment
3.	Other business	2
4.	Future Rulemaking Committee meeting	2

* The agenda for this meeting and work session and notice for the work session will be available on the ADEM website, www.adem.alabama.gov, under Environmental Management Commission and Public Notices and Permits/EMC Notice of Work Session.

** The minutes of this meeting will be available on the ADEM website under Environmental Management Commission.

1. CONSIDERATION OF MINUTES OF MEETING HELD ON DECEMBER 12, 2014

2. RULEMAKING COMMITTEE WORK SESSION ON DIVISION 335-2 ADEM ADMINISTRATIVE CODE RULE 335-2-3-.05, AGENDA, SECTIONS (1) THROUGH (3)

   Attached is a notice that provides details regarding the work session.

3. OTHER BUSINESS

4. FUTURE RULEMAKING COMMITTEE MEETING

ATTACHMENT

ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION (AEMC)
RULEMAKING COMMITTEE
NOTICE OF WORK SESSION ON DIVISION 335-2 ADEM ADMINISTRATIVE CODE
RULE 335-2-3-.05, AGENDA, SECTIONS (1) THROUGH (3)

Rule No.	Rule Title
335-2-3-.05, Sections (1) through (3)	Agenda

Notice is hereby given that a work session will be held by the AEMC's Rulemaking Committee under Agenda Item 2 at its meeting on **February 20, 2015, at 1:00 p.m. in the main hearing room at the ADEM – Central Office location at 1400 Coliseum Boulevard in Montgomery,** to conduct an open discussion with interested parties on the Committee's current areas of concern regarding the above Rule as listed below. During the work session, the Committee will hear oral comments from interested parties regarding the Committee's current areas of concern regarding the above Rule and any additional areas of concern regarding the above Rule that they wish to present and discuss with the Committee. **THE PURPOSE OF THIS WORK SESSION IS TO SEEK CONSTRUCTIVE INPUT ON HOW TO IMPROVE THE EXISTING RULE. IT IS NOT THE INTENT OF THE COMMITTEE TO REPEAL THE EXISTING RULE. IT IS THE COMMITTEE'S INTENT TO IMPROVE THE RULE AND IF CHANGES ARE DECIDED TO PRESENT THEM TO THE FULL COMMISSION FOR ITS CONSIDERATION.**

RULEMAKING COMMITTEE'S CURRENT AREAS TO CONSIDER

1. E-mail delivery of requests from members of the public to appear before the Commission is currently not allowed in the existing Rule.
2. Requests from members of the public to appear before the Commission are being submitted right at or after the 14 days deadline before the Commission meeting.
3. Public comments should focus on the following areas of Commission responsibility: (1) To select a Director for the Department of Environmental Management and to advise the Director on environmental matters which are within the Department's scope of authority; (2) To establish, adopt, promulgate, modify, repeal and suspend any rules, regulations or environmental standards for the Department which may be applicable to the State as a whole or any of its geographical parts; and (3) To develop environmental policy for the State.
4. A process for encouraging written public comments at all times in order to let Commission know what input is desired.
5. Commissioners should not be predisposed to granting or denying the requests from members of the public to appear before the Commission. The Rule should clarify that the AEMC Chair shall not communicate to the person or persons requesting that their respective request will be "recommended" or "not recommended" for acceptance by the Commission. The Chair should acknowledge receipt and that it will be placed before the Commission for consideration. If the request fails to meet certain criteria required of such a presentation, the Chair should be able to deny the presentation without consultation of the Commission. Person or persons requesting should come prepared to make their presentation.
6. Clarify that no individual, entity, or various representatives of an entity may be granted permission to address the Commission on the same topic more than once in a short amount of time, except under special circumstances.
7. Clarify that before being granted permission to address the Commission, person or persons requesting to appear before the Commission must pursue all reasonable venues made available through the ADEM and its Director for addressing concerns that are subject to the Department's roles and responsibilities. Verifiable evidence of such effort should be presented with request.
8. Clarify that to be granted permission to address the Commission, person or persons requesting must provide presentations (either PowerPoints or manuscripts) to the Commission no later than 7 business days prior to consideration. Failing to do so will result in default denial of request. Changes cannot be made to the presentation following this submission.

Persons interested in attending and participating in the work session should notify the Committee of their intent to attend and participate in the work session by mail directed to: Rulemaking Committee, Alabama Environmental Management Commission, P.O. Box 301463, Montgomery, AL 36130-1463 (street address: 1400 Coliseum Boulevard, Montgomery, AL 36110-2400) or by e-mail at aemc@adem.state.al.us. Notification of intent to attend and participate in the work session must be received by the Rulemaking Committee prior to 5:00 p.m. on **February 6, 2015.**

Persons interested in participating in the work session by teleconference may request to do so and will be provided with a teleconference telephone number to call in to the work session. Participants wanting to provide input through Conference Call need to understand that participation may be limited in engaging their involvement. A request to participate in the work session by teleconference should be directed to the Rulemaking Committee by e-mail at the aemc@adem.state.al.us and received by the Committee prior to 5:00 p.m. on **February 6, 2015**.

Attendance at the work session is not necessary to present comments regarding the Committee's current areas to consider (listed above) regarding the current Rule and other areas of concern regarding the current Rule as the same may be submitted in writing. Written submissions and other inquiries should be directed to: Rulemaking Committee, Alabama Environmental Management Commission, P.O. Box 301463, Montgomery, AL 36130-1463 (street address: 1400 Coliseum Boulevard, Montgomery, AL 36110-2400) or by e-mail at aemc@adem.state.al.us and must be received by the Rulemaking Committee prior to 5:00 p.m. on **February 6, 2015**.

This notice is hereby given this day, **January 21, 2015**, by authority of the Chair of the Rulemaking Committee of the Alabama Environmental Management Commission.

W. Scott Phillips dst
W. Scott Phillips
Chair
AEMC Rulemaking Committee