

Report on the

**Forestry Commission  
State of Alabama  
Montgomery, Alabama**

**October 1, 2014 through September 30, 2017**

Filed: January 11, 2019



**Department of  
Examiners of Public Accounts**

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*Rachel Laurie Riddle, Chief Examiner*





State of Alabama  
Department of  
**Examiners of Public Accounts**

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Rachel Laurie Riddle  
Chief Examiner

Honorable Rachel Laurie Riddle  
Chief Examiner of Public Accounts  
Montgomery, Alabama 36130

Dear Madam:

Under the authority of the *Code of Alabama 1975*, Section 41-5A-19, as added by Act Number 2018-129, we submit this report on the results of the examination of the Alabama Forestry Commission for the period October 1, 2014 through September 30, 2017.

Sworn to and subscribed before me this  
the 19 day of December, 2018.

Kelly D. Matthews  
Notary Public

Sworn to and subscribed before me this  
the 20 day of December, 2018.

Doy J. Smith  
Notary Public

Respectfully submitted,

Gerald Dedon

Gerald Dedon  
Examiner of Public Accounts

Rodney Wagstaff

Rodney Wagstaff  
Examiner of Public Accounts

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Department of  
**Examiners of Public Accounts**

**SUMMARY**

**Forestry Commission  
October 1, 2014 through September 30, 2017**

The Forestry Commission (the “Commission”) operates under the authority of the *Code of Alabama 1975*, Sections 9-3-1 through 9-3-19; Sections 9-13-1 through 9-13-227; and Sections 9-13-270 through 9-13-274. By law, the Commission administers and enforces timber and forestry laws. The Commission maintains, supervises, operates, and controls state forests; is responsible for the control of forest fires; enforces laws concerning the preservation of forests; provides assistance to local fire departments and provides grants to state and local government entities and non-profit entities throughout the state for various forestry-related activities and projects, including educational programs; and provides technical assistance in forest management to other state agencies and to private landowners.

This report presents the results of an examination of the Commission and a review of compliance by the Commission with applicable laws and regulations of the State of Alabama. This examination was conducted in accordance with the requirements of the Department of Examiners of Public Accounts under the authority of the *Code of Alabama 1975*, Section 41-5A-12, as added by Act Number 2018-129. Our examination was performed for the purpose of determining whether the public officers, agents, and employees of the Commission properly and lawfully accounted for all money and other public assets or resources received, disbursed, or in the custody of the Commission. Our examination included determining compliance by the Commission with state laws and regulations that pertain to financial transactions; personnel; safeguarding of state-owned assets, property, and resources; information dissemination, processing, and retention; and official actions, rulemaking procedures, and meetings. As a part of our examination, we also reviewed internal control policies and procedures relating to the areas listed above. Our examination did not encompass managerial and operational matters, such as whether the Commission accomplished its mission or its regulatory, enforcement, investigative, or other oversight activities in an efficient, fair, timely, or legal manner.

Findings are numbered and reported by the examination period in which the finding originally occurred.

The following instances of noncompliance with State laws and regulations and other matters were found during the examination as shown on the Schedule of State Legal Compliance and Other Findings and are summarized below.

### **CURRENT FINDINGS**

- 2017-01 Relates to the Commission not verifying the employment eligibility of employees through E-Verify.
- 2017-02 Relates to an incorrect leave progression start date being entered in the Government Human Resource System resulting in excess accumulation of annual leave.
- 2017-03 Relates to the Commission not adopting an administrative rule to set amounts for fees.

Commission members and the State Forester were invited to an exit conference held on November 16, 2018. Individuals in attendance were Commission members: Jerry Dwyer and Joseph H. Twardy; Bruce Springer, Assistant State Forester; Will Brantley, Division Director; Donna E. Snyder, Accounting Director; Lisa Warren, Senior Accountant; Amy K. Bowden, Payroll Officer; John Goff, Division Director; Scott Rouse, General Counsel; along with Robin Hutcheson, Audit Manager; Rodney Wagstaff, Examiner and Gerald Dedon, Examiner, from the Department of Examiners of Public Accounts.





Department of  
**Examiners of Public Accounts**

**COMMENTS**

**Forestry Commission  
October 1, 2014 through September 30, 2017**

The Forestry Commission (the "Commission") operates under the authority of the *Code of Alabama 1975*, Sections 9-3-1 through 9-3-19, Sections 9-13-1 through 9-13-227, and Sections 9-13-270 through 9-13-274. By law, the Commission administers and enforces timber and forestry laws. The Commission maintains, supervises, operates, and controls state forests and is also responsible for the control of forest fires. Additionally, the Commission enforces laws concerning the preservation of forests, operates tree nurseries, distributes and sells seedlings, and provides technical assistance in forest management to other state agencies and to private landowners.

The Commission provides assistance to local fire departments and provides grants to state and local government entities, and non-profit entities throughout the state for various forestry-related activities and projects, including educational programs.

The Commission is comprised of seven members that, with the advice and consent of the Senate, are appointed by the Governor. At least two members must be licensed and registered foresters under the laws of Alabama and at least three members must be owners of timberland in Alabama. Members serve staggered five-year terms and may continue to serve until their successors are appointed and qualified.

The State Forester, with the advice and consent of the Governor, is appointed by the Commission who is the administrative officer for the Commission. The State Forester must have a Bachelor of Science degree in forestry and must be licensed and registered under the forestry laws of Alabama with considerable experience in the forestry field.

The Commission receives general fund appropriations, federal grants, county appropriations, occupational and privilege license fees, and fines. Unused funds may be carried over to subsequent fiscal years, including unused general fund appropriations. The Commission operates from the following Special Revenue Funds maintained in the State Treasury:

- ***Fund 0311 – Emergency Forest Fire Fund*** – This fund was created by the *Code of Alabama 1975*, Section 9-3-10.1. The monies in this fund may be expended by the State Forester for emergency forest fire and insect and disease suppression and control.

- **Fund 0312 – Forestry Commission Fund** – This is the Commission’s main operating fund. In addition to a general fund appropriation, the Commission receives federal funds from United States Forest Service – Southern Region.
- **Fund 0565 – Earmarked Funds – Volunteer Fire Departments** – This fund receives and disburses funds earmarked for Limestone, Randolph, Clay, Henry, and Blount counties. Act Numbers 89-278, 89-488, 89-501, and 89-703, Acts of Alabama, provide for tobacco taxes to be collected by the Department of Revenue and to be forwarded to the Alabama Forestry Commission for distribution to Limestone, Randolph, Clay, and Henry counties. Also placed into this fund are monies collected in Blount County from a monthly tonnage fee on solid waste disposal as provided in Act Number 90-120, Acts of Alabama. The earmarked collections are distributed to the volunteer fire department associations in the counties.

The Legislature provides funding each year to the Commission to be used in the Rural Community Fire Protection program. Each certified volunteer fire department that met eligibility requirements and applied for assistance through this program received \$1,167.14 in fiscal year 2015, \$1,052.28 in fiscal year 2016, and \$1,057.62 in fiscal year 2017.

The Commission participates in the TREASURE Forest program, which was established in 1974 by the Alabama Forestry Planning Committee. TREASURE is an acronym for Timber, Recreation, Environment, Aesthetics, for a Sustained Useable REsource. The program promotes sound multiple-use forest management through education and recognition. Education is provided through Alabama’s TREASURED Forests magazine, on-the-ground technical assistance to forest landowners, and the annual Alabama Landowner and TREASURE Forest Conference. Recognition is accomplished through the certified TREASURE Forest award, which is given to landowners who are actively implementing TREASURE Forest principles on their forestland.

The Commission participated in the suppression of 3,371 wildfires, affecting 47,000 acres of land and issued over 12,000 burn permits in fiscal year 2017. Wildfires destroyed or damaged 54 homes, 297 structures other than homes, and 165 vehicles. However, 2,721 homes, 1,722 structures other than homes, and 2,541 vehicles were saved.

The Commission owned non-consumable personal property consisting of automobiles, office furniture, computers and equipment. A comparison was done of non-consumable personal property in the custody of the Commission with property records maintained by the Property Inventory Division of the State Auditor’s Office. No discrepancies were noted.

The Commission also owns land and buildings throughout the State of Alabama.

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*Schedule of State Legal  
Compliance and Other Findings*

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***Schedule of State Legal Compliance and Other Findings***  
***For the Examination Period Ended September 30, 2017***

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Ref. No.	Finding/Noncompliance
2017-01	<p><b><u>Finding:</u></b>  The Commission did not verify the employment eligibility of two employees through E-Verify, and the Commission did not verify the employment eligibility for three employees within three business days after the employees started work. The employees' employment eligibilities were verified seven to twelve business days later.</p> <p>The <i>Code of Alabama 1975</i>, Section 31-13-15(b) states, "Effective April 1, 2012, every business entity or employer in this state shall enroll in E-Verify and thereafter, according to federal statutes and regulations governing E-Verify, shall verify the employment eligibility of the employee through E-Verify. A business entity or employer that uses E-Verify to verify the work authorization of an employee shall not be deemed to have violated this section with respect to the employment of that employee."</p> <p>Furthermore, the <i>E-Verify Manual Chapter 2 Section 2 – Create a Case</i> states, "E-Verify cases must be created no later than the third business day after the employee starts work for pay."</p> <p><b><u>Recommendation:</u></b>  The Board should verify the employment eligibility of all employees through E-Verify within three business days.</p>
2017-02	<p><b><u>Finding:</u></b>  The Commission did not compute and verify the service date for one employee correctly. As a result, the employee's leave progression start date was incorrectly entered into the Government Human Resource System and the employee accrued an additional 69 hours and 20 minutes of annual leave in error. When notified of the discrepancy, the Commission adjusted the employee's annual leave balance.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-26-35(b) provides that "all persons who are regularly employed by the state...shall be entitled to accumulate annual leave on the basis of semi-monthly pay periods" at rates based on the employee's total service.</p> <p>According to the <i>State of Alabama Personnel Manual</i>, "Each agency is responsible for computing and verifying the leave progression start dates for all employees, including those who transfer into the agency". Service credit is given for the amount of time worked.</p> <p><b><u>Recommendation:</u></b>  The Commission should compute and verify employees' service dates to ensure that leave progression start dates are accurate before they are entered into the Government Human Resource System.</p>

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***Schedule of State Legal Compliance and Other Findings***  
***For the Examination Period Ended September 30, 2017***

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Ref. No.	Finding/Noncompliance
2017-03	<p><b><u>Finding:</u></b></p> <p>The Commission is charging and collecting a \$150 burn manager certification course fee, a \$100 burn manager recertification workshop fee and a \$50 initial and renewal certification fee without formally adopting an administrative rule to set the fees. The <i>Code of Alabama 1975</i>, Section 9-13-273 (d) authorizes the Commission to charge and collect the fees, but the law does not set a specific amount to charge. Since the fee amounts are not set in the law, the amounts to charge should be set by an administrative rule.</p> <p>The <i>Code of Alabama 1975</i>, Section 41-22-3(9) defines a rule as, “Each agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the organization, procedure, or practice requirements of any agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule or by federal statute or by federal rule or regulation; provided, however, all forms shall be filed with the secretary of the agency and with the Legislative Reference Service and all forms, except intergovernmental, interagency, and intra-agency forms which do not affect the rights of the public and emergency forms adopted pursuant to the <i>Code of Alabama 1975</i>, Section 41-22-5, shall be published in the Agency Administrative Code.”</p> <p><b><u>Recommendation:</u></b></p> <p>The Commission should adopt an administrative rule to set the specific fee amounts to charge for a burn manager certification course fee, burn manager recertification workshop fee and an initial and renewal certification fee.</p>

***Schedule of Cash Receipts, Disbursements and Balances***  
***For the Period October 1, 2014 through September 30, 2017***

	2016-2017	2015-2016	2014-2015
<b><u>Receipts</u></b>			
Forest Products Tax	\$ 6,032,155.14	\$ 5,531,284.21	\$ 5,253,000.00
Forest Product Industries	38,812.49	35,620.21	35,593.92
Public Lakes Fishing Permits	4,425.74	3,913.60	4,095.09
Fire Suppression	3,016.88	1,510.06	1,955.36
Lease of Oil and Gas Rights	1,053.05	571.61	2,703.65
Insurance Recoveries	57,837.13	8,299.61	105,822.18
Reimbursements Not Other Classified	21,687.31	50,543.85	20,650.74
Prior Year Refunds	25,231.41	1,239.43	72,403.53
Contract Services	977,119.94	968,997.98	1,080,409.62
Salvage Equipment or Other Property	142,296.71	97,054.22	31,521.75
Timber	318,012.28	445,629.00	91,550.14
Collection Costs - Intragovernment			52,148.70
Rents and Buildings - Intragovernment	60,558.08	36,796.66	27,253.00
General Fund Allotments	8,096,658.00	7,212,683.00	8,979,263.00
Interfund State Programs		318.25	1,060.05
Interfund Federal Programs			1,500.00
Federal Operating Reimbursements	5,888,721.45	3,543,188.79	4,896,812.72
Local Government Operating Grants	1,945.75		
Local Government Grants, Multipurpose		1,945.75	
County Forestry Collections	1,765,172.32	1,780,429.24	1,775,694.79
Tobacco Tax - County	31,305.37	(31,887.89)	38,376.99
Amounts Held in Custody for Others	49,497.46	54,588.83	21,981.58
Total	<u>23,515,506.51</u>	<u>19,742,726.41</u>	<u>22,493,796.81</u>
<b><u>Disbursements</u></b>			
Personnel Costs	11,066,508.68	11,355,021.31	11,150,297.70
Employee Benefits	4,586,473.56	4,790,438.16	4,663,673.90
Travel, In-State	140,980.14	173,051.40	165,238.61
Travel, Out-of-State	12,007.25	42,178.15	51,200.62
Repair and Maintenance	199,266.85	312,015.02	362,079.76
Rentals and Leases	28,937.10	43,336.21	58,424.92
Utilities and Communication	671,729.00	693,086.32	658,235.93
Professional Services	670,186.95	796,989.77	581,695.19
Supplies, Materials, and Operating Expenses	720,793.50	1,207,263.44	1,060,584.35
Transportation Equipment Operations	1,196,974.83	1,417,586.05	1,587,453.76
Grants and Benefits	1,233,402.74	1,536,876.71	1,416,579.86
Capital Outlay		23,051.08	70,513.02
Transportation Equipment Purchases	119,245.26	1,902,953.55	1,160,376.12
Other Equipment Purchases	101,375.37	574,162.34	165,447.66
Total	<u>\$ 20,747,881.23</u>	<u>\$ 24,868,009.51</u>	<u>\$ 23,151,801.40</u>

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	2016-2017	2015-2016	2014-2015
Excess (Deficiency) of Receipts Over Disbursements	\$ 2,767,625.28	\$ (5,125,283.10)	\$ (658,004.59)
Cash Balances at Beginning of Year	<u>2,327,613.61</u>	<u>7,452,896.71</u>	<u>8,110,901.30</u>
Cash Balances at End of Year	5,095,238.89	2,327,613.61	7,452,896.71
Reserve for Year-End Obligations	<u>(468,247.06)</u>	<u>(992,970.67)</u>	<u>(3,469,827.43)</u>
Available Cash Balances at Year-End	<u>\$ 4,626,991.83</u>	<u>\$ 1,334,642.94</u>	<u>\$ 3,983,069.28</u>

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***Commission Members and Officials***  
***October 1, 2014 through September 30, 2017***

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<b>Commission Members</b>		<b>Term Expires</b>
Hon. Jerry M. Dwyer	Chairman	2018
Hon. Katrenia P. Kier	Member	2020
Hon. Stephen W. May, III	Member	2019
Hon. Jane T. Russell	Member	2018
Hon. William D. Sudduth, M.D.	Member	2021
Hon. Robert N. Turner	Member	2020
Hon. Joe Twardy	Member	2021
Hon. Kenneth Real	Member	2015
Hon. Salem G. Saloom	Member	2016
Hon. Jerry M. Smith	Member	2015
Hon. Tommy E. D. Thompson	Member	2016

**Officials**

Mr. Rick Oates	State Forester 513 Madison Avenue Montgomery, AL 36104 Phone: (334) 240-9300 <a href="http://www.forestry.alabama.gov">www.forestry.alabama.gov</a>	
Mr. Gary Cole	Interim State Forester	April 2017
Mr. Dan Jackson	Acting State Forester	October 2016
Mr. Greg Pate	State Forester	June 2016