

APA-1
07/04

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 880 Department or Agency: Alabama Surface Mining
Commission

Rule No: 880-X-6A-.07

Rule Title: License Fee

 New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm
or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police
power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation
available that could adequately protect the public? No

Does the proposed rule have the effect of directly or
indirectly increasing the costs of any goods or services
involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public
than the harm that might result from the absence of the
proposed rule? No

Are all facets of the rulemaking process designed solely
for the purpose of, and so they have, as their primary effect,
the protection of the public? Yes
.....

Does the proposed rule have an economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is required to be
accompanied by a fiscal note prepared in accordance with subsection (f) of Section
41-22-23, Code of Alabama 1975.
.....

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer:



Date:

6/30/2010

(DATE FILED)
(STAMP)

APA-2
11/96

ALABAMA SURFACE MINING COMMISSION

NOTICE OF INTENDED ACTION

AGENCY NAME: Surface Mining Commission

RULE NO. & TITLE:

880-X-6A-07 License Fee

INTENDED ACTION: The Alabama Surface Mining Commission proposes to amend the above-listed rule.

SUBSTANCE OF PROPOSED ACTION: The proposed rule amendment will increase the fee charged for applying for a surface coal mining license.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Persons wishing to submit comments or suggestions concerning this rulemaking may do so in writing. If requested by one or more persons, a public hearing will be held on September 22, 2010 at 10:00 A.M. in the ASMC Hearing Room, Third Floor, 1811 Second Avenue (Pinnacle Bank Building), Jasper, Alabama. Written comments must be submitted no later than 4:30 p.m. on September 22, 2010, to:

Alabama Surface Mining Commission
Randall C. Johnson, Director
P. O. Box 2390
Jasper, Alabama 35502-2390

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

September 22, 2010

CONTACT PERSON AT AGENCY: Randall C. Johnson, Director


Director

Copies of the proposed regulations are available (either hard copy or on disc) at the Alabama Surface Mining Commission, 1811 Second Avenue, Second Floor, Pinnacle Bank Building, Jasper, Alabama.

APA-6
11/96

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No: 880

Department or Agency: Alabama Surface Mining Commission

Rule No: 880-X-6A-07

Rule Title: License Fee

 New X Amend Repeal Adopt by
Reference

 This rule has no economic impact.

 X This rule has an economic impact, as explained below:

1. **NEED/EXPECTED BENEFIT OF RULE:** This rule amendment is needed to carry out the mandate of Ala. Code §9-16-81(f) which requires the Commission to charge a fee in a reasonable amount to every applicant for a surface coal mining license. While the license application fee has remained unchanged for 26 years the costs to the Commission of reviewing and investigating license applications have increased substantially over this time. This rule amendment will allow the Commission to maintain and devote sufficient resources to timely and professionally review and investigate applications for surface mining licenses as contemplated by state law.

2. **COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:** The increased costs in license application fees will be more than offset by the benefits gained from having license applications processed in a more timely and efficient manner. This rule will provide additional needed funding of Commission services to allow the State of Alabama to maintain primacy from the federal government in direct enforcement of surface coal mining operations.

3. EFFECT OF THIS RULE ON COMPETITION: This rule should have no effect on competition. The license application fee applies uniformly to all surface coal mining operations and is a one-time fee.

4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED. This rule will have little to no impact on the cost of living and doing business. License application fees make up an insignificant amount of the cost to surface coal mining operators in the planning, preparation and obtaining of mining rights. The new rule will have no deterrent effect on coal operators seeking to obtain a surface coal mining license.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED: This rule should have no negative effect on employment.

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE: There are no additional costs associated with implementing or enforcing this rule amendment.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE: Both the short-term and long-term economic impact of this rule will be negligible. This is the first increase in the surface coal mining license application fee since 1982. Coal operators and citizens alike will benefit from the Commission having sufficient funds to timely review and investigate applications for a surface coal mining license.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON: This rule should result in an estimated annual increase of around \$10,000 in revenue needed for the Commission to adequately review surface coal mining license applications. The increase in the one-time license application fee should not impose an economic burden on any particular coal operator or on the coal industry as a whole.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH: The environment and public health will be positively effected by this rule. The increase in the license application fee will strengthen the ability of the Commission to perform timely and thorough reviews of license applications.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED: The increase sought in the license application fee is necessary to maintain adequate administrative review and staffing. A lack of adequate staffing would result in delay of review and approval of requested license applications negatively impacting the Alabama economy. A lack of adequate staffing would reduce enforcement of and compliance with surface coal mining reclamation laws having a negative effect on the environment and the public health.

880-X-6A-.07 License Fee. The initial fee for a license shall be:

(a) ~~\$1,000.00~~ \$2,500.00 and shall be submitted with the application and made payable to the Alabama Surface Mining Commission, ~~ex.~~

~~(b) A licensee with a valid license issued by the Alabama Surface Mining Reclamation Commission prior to the effective date of this Act and who intends to conduct surface coal mining and reclamation operations pursuant to this Act must submit a fee for such application of \$200.00 which fee shall be in lieu of the \$1,000.00 initial licensing fee.~~

Author: Randall C. Johnson

Statutory Authority: Code of Ala. 1975, §§9-16-81(f)(1).

History: Adopted on May 20, 1982.