

APA-2
11/96

ALABAMA SURFACE MINING COMMISSION

NOTICE OF INTENDED ACTION

AGENCY NAME: Surface Mining Commission

RULE NO. & TITLE:

880-X-5A-.35 Assessment of Costs

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

SUBSTANCE OF PROPOSED ACTION:

Substance of Proposed Action: The proposed rule amendment makes explicit that an award of fees and cost in contested cases arising under the Act may be assessed against any party other than a permittee or the regulatory authority only upon demonstration that such party initiated or participated in the proceeding in bad faith. Amendment of this rule is necessary to assure the state program meets the minimum requirements of federal law for continued approval of the state program.

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 **February 2, 2016** 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 **5:00 p.m.** on **February 4, 2016**, 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:

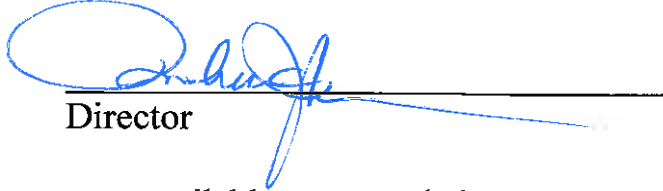
CHAPTER 880-X-5A SPECIAL RULES FOR HEARINGS AND APPEALS SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

880-X-5A-.35 Assessment Of Costs.

Whenever any order shall be issued under Section 10 or as a result of any administrative proceedings under the Act, at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) as determined by the Commission or, if no further appeal was taken, as determined by the DHA, to have been reasonably incurred by such person for or in connection with his participation in such proceedings, including any judicial review of the Commission's actions, may be assessed against either party as the final appellate body deems proper ~~pursuant to Section 10(i) of the Act and to Rule 54 of the Alabama Rules of Civil Procedure and Rule 35 of the Alabama Rules of Appellate Procedure~~, provided costs and expenses may be assessed against **any person in favor of the permittee or the regulatory authority** only upon demonstration that **the person** initiated or participated in such proceeding in bad faith for the purpose of harassing or embarrassing the permittee or the Regulatory Authority.

February 4, 2016

CONTACT PERSON AT AGENCY: Randall C. Johnson, Director



Director

Copies of proposed amendments are available at our website:

<http://surface-mining.alabama.gov/rulemakingnotice.htm>

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

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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-5A-.35

Rule Title: Assessment of Costs

 New X Amend Repeal Adopt by
Reference

 X This rule has no economic impact.

 This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:
3. EFFECT OF THIS RULE ON COMPETITION:
4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED.
5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

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:

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED: