

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-.08

Rule Title: Annual License Updates

         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          
.....

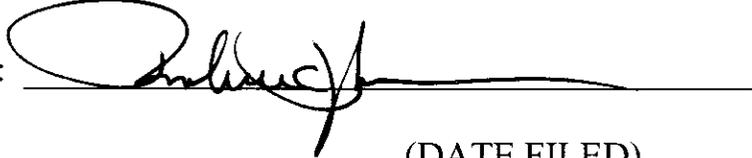
Does the proposed rule have an economic impact?         Yes        

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:

A handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to be "D. B. ...".

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-08 Annual License Updates

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

**SUBSTANCE OF PROPOSED ACTION:** The proposed rule amendment will revise procedures relating to the annual license update and increase the annual update fee.

**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-08

Rule Title: Annual License Updates

       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 an annual license update fee in a reasonable amount. Each surface coal mining licensee is required by statute to update license information annually. This rule amendment will allow the Commission to maintain and devote sufficient resources to timely and professionally review and investigate annual updates to 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 to licensees will be more than offset by the benefits gained from having annual license updates processed in a more timely and efficient manner.

3. **EFFECT OF THIS RULE ON COMPETITION:** This rule should have no effect on competition. The license update fee applies uniformly to all surface coal mining operations.

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. 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. Coal operators and citizens alike will benefit from the Commission having sufficient funds to timely review annual license updates.

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 \$25,000 in revenue needed for the Commission to adequately review surface coal mining license updates. The proposed \$500 license update 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 annual license update fee will strengthen the ability of the Commission to perform timely and thorough reviews of license updates.

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

update fee is necessary to comply with the statutory mandate of Code of Ala., §9-16-81(f)(1). Collection of this fee will assist the Commission in maintaining an adequate staffing level to review and enforce licensing requirements. Delay in review and enforcement of these statutory obligations would negatively impact 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-.08 Annual License Updates.** On or before January 1, ~~1983~~, and ~~on or before January 1~~ of each ~~ensuing~~ year, the State Regulatory Authority shall send by certified mail to each licensee at the address shown in the license file a renewal license update form (or the address of an internet site where the form may be obtained) which must be completed and returned to the State Regulatory Authority no later than the succeeding March 1 accompanied by a ~~\$100.00~~ \$500.00 annual renewal update fee. Such update shall address all the information originally submitted and revised if appropriate. Should the licensee fail to respond by returning the renewal update form, fully and accurately completed, the State Regulatory Authority shall notify the licensee of the delinquency by regular mail. The licensee shall have 30 days from the mailing of the delinquency notification to submit the fully and accurately completed license update and to pay the renewal update fee at a cost of \$100.00 plus a penalty of \$100.00. If the forms are not submitted and fees are not paid by that time, the license is automatically withdrawn and a Cessation Order shall be issued on all active permits of the licensee. and shall be null and void. A withdrawn license may be reinstated upon vote of the Commission at any regular or special meeting upon written request establishing that all license delinquencies, including the submission of the update form and the payment of all required fees, have been satisfied.

**Author:** Randall C. Johnson

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

**History:** Adopted on May 20, 1982. **Amended:**