

APA-1
07/04

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control No: 880 Department or Agency: Alabama Surface Mining Commission

Rule No: 880-X-8B-.07

Rule Title: Permit Fees

 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: 06/15/2017

(DATE FILED)
(STAMP)

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07/04

**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-8B-.07

Rule Title: Permit Fees

New Amend Repeal Adopt by Reference

This rule has no economic impact.

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 Code of Alabama 1975 §9-16-83(a) which requires the Alabama Surface Mining Commission to establish permit fees reflective of the anticipated costs of reviewing, administering, inspecting and enforcing surface coal mining permits. Permit fees have remained unchanged for the past nine years. The costs to the Alabama Surface Mining Commission of reviewing, administering, inspecting and enforcing permits has increased over this time. This rule will allow the Alabama Surface Mining Commission to maintain and devote sufficient resources to timely and professionally review, administer, inspect and enforce surface coal mining permits as contemplated by state and federal 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 permit fees will be more than offset by the benefits gained from having permit applications processed in a more timely and efficient manner. This rule will provide additional needed funding of Alabama Surface Mining Commission services to all the State of Alabama to maintain primacy from the federal government in direct administration, inspection and enforcement of surface coal mining operations in the State of Alabama.
3. **EFFECT OF THIS RULE ON COMPETITION:** This rule change should have no effect on competition. Permit fees apply 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 change will have little to no impact on the cost of living and doing business. Permit application and acreage fees make up an insignificant amount of the cost to surface coal mining operators in the planning, preparation and obtaining of surface coal mining rights. The rule changes will have no deterrent effect on surface coal mining operators seeking surface coal mining permits.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED: This rule change should have no negative affect on employment in the geographical area where it will be implemented.
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE: There should be no additional costs associated with implementing or enforcing this rule change.
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 should be negligible. This is the only increase in surface coal mining permit fees in the past 9 years and only the second increase in surface coal mining permit fees in the past 35 years. Surface coal mining operators and the citizens of the State of Alabama will benefit from the Alabama Surface Mining Commission having sufficient funds to timely review, approve, inspect and enforce surface coal mining permits and retain primary regulatory authority apart from the federal government to do so.
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 increase in Alabama Surface Mining Commission generated revenue needed for the Alabama Surface Mining Commission to adequately review, administer, inspect and enforce surface coal mining operation permits. The increase in permit fees 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: This proposed rule change should have a positive impact on the environment and public health. The increase in permit fees will strengthen the ability of the Alabama Surface Mining Commission to perform timely and thorough reviews of permit applications and permit revision applications. The increase in permit fees will also allow the Alabama Surface Mining Commission to continue to timely and adequately inspect and enforce the requirements of surface coal mining permits.
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED: The proposed rule change to increase permit fees is necessary to maintain adequate staffing at the Alabama Surface Mining Commission to review and enforce surface coal mining permits. A lack of adequate staffing and resources would result in delay of review and approval of requested permit applications and revisions, which would likely have a negative impact on the Alabama economy. The lack of adequate staffing and resources would also reduce the ability of the Alabama Surface Mining Commission to inspect and enforce compliance with the surface coal mining reclamation laws resulting in a negative impact on both the environment and the public health of the citizens of the State of Alabama.

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ALABAMA SURFACE MINING COMMISSION

NOTICE OF INTENDED ACTION

AGENCY NAME: Surface Mining Commission

RULE NO. & TITLE: 880-X-8B-.07 Permit Fees

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

SUBSTANCE OF PROPOSED ACTION: The proposed rule changes will increase the permit fees for the Alabama Surface Mining Commission.

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 Monday August 7, 2017 at 10:00 A.M. in the ASMC Hearing Room, Third Floor, 1811 Second Avenue (Pinnacle Bank Building), Jasper, Alabama 35501. Written comments must be submitted no later than 5:00 p.m. on August 7, 2017, to:

Alabama Surface Mining Commission
Johnathan E. Hall, Director
P. O. Box 2390
Jasper, Alabama 35502-2390

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: August 7, 2017

CONTACT PERSON AT AGENCY: Johnathan E. Hall, Director


Director

An electronic copy of the proposed rule changes are available at our website:

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

Copies of the proposed rule changes 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 35501.

880-X-8B-.07 Permits Fees.

Each application for a permit, and each application for a permit revision, renewal or transfer and each application for a coal exploration permit shall be accompanied by a nonrefundable fee consisting of a basic fee and an acreage fee. Applications for revisions to or transfers of a permit shall not require an additional acreage fee if no new acreage is added to the increment upon which operations are taking place. ~~The acreage fee shall be Thirty five Dollars (\$35.00) per acre for each acre in a permit. This acreage fee shall be paid prior to the initiation of operations on the permit or on an increment if increments are used. The acreage fee shall not be paid for acreage in an increment on which the fee has been previously paid, except that in the case of renewals, this fee shall be paid on all bonded acreage covered by the renewal.~~

The basic fee for a permit application is Five Thousand Dollars (\$5,000.00); the basic fee for a coal exploration permit application is Two Thousand Five Hundred Dollars (~~\$2,000.00~~\$2,500.00); the basic fee for a permit renewal application is One Two Thousand Five Hundred Dollars (~~\$1,000.00~~\$2,500.00); the basic fee for a permit transfer application is Two Five Hundred Dollars (~~\$200.00~~\$500.00); ~~and~~ the basic fee for a permit revision application involving only an incidental boundary revision is Five Hundred Dollars (\$500.00); the basic fee for a permit revision application involving an insignificant alteration to the mining and reclamation plan is One Thousand Five Hundred Dollars (\$1,500.00); and the basic fee for a permit revision application involving a significant alteration to the mining and reclamation plan is Three Thousand Dollars (\$3,000.00).

The initial acreage fee shall be Seventy-Five Dollars (\$75.00) per acre for each acre in a permit covered by a performance bond. The initial acreage fee shall be paid prior to the initiation of operations on the permit or on an increment if increments are used. In the case of permit renewals, the initial acreage fee shall be paid on all bonded acreage covered by the renewal.

Upon expiration of a permit, an annual acreage fee of Fifteen Dollars (\$15.00) per acre shall be paid on an annual basis for each acre covered by a performance bond as of October 1st of the year. This annual acreage fee for expired permits shall be paid by December 31st of each year.

The above fee shall be deposited to the Alabama Surface Mining Fund, to be expended by the Commission for the purposes of reviewing, administering, inspecting, and enforcing the permit.

Author: Randall C. Johnson; Johnathan E. Hall

Statutory Authority: Code of Ala. 1975, §§9-16-71, 73, 74, 75, 80, 81, 82, 83.

History: Original Filed May 20, 1982. **Amended:** Filed July 29, 2008; effective September 2, 2008.