

ALABAMA SURFACE MINING COMMISSION
ADMINISTRATIVE CODE

CHAPTER 880-X-6A
GENERAL REQUIREMENTS FOR LICENSING
GENERAL REQUIREMENTS FOR LICENSES AND LICENSE APPLICATION

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880-X-6A-.01 Scope. This Rule establishes general criteria for licenses and license application requirements.

Author:

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

History:

880-X-6A-.02 Objectives. The objectives of this Rule are to insure that all surface coal mining operations are conducted only by operators that have applied for and been issued a license in accordance with this Rule.

Author:

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

History:

880-X-6A-.03 Responsibility. It is the responsibility of any person who intends to conduct surface coal mining operations to apply for and be issued a license.

Author:

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

History:

880-X-6A-.04 Applicability. This Rule applies to any person who intends to conduct surface coal mining operations, except as excluded in Section 31 of the Act, in the State of Alabama.

Author:

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

History:

880-X-6A-.05 General Requirements.

(1) Any person intending to engage in surface coal mining operations after the effective date of the Act must:

(a) File with the Commission an application for a license in accordance with the provisions of this Rule, or

(b) Re-apply within 90 days of the effective date of the Act for a license if that person holds a license issued by the Alabama Surface Mining Reclamation Commission.

(2) The term of a license shall be continuous, subject to annual updating, and shall authorize the licensee, subject to other provisions of these Regulations and the Act, to engage in surface coal mining operations unless the license shall be suspended or revoked in accordance with the provisions of these regulations or the Act. Suspension, revocation or subcontracting shall in no way relieve the licensee of his obligation to comply with the reclamation requirements of these regulations or the Act.

Author:

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

History:

880-X-6A-.06 License Application Requirements. An applicant for a license shall file an application in a format prescribed by the Alabama Surface Mining Commission and where applicable the U. S. Department of Interior, Office of Surface Mining Reclamation and Enforcement which shall contain the following information, except that submission of a social security number is voluntary:

(a) A statement as to whether the applicant is a single proprietorship, partnership, corporation, association, or other business entity.

(b) The name, address, telephone number and, as applicable, social security number and employer identification number of the:

1. Applicant; and
2. Applicant's resident agent for service of legal process or notice;

(c) If appropriate, the names and addresses of any independent contractors, agents, or subsidiaries that may be engaged in surface coal mining operations on behalf of the applicant on land to be affected. If such contractors, agents, or subsidiaries are not known at the time of filing of the license application and subsequent to the filing such are engaged, they must be identified in writing to the Alabama Surface Mining Commission within thirty (30) days of their engagement. The utilization of an independent contractor, agent or subsidiary shall not relieve the licensee of its responsibility under these Regulations or the Act.

(d) For each person under the definition of "principal shareholder" and each person who owns or controls the applicant under the definition of "owned or controlled" and "owns or controls" in 880-X-2A-.06 as applicable:

1. The person's name, address, social security number and employer identification number;
2. The person's ownership or control relationship to the applicant, including percentage of ownership and location in organizational structure;
3. The title of the person's position, date position was assumed, and when submitted under 880-X-8K-.11(8), date of departure from the position;
4. Each additional name and identifying number, including employer identification number, Federal or State permit number, and MSHA number with date of issuance, under which the person owns or controls, or previously owned or controlled, a surface coal mining and reclamation operation in the United States within the five year preceding period;
5. The application number or other identifier of, and the Regulatory Authority for, any other pending surface coal

mining operation permit application filed by the person in any State in the United States.

(e) For any surface coal mining operation owned or controlled by either the applicant or by any person who owns or controls the applicant under the definition of "owned or controlled" and "owns or controls" in 880-X-2A-.06, the operation's:

1. Name, address, identifying numbers, including employer identification number, Federal or State permit number and MSHA number, the date of issuance of the MSHA number, and the Regulatory Authority; and

2. Ownership or control relationship to the applicant, including percentage of ownership and location in organizational structure.

(f) A statement of whether the applicant, any subsidiary, affiliate, or persons controlling, controlled by or under common control with the applicant, or any partner of the applicant, if the applicant is a partnership, or any principal officer or director if the applicant is a corporation, has ever held a Federal or any State mining permit which in the five-year period prior to the date of submission of the application has been suspended or revoked or has had a mining bond or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved.

(g) The applicant shall satisfy the Alabama Surface Mining Commission that it has the ability to comply with the provisions of the Act and these regulations by the following:

1. Demonstrate that it has available to it sufficient technical skill to assure compliance with the provisions of these regulations and the Act by a statement including, but not necessarily limited to, the following:

(i) Coal mining or related work history of key officers, partners, etc.

(ii) Coal mining or related work history of key employees, including reference to requirements for certified blaster and registered professional engineer and engineering laboratory work.

(iii) Any relevant information which demonstrates the applicant's ability to meet the technical requirements of the Act and regulations including the requirements of certification by a registered professional engineer, certified blaster, water

sampling and testing, and various hydrologic, geologic, and soil studies.

(iv) Particular reference to reclamation work at previous mining companies will be helpful where officers or partners have been in other companies.

2. Demonstrate sufficient financial responsibility to reasonably assure the Alabama Surface Mining Commission of the applicant's financial ability to execute the requirements of the Act and these regulations by a statement including, but not necessarily limited to, the following:

(i) Applicant's primary sources of financing.

(ii)(I) A current statement in letter form, certified by a certified public accountant or public accountant licensed to do business in the State of Alabama that the applicant has a net worth of not less than \$100,000. The statement must not be ambiguous, qualified, or otherwise vague. It must state the Alabama certificate or registration number of, and be signed by the certified public accountant or public accountant; or

(II) By demonstrating the applicant's ability to meet the bonding requirements in an amount of not less than \$1,000,000 by furnishing the Alabama Surface Mining Commission a current letter of commitment from a corporate surety qualified to do business in the State of Alabama to issue a bond in an amount of \$1,000,000 or greater; the letter shall include a signed power of attorney if signed by an agent of the surety.

3. Certify by notarized statement under oath that the applicant has read and is fully familiar with the provisions of the Act and with all reclamation requirements contained in the regulations promulgated by the Alabama Surface Mining Commission.

4. Certify that the applicant will obtain and will furnish the Alabama Surface Mining Commission evidence of having obtained such permits as may be required by other governmental agencies prior to commencing operation under any permit which may be issued under these regulations and the Act.

(h) Payment of all outstanding and delinquent fines, fees, penalties or other debts owed to the Alabama Surface Mining Reclamation Commission or the Alabama Surface Mining Commission by a prior licensee shall be paid in full to the Alabama Surface Mining Commission as a required element of a new license application which indicates common ownership or control with a previous licensee.

(i) Licenses may be granted with specific conditions or restrictions.

(j) The Alabama Surface Mining Commission shall have forty-five (45) days from the date of a completed application to investigate and to consider the application and issue the license or an order denying its issuance, setting out deficiencies and reasons why the license was not issued and what corrective actions should be taken.

(k) The issuance of a license does not authorize the licensee to engage in surface coal mining operations unless first the licensee has applied for and been issued a permit in accordance with Chapter 880-X-8 or unless the licensee will be engaged as an independent contractor, agent, or subsidiary of a permittee.

Author: Randall C. Johnson

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

History: May 20, 1982. **Amended:** September 12, 1991; effective June 10, 1992. **Amended:** Filed March 25, 1997; effective April 29, 1997. **Amended:** Filed July 27, 1998; effective August 31, 1998; operative January 3, 1999. **Amended:** Filed October 22, 2002; effective November 26, 2002; operative May 11, 2003.

Ed. Note: On December 4, 1998, the Office of Surface Mining approved this rulemaking adopted by the Commission on July 16, 1998. The effective date of this rule will be January 3, 1999.

Ed. Note: On January 16, 2003, the Office of Surface Mining approved the rule making adopted by the Commission on July 18, 2002. The effective date of this rule will be May 11, 2003.

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

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

Author: Randall C. Johnson

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

History: New Rule: Filed October 25, 2010; effective November 29, 2010; operative June 23, 2011.

Ed. Note: This rule shall become effective January 1, 2011 or 30 days after publication of approval by the U. S. Secretary of Interior in the Federal Register whichever occurs last as per certification filed October 25, 2010.

880-X-6A-.08 Annual License Updates. On or before January 1, of each year, the State Regulatory Authority shall send by certified mail to each licensee at the address shown in the license file a 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 \$500.00 annual update fee. Such update shall address all the information originally submitted and revised if appropriate. Should the licensee fail to respond by returning the 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 update fee. 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. 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, §§9-16-71, 73, 74, 75, 80, 81

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