

APA-1
07/04

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 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

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

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
.....

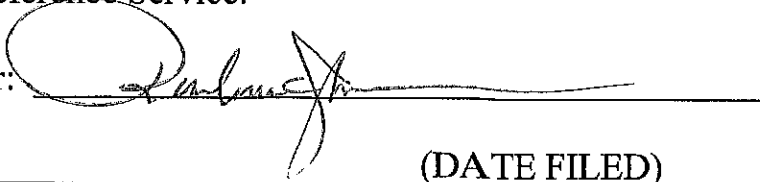
Does the proposed rule have an economic impact? No

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: 12/9/2015

(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-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:

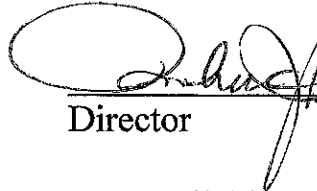
Persons wishing to submit comments or suggestions concerning this rulemaking may do so in writing. If requested by one or more persons, a public hearing will be held on **February 2, 2016** at **10:00 A.M.** in the ASMC Hearing Room, Third Floor, 1811 Second Avenue (Pinnacle Bank Building), Jasper, Alabama. 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:

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.

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-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:

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.