

ALABAMA SURFACE MINING COMMISSION  
ADMINISTRATIVE CODE

CHAPTER 880-X-8M  
SURFACE COAL MINING AND RECLAMATION OPERATIONS PERMITS AND COAL  
EXPLORATION PERMIT REVIEWS, REVISIONS, AND RENEWALS AND TRANSFER,  
SALE, AND ASSIGNMENT OF RIGHTS GRANTED UNDER PERMITS

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880-X-8M-.01      Scope.

This Rule establishes the requirements for -

(a) Revisions to and affirmative periodic review of permits  
previously issued by the State Regulatory Authority;

(b) Renewal of permits previously issued by the State  
Regulatory Authority; and

(c) Transfer, sale, or assignment of rights granted under  
permits previously issued by the State Regulatory Authority.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§9-16-71, 9-16-73,  
9-16-74, 9-16-75, 9-16-80, 9-16-81, 9-16-82, 9-16-83, 9-16-84,  
9-16-85, 9-16-86, 9-16-88, 9-16-90, 9-16-91, 9-16-92, 9-16-93,  
9-16-96.

**History:**

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### 880-X-8M-.02      Objectives.

The objectives of this Rule are to -

- (a) Provide procedures for the State Regulatory Authority to review, revise, and renew permits under these regulations; and
- (b) Provide procedures for transfer, sale, or assignment of rights granted in permits under a regulatory program.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§9-16-71, 9-16-73, 9-16-74, 9-16-75, 9-16-80, 9-16-81, 9-16-82, 9-16-83, 9-16-84, 9-16-85, 9-16-86, 9-16-88, 9-16-90, 9-16-91, 9-16-92, 9-16-93, 9-16-96.

**History:**

### 880-X-8M-.03      Responsibilities.

The State Regulatory Authority shall --

- (a) Ensure that permits are revised prior to changes in surface coal mining and reclamation operations;
- (b) Ensure that all permits are regularly reviewed to determine that surface coal mining and reclamation operations under these permits are conducted in compliance with the Act and these regulations;
- (c) Effectively review and act on applications to renew existing permits, in a timely manner, to ensure that surface coal mining and reclamation operations continue, if they comply with the Act and these regulations; and
- (d) Ensure that no person conducts surface coal mining and reclamation operations, through the transfer, sale, or assignment of rights granted under permits, without the prior approval of the State Regulatory Authority.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§9-16-71, 9-16-73, 9-16-74, 9-16-75, 9-16-80, 9-16-81, 9-16-82, 9-16-83, 9-16-84, 9-16-85, 9-16-86, 9-16-88, 9-16-90, 9-16-91, 9-16-92, 9-16-93, 9-16-96.

**History:**

**880-X-8M-.04      Definitions.**

The following terms are defined in Rule 880-X-2A-.06.

(a) Successor in interest; and

(b) Transfer, assignment, or sale of rights.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§9-16-71, 9-16-73, 9-16-74, 9-16-75, 9-16-80, 9-16-81, 9-16-82, 9-16-83, 9-16-84, 9-16-85, 9-16-86, 9-16-88, 9-16-90, 9-16-91, 9-16-92, 9-16-93, 9-16-96.

**History:**

**880-X-8M-.05      State Regulatory Authority Review Of Outstanding Permits.**

(1)(a) The State Regulatory Authority shall review each permit issued and outstanding under these regulations during the term of the permit. This review shall occur not later than the middle of the permit term and as required by Rules 880-X-8J-.04, 880-X-8J-.05, 880-X-8J-.07, and 880-X-8J-.09.

(b) For permits of longer than five year terms; a review of the permit shall be no less frequent than the permit midterm or every five years, whichever is more frequent.

(2) After this review, the State Regulatory Authority may, by order, require reasonable revision or modification of the permit provisions to ensure compliance of the Act and these regulations.

(3) Copies of the decision of the State Regulatory Authority shall be sent to the permittee.

(4) Any order of the State Regulatory Authority requiring revision or modification of permits shall be based upon written findings and shall be subject to the provisions for administrative and judicial review of Rule 880-X-8L.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§9-16-71, 9-16-73, 9-16-74, 9-16-75, 9-16-80, 9-16-81, 9-16-82, 9-16-83, 9-16-84, 9-16-85, 9-16-86, 9-16-88, 9-16-90, 9-16-91, 9-16-92, 9-16-93, 9-16-96.

**History:**

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### 880-X-8M-.06      Permit Revisions.

(1) A revision to a permit shall be obtained --

(a) For changes in the surface coal mining or reclamation operations described in the original application and approved under the original permit, when such changes constitute a significant departure from the method of conduct of mining or reclamation operations contemplated by the original permit. The State Regulatory Authority shall provide parameters to determine what changes shall constitute significant departures as used herein.

(b) When required by an order issued under Rule 880-X-8M-.05;

(c) In order to continue operation after the cancellation or material reduction of the liability insurance policy, capability of self-insurance, performance bond, or other equivalent guarantee upon which the original permit was issued; or

(2) The application for revision shall be filed in accordance with the following:

(a) The permittee shall submit the application to the State Regulatory Authority within the time provided for by Rule 880-X-8B-.05 (2) (c);

(b) The scale or extent of permit application information requirements and procedures, including notice and hearings, applicable to revision requests shall be as provided in the Act and these regulations. Any application for a revision which proposes significant alterations in the operations described in the materials submitted in the application for the original permit under Rules 880-X-8D, 880-X-8E, 880-X-8F, 880-X-8G, 880-X-8H, 880-X-8I, or 880-X-8J or in the conditions of the original permit, shall, at a minimum, be subject to the requirements of Rules 880-X-8K and 880-X-8L.

(3) The State Regulatory Authority shall approve or disapprove the complete application for revision, in accordance with the requirements of Rule 880-X-8K.

(4) Any extensions to the area covered by a permit, except for incidental boundary revisions, shall be made by application for a new permit and shall not be approved under this Rule.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§9-16-71, 9-16-73, 9-16-74, 9-16-75, 9-16-80, 9-16-81, 9-16-82, 9-16-83, 9-16-84,

9-16-85, 9-16-86, 9-16-88, 9-16-90, 9-16-91, 9-16-92, 9-16-93,  
9-16-96.

**History:**

**880-X-8M-.07      Permit Renewals.**

(1) General. A valid permit, issued pursuant to an approved regulatory program, shall carry with it the right of successive renewal, within the approved boundaries of the existing permit, upon expiration of the term of the permit.

(2) Application requirements and procedures.

(a) An application for renewal of a permit shall be filed with the Regulatory Authority at least 120 days before expiration of the existing permit term.

(b) An application for renewal of a permit shall be in the form required by the Regulatory Authority and shall include at a minimum --

1. The name and address of the permittee, the term of the renewal requested, and the permit number or other identifier;

2. Evidence that a liability insurance policy or adequate self-insurance under Chapter 880-X-9 will be provided by the applicant for the proposed period of renewal;

3. Evidence that the performance bond in effect for the operation will continue in full force and effect for any renewal requested, as well as any additional bond required by the regulatory authorities pursuant to Chapter 880-X-9;

4. A copy of the proposed newspaper notice and proof of publication of same, as required by Section 880-X-8K-.05; and

5. Additional revised or updated information required by the Regulatory Authority.

(c) Applications for renewal shall be subject to the requirements of public notification and public participation contained in Section 880-X-8K-.05 and Section 880-X-8K-.12.

(d) If an application for renewal includes any proposed revisions to the permit, such revisions shall be identified and subject to the requirements of Section 880-X-8M-.06.

(3) Approval Process.

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(a) Criteria for approval. The Regulatory Authority shall approve a complete and accurate application for permit renewal, unless it finds, in writing that --

1. The terms and conditions of the existing permit are not being satisfactorily met;
2. The present surface coal mining and reclamation operations are not in compliance with the environmental protection standards of the Act and the regulatory program;
3. The requested renewal substantially jeopardizes the operator's continuing ability to comply with the Act and the regulatory program on existing permit areas;
4. The operator has not provided evidence of having liability insurance as required in Chapter 880-X-9;
5. The operator has not provided evidence that any performance bond required to be in effect for the operation will continue in full force and effect for the proposed period of renewal, as well as any additional bond the Regulatory Authority might require pursuant to Chapter 880-X-9; or
6. Additional revised or updated information required by the Regulatory Authority has not been provided by the applicant.

(b) Burden of proof. In the determination of whether to approve or deny a renewal of a permit, the burden of proof shall be on the opponents of renewal.

(4) Renewal term. Any permit renewal shall be for a term not to exceed the period for the original permit established under 880-X-8K-.12.

(5) Notice of decision. The Regulatory Authority shall send copies of its decision to the applicant, to each person who filed comments or objections on the renewal, to each party to any informal conference held on the permit renewal, and to OSM if OSM is not the Regulatory Authority.

(6) Administrative and judicial review. Any person having an interest which is or may be adversely affected by the decision of the Regulatory Authority shall have the right to administrative and judicial review set forth in Subchapter 8L.

**Author:** Randall C. Johnson

**Statutory Authority:** Code of Ala. 1975, §§9-16-71 et seq.

**History:** Original Filed November 14, 1989; effective March 7, 1991.

880-X-8M-.08 (Not Used).

Author:

Statutory Authority:

History:

880-X-8M-.09 (Not Used).

Author:

Statutory Authority:

History:

880-X-8M-.10 (Not Used).

Author:

Statutory Authority:

History:

880-X-8M-.11 Transfer, Assignment, or Sale Of Permit Rights.

(1) General. No transfer, assignment, or sale of rights granted by a permit shall be made without the prior written approval of the Regulatory Authority.

(2) Application requirements. An applicant for approval of the transfer, assignment, or sale of permit rights shall --

(a) Provide the Regulatory Authority with an application for approval of the proposed transfer, assignment, or sale including --

1. The name and address of the existing permittee and permit number or other identifier;

2. A brief description of the proposed action requiring approval; and

3. The legal, financial, compliance, and related information required by Section 880-X-8D and 880-X-8G for the applicant for approval of the transfer, assignment, or sale of permit rights.

(b) Advertise the filing of the application in a newspaper of general circulation in the locality of the operations involved, indicating the name and address of the applicant, the permittee, the permit number or other identifier, the

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geographic location of the permit, and the address to which written comments may be sent;

(c) Obtain appropriate performance bond coverage in an amount sufficient to cover the proposed operations, as required under Chapter 880-X-9.

(3) Public participation. Any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Regulatory Authority within thirty (30) days after the last publication of the newspaper notice required by paragraph (2) (b) of this section.

(4) Criteria for approval. The Regulatory Authority may allow a permittee to transfer, assign, or sell permit rights to a successor, if it finds in writing that the successor --

(a) Is eligible to receive a permit in accordance with Section 880-X-8K-.10(2) and (3).

(b) Has submitted a performance bond or other guarantee, or obtained the bond coverage of the original permittee, as required by Chapter 880-X-9.

(5) Notification.

(a) The Regulatory Authority shall notify the permittee, the successor, commenters, and OSM, if OSM is not the Regulatory Authority, of its findings.

(b) The successor shall immediately provide notice to the Regulatory Authority of the consummation of the transfer, assignment, or sale of permit rights.

(6) Continued operation under existing permit. The successor in interest shall assume the liability and reclamation responsibilities of the existing permit and shall conduct the surface coal mining and reclamation operations in full compliance with the Act, the regulatory program, and the terms and conditions of the existing permit, unless the applicant has obtained a new or revised permit as provided in this subchapter.

**Author:** Randall C. Johnson

**Statutory Authority:** Code of Ala. 1975, §9-16-107.

**History:**

**880-X-8M-.12**      **(Not Used)**.

**Author:**

**Statutory Authority:**

**History:**



880-X-8M-.13

**Requirements For New Permits For Persons  
Succeeding To Rights Granted Under A Permit.**

(1) A successor in interest to a permittee who is able to obtain the bond coverage of the original permittee may continue surface coal mining and reclamation operations according to the approved mining and reclamation plan and permit of the original permittee.

(2) Pursuant to Rule 880-X-8M-.12(3)(c), any successor in interest seeking to change the conditions of mining or reclamation operation, or any of the terms or conditions of the original permit shall --

(a) Make application for a new permit under Rules 880-X-8B - 880-X-8L, if the change involves conducting operations outside the original permit area; or

(b) Make application for a revised permit under Rule 880-X-8M-.06.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§9-16-71, 9-16-73, 9-16-74, 9-16-75, 9-16-80, 9-16-81, 9-16-82, 9-16-83, 9-16-84, 9-16-85, 9-16-86, 9-16-88, 9-16-90, 9-16-91, 9-16-92, 9-16-93, 9-16-96.

**History:**