

APA1
07/04

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 281 Department or Agency: Department of Commerce

Rule No. 281-6-1-.05

Rule Title: Allocations Of Port Credits

 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? N/A

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? N/A

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 5/19/2017

(DATE FILED)
(STAMP)

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Alabama Department of Commerce

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Commerce

RULE NO. & TITLE: 281-6-1-.05 Allocations Of Port Credits
281-6-1-.07 Port Credits Awarded By Project Agreement

INTENDED ACTION: Amend rules.

SUBSTANCE OF PROPOSED ACTION: The Department of Commerce proposes to amend rules for the award and administration of the Port Credit created under the Alabama Renewal Act as codified at Title 40, Chapter 18, Article 18 of Code of Alabama 1975. The amendment will:

1. Correct a scrivener's error in Rule 281-6-1-.07 which conflicts with the plain language of the governing statute, Code of Alabama § 40-18-403(e)(3) and will also clarify the intent of that statute, and
2. Clarify in both Rules 281-6-1-.05 and 281-6-1-.07 that a port facility user which receives port credits cannot claim more port credits than are approved by the Commission.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested parties may submit their views either orally or in writing to the Department of Commerce, 401 Adams Avenue, Suite 670, Montgomery, AL 36104, at any time prior to the date specified below, which is more than thirty-five (35) days following the publication of this notice.

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

CONTACT PERSONS AT AGENCY:

Taylor Nichols
401 Adams Avenue, Suite 749
Montgomery, Alabama 36104
(334) 353-2568



Greg Canfield
Secretary of Commerce

5/19/2017

Date

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**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 281 Department or Agency: Alabama Department of Commerce

Rule No: 281-6-1-.05

Rule Title: Alabama Renewal Act-Port Credit

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:**
The amendment of these rules is intended to allow the Alabama Department of Commerce to effectively administer the Port Credit created under the Alabama Renewal Act as codified at Title 40, Chapter 18, Article 18 of the Code of Alabama 1975. The amendment will:
 1. **Clarify that a port facility user which receives port credits cannot claim more port credits than are approved by the Commission.**
2. **COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE: These rules as amended are expected to provide for the effective administration of the Port Credit created under the Alabama Renewal Act as codified at Title 40, Chapter 18, Article 18 of Code of Alabama 1975.**
3. **EFFECT OF THIS RULE ON COMPETITION: There is anticipated to be no effect on competition within the State of Alabama from the amendment to the rule.**
4. **EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED: There is anticipated to be no effect on the cost-of-living or doing business within the State of Alabama from the amendment to the rule.**
5. **EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED: There is anticipated to be no effect on employment within the State of Alabama from the amendment to the rule.**

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:
Revenue for implementation of the rule is from an application fee paid by applicants, which will not be affected by the 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:
There is anticipated to be no change in economic impact within the State of Alabama from the amendment to the rule.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE / QUANTITATIVE BENEFITS AND BURDEN COMPARISON:
N/A

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
None.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
None.

281-6-1-.05 Allocations Of Port Credits.

- (a) Port credit allocations are awarded by the Commission pursuant to procedures adopted by the Commission.
- (b) Awards of port credit allocations by the Commission are conditional. Credits are earned based upon actual cargo volume transiting the applicable port facility during the port credit incentive period and subsequent certification of actual cargo volume, all in compliance with the Act and these regulations. Once earned, port credits may be carried forward to future years as provided in the Act. Unearned port credits revert to the State.
- (c) A port facility user which is awarded port credits pursuant to the Act shall not be entitled to claim more port credits than are approved by the Commission for that port facility user.

Author: Department of Commerce

Statutory Authority: Code of Ala. 1975, §§40-18-401, 40-18-402(l), 40-18-403.

History: New Rule: Filed February 2, 2017; effective March 19, 2017. Amended: