



APA-2  
07/04

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:

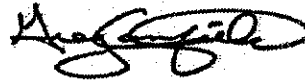
1. Correct a scrivener's error in Rule 281-6-1-.07 which conflicts with the plain language of the governing statute, Code of Alabama § 40-18-403(e)(3) and will also clarify the intent of that statute, and
2. Clarify in both Rules 281-6-1-.05 and 281-6-1-.07 that a port facility user which receives port 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



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Greg Canfield  
Secretary of Commerce

5/19/2017

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Date

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07/04

**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-.07

Rule Title: Alabama Renewal Act-Port Credit

       New   X   Amend        Repeal        Adopt by Reference

       This rule has no economic impact.

  X   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. **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 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-.07 Port Credits Awarded By Project Agreement.

- (a) Section 40-18-403(e) of the Code provides that port credits may be allocated by the Governor and awarded by the Commission pursuant to a project agreement between the State and a port facility user. Award of port credits pursuant to a project agreement is an alternative method of seeking port credits for manufacturing new warehouse or new distribution facility projects, either of which invests investing at least \$20,000,000 at a single site and creates creating at least 75 net new jobs in Alabama. To the extent this section conflicts with other sections in this chapter, the provisions of this section shall control the process for obtaining port credits by project agreement.
- (b) A port facility user seeking port credits for a project by project agreement may notify the Department of Commerce of its project utilizing the process outlined in Section 41-9-202.1 of the Code and include in their notification a request for an allocation of port credits; however, this notification process is not a mandatory prerequisite to obtaining port credits by project agreement.
- (c) Port facility users seeking an award of port credits by project agreement shall file an application with the Commission on a form prescribed by the Commission for project agreement port credits prior to any Commission meeting but not in conjunction with a notification under subsection (b) of this Section.
- (d) The Commission shall approve the actual port credit per unit of cargo volume applicable to each project agreement, subject to execution and delivery of a project agreement. After reviewing each application, the Commission shall impose application fees for each application for port credits by project agreements on a case-by-case basis, and shall specify the applicable fee in its award of port credits to a port facility user. Approval of port credits may be made conditional on payment of the application fee.
- (e) Notwithstanding Commission approval, a port facility user shall only become eligible to earn port credits by project agreement upon execution and delivery of a project agreement between the State and the port facility user.
- (f) A port facility user which is awarded port credits by project agreement 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, 40-18-403.

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