

ALABAMA DEPARTMENT OF COMMERCE  
ADMINISTRATIVE CODE

CHAPTER 281-6-1  
ALABAMA RENEWAL ACT - PORT CREDIT

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**281-6-1-.01**     Definitions. In addition to the definitions contained in Section 40-18-400 of the Code of Alabama 1975, the following words and phrases used in Title 40, Chapter 18, Article 18 shall have the following meanings:

(1)           ACT. The Alabama Renewal Act, codified at Title 40, Chapter 18, Article 18 of the Code.

(2)           BASE CARGO VOLUME PERIOD. The 365-day period ending on the last day of the month immediately preceding the month in which an application for port credits is postmarked; provided that project agreements awarding port credits may specify a different Base Cargo Volume Period.

(3)           CODE. The Code of Ala. 1975, as amended.

(4)           PORT CREDIT INCENTIVE PERIOD. The 365-day period designated by an applicant on its application as the twelve-month period in which it its eligible to earn port credits as approved by the Commission; provided that the port credit incentive period shall begin no earlier than the first day of the month immediately following the date of the application and shall begin no later than ninety days following the date of the application. Notwithstanding the foregoing, project agreements awarding port credits may specify a port credit incentive period beginning on any date.

(5) PORT OF ENTRY. A port facility located in the State that is described in 19 C.F.R. §101.3(b)(1).

(6) PUBLICLY OWNED. A facility located in the State that is owned by the State, an agency of the State, a public corporation, a municipality, a county or any combination thereof.

**Author:** Department of Commerce

**Statutory Authority:** Code of Ala. 1975, §40-18-402(1).

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

**281-6-1-.02 Inland Ports.**

(a) Publicly owned facilities seeking designation as an inland port must apply to the Commission for official designation as an inland port.

(b) A facility seeking designation as an inland port shall apply in writing on letterhead of the entity seeking designation and shall include the following information regarding the facility:

1. The owner of the facility
2. The address of the facility
3. Name of authorized contact person
4. Email address of authorized contact person
5. Telephone number of authorized contact person for facility
6. Boundaries of the physical area seeking designation
7. Narratives describing the following:
  - (i) The facility's vision to facilitate and process international and domestic trade,

(iii) The facility's plan for strategic investment in multi-modal transportation assets, and

(iii) The facility's plan for promoting value-added services as goods move through the facility and the supply chain.

(c) A facility seeking designation as an inland port may include such supporting documentation as it deems necessary or desirable.

(d) Applications should be submitted to the Commission in care of;

Alabama Department of Commerce  
401 Adams Avenue, Suite 670  
P.O. Box 304106  
Montgomery, Alabama 36130-4106  
Attn: Deputy Secretary of Commerce  
Business Development Division

(e) The Commission shall notify the applicant in writing of its decision when made.

**Author:** Department of Commerce

**Statutory Authority:** Code of Ala. 1975. §§40-1-401, 40-18-402(1), 40-18-403.

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

**281-6-1-.03 Base Cargo Volume.**

(a) Calculations of base cargo volume shall be supported by records from the applicable port facility confirming the total amount of cargo volume for the applicable base cargo volume period, unless the applicant will be a new user of the port facility. In the case of a new user of a port facility, the applicant's base cargo volume shall be the amount specified in Section 40-18-400(1)b. of the Code.

(b) Only cargo that is owned by the port facility user at the time the port facility is used may be included in the calculation of base cargo volume.

**Author:** Department of Commerce

**Statutory Authority:** Code of Ala. 1975, §§40-18-401, 40-18-402(1), 40-18-403.

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

**281-6-1-.04      Applications; Fees.**

(a) Port facility users seeking to obtain port credits may file an application on a form prescribed by the Commission.

(b) Applications will be accepted on any date on or after September 1, 2016 until no additional port credits are available.

(c) Applications shall be accompanied by an application fee in the amount set forth in the application. Application fees are nonrefundable.

(d) Applications are deemed filed on the date they are postmarked.

**Author:** Department of Commerce

**Statutory Authority:** Code of Ala. 1975, §§40-18-401, 40-18-402(1), 40-18-403.

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

**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(1), 40-18-403.

**History: New Rule:** Filed February 2, 2017; effective March 19, 2017. **Amended:** Filed July 18, 2017; effective September 1, 2017.

**281-6-1-.06      Certification Of Actual Cargo Volume.**

(a) Within 90 days of the end of the Port Credit Incentive Period, the port facility user shall file certification of cargo volume on a form prescribed by the Commission. Certifications postmarked after this date shall be subject to a late certification fee in an amount equal to the port facility user's application fee.

(b) Calculations of actual cargo volume shall be supported by records from the applicable port facility confirming the total amount of cargo volume for the applicable base cargo volume period.

(c) Only cargo that is owned by the port facility user at the time the port facility is used may be included in the calculation of actual cargo volume.

**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.

**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 new warehouse or new distribution facility projects, either of which invests at least \$20,000,000 at a single site

and creates 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:** Filed July 18, 2017; effective September 1, 2017.