

APA-1
07/04

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency The Alabama Department of Transportation
Rule No. 450-8-1
Rule Title: Private Toll Facilities
New _____ Amend X 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 *John B. Gypelitis Jr.*
Date 3/18/13

(DATE FILED)
(STAMP)

APA-2
07/04

ALABAMA DEPARTMENT OF TRANSPORTATION

NOTICE OF INTENDED ACTION

AGENCY NAME:

The Alabama Department of Transportation

RULE NO. & TITLE:

450-8-1, Private Toll Facilities

INTENDED ACTION:

The Alabama Department of Transportation proposes to repeal Chapter 450-8-1.

SUBSTANCE OF PROPOSED ACTION:

ALDOT proposes to repeal Chapter 450-8-1 because licensing of a private toll facility is not a rule. The criteria and format is better addressed as a request for proposal bid or other selection process.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

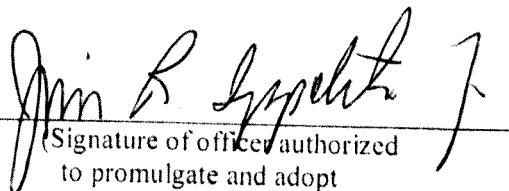
Public Hearing at 9:00 a.m. - 11:00 a.m. on May 3, 2013, at the Alabama Department of Transportation, Central Office, Conference Room 5, 1409 Coliseum Blvd., Montgomery, Alabama 36110, and an opportunity to present comments in writing to Jim Ippolito, Legal Bureau, 1409 Coliseum Blvd., Montgomery, Alabama 36110 by 11:00 a.m., May 3, 2013.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

May 3, 2013, 11:00 a.m.

CONTACT PERSON AT AGENCY:

Jim R. Ippolito, Jr., Chief Counsel, ALDOT Legal Bureau, 1409 Coliseum Boulevard, Montgomery, AL 36110


(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

ALABAMA DEPARTMENT OF TRANSPORTATION
ADMINISTRATIVE CODE

OFFICE ENGINEER DIVISION
CHAPTER 450-8-1
PRIVATE TOLL FACILITIES

TABLE OF CONTENTS

450-8-1-.01 Private Toll Facilities

450-8-1-.01. Private Toll Facilities. Repealed.

(1) Alabama Act No. 2000-216 authorizes the Department of Transportation to license any individual, group of individuals, partnership, corporation, association, or any other legal entity to establish or operate toll roads, bridges, ferries or causeways in the State of Alabama. This rule establishes the procedures and requirements for the solicitation, receipt and evaluation of proposals for the design, construction, operation and maintenance of private toll facilities.

(2) As used in this rule, the following words and phrases shall have the following meanings:

(a) "Agreement"-a memorandum of understanding executed by the Alabama Department of Transportation and an individual, group of individuals, partnership, corporation, association or any other legal entity to implement the purpose of Alabama Act No. 2000-216, and this rule.

(b) "Applicant"-individual, group of individuals, partnership, corporation, association, or any other legal entity that applies to the Department pursuant to this rule and Alabama Act No. 2000-216 for a license to construct, operate and maintain a toll facility in Alabama.

(c) "Department"-the Alabama Department of Transportation.

(d) "Director"-the chief executive officer of the Alabama Department of Transportation.

(e) "Proposal," "Proposed Project," or "Proposed Facility,"-documents prepared in accordance with this rule and submitted by an individual, individuals, partnership, corporation, association or any other legal entity to the Department for the purpose of obtaining a license to establish and operate a private toll facility.

(f) "Toll Proposal Review Committee"-Department staff selected by the Director to review a proposal, proposed project or proposed facility submitted by an applicant.

(3) The Department may accept proposals for a potential privately constructed, operated and maintained toll facility through Department solicitation. Proposals will be solicited by appropriate advertisement as determined by the Director. The time for accepting proposals will be stated in the advertisement.

(4) A proposal submitted to the Department shall be delivered as provided in the advertisement.

(5) Proposals submitted to the Department shall be in the following format:

(a) Proposals shall be typed in proportionally spaced typeface no smaller than 14-point. The text shall be double-spaced. There are no page limitations for the proposals. All pages shall be consecutively numbered including indexes and appendices. Proposals shall be presented in a three-ring binder(s), no smaller than 3 inches, consecutively numbered. All proposals shall include a cover letter containing a brief description of the applicant's qualifications and a brief summary of the information contained in the proposal. The proposal shall include a Table of Contents, with a designation of each item presented in the proposal, including the cover letter, and the information required in paragraph (6) of this rule. References to the pages upon which these items appear shall be included in the Table of Contents. The proposal shall be formatted in the order set out in paragraph (6) of this rule.

(b) An original and 4 copies of the proposal shall be submitted.

(6) All proposals submitted to the Department must contain the following information:

(a) Applicant name, mailing address, street address, telephone and facsimile number and electronic mail address if applicable.

(b) Description of the ownership and form of legal entity with supporting documents.

(c) Identification of the proposed project, including the following:

1. Description of the location of the project, including identification of the proposed route, alignment and any connector roads that may be necessary.

2. Estimated cost of designing, constructing, operating and maintaining the project, as appropriate.

3. Demonstration of financial capability to complete all aspects of project, including a financial plan for designing, constructing, operating and maintaining the project.

4. A construction schedule for each phase of the work, and a timeframe for completion of project.

5. Description of the operation and ownership of the facility, including an organizational hierarchy and an estimate of personnel and operating costs for the proposed facility.

6. Description of the extent and type of toll collections proposed and traffic data and projections.

7. Description of responsibilities for maintenance of the project.

8. A plan and information regarding acquisition of performance bonds and liability insurance and amounts.

9. Description of any extraordinary or unusual utility concerns.

10. Description of the proposed arrangements for support services such as law enforcement, fire and emergency personnel and cooperative agreements with other governmental entities.

11. Description of the applicant's experience and qualifications to perform the project, including a description of any prior similar projects.

12. A summary of litigation within the last five (5) years involving the applicant, and as applicable, key individuals, corporate officers, corporation, association, partnership or company.

13. A statement regarding the need for the proposed toll facility and a description of the benefits it would provide to the public.

14. A statement concerning the environmental impact of the proposed toll facility based on available environmental documents, studies and information.

15. A statement concerning any and all monetary benefits directly received by or accruing to the state.

(7) Proposals shall contain the following certifications:

(a) The construction of the project will meet all current and applicable Department manuals, regulations, guidelines and the current Alabama Department of Transportation Standard Specifications for Highway Construction.

(b) The acquisition of right-of-way will be accomplished through the exercise of the State's power of eminent domain.

(c) The design of the project shall meet current AASHTO standards.

(d) The applicant and, as applicable, its corporate officers, controlling partners, key individuals, association, corporation or company has not been barred from participation in any federal-aid highway project and has not been convicted of any felony in the past ten (10) years.

(8) Proposals will be reviewed by the Toll Proposal Review Committee based on the information provided in the applicant's proposal as enumerated in paragraphs (6) and (7) of this rule. The Review Committee will make a recommendation to the Director who will make the final decision concerning the selection of a proposal. The Department reserves the right to terminate evaluation of one or more of the submitted proposals and to reject any and all submitted proposals at any time.

(9) If the Department selects an applicant for a proposed project, it will issue a license to the applicant for the construction, operation and maintenance of the selected project. The license agreement will grant the applicant the right to construct, maintain and operate a toll road and/or bridge in the State of Alabama and retain toll revenues collected from its use. A project agreement will be negotiated and executed between the Department and the applicant. The project agreement will address project design, preliminary engineering, planning, procurement of right-of-way and acquisition of property, financial planning, environmental studies, utility relocation, and all other necessary elements and requirements of the proposal. The project agreement will provide that the applicant reimburse the Department for any services provided by the Department, including procurement

of right-of-way. The licensee shall be responsible for all National Bridge inspections and/or certifications as required under applicable laws and regulations and shall furnish evidence of same to the appropriate agencies.

(10) All material submitted in accordance with this rule becomes the property of the Department.

Author: Jim R. Ippolito, Jr., Chief Counsel

Statutory authority: Code of Ala. 1975 §§ 23-1-59, 23-1-81.

History: Filed September 30, 1982. Repealed: Filed _____ 2013.