

APA-1  
11/96

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 420 Department or Agency Alabama Department of Public Health

Rule Number 420-3-20-.04

Rule Title Permits

       New XXXX Amend        Repeal        Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare or safety? Yes

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? n/a

Are all facts 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 §41-22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been 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 Fabrica Shie Date 9/18/2014

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FORM APA2  
11/96

**STATE BOARD OF HEALTH  
NOTICE OF INTENDED ACTION**

AGENCY NAME: Alabama Department of Public Health

RULE NUMBER AND TITLE: 420-3-20-.01, General Provisions.  
423-3-20-.02, Adoption by Reference.  
420-3-20-.03, Special Provisions.  
420-3-20-.04, Permits.  
420-3-20-.05, Inspections.  
420-3-20-.06, Examination and Condemnation of Food.  
420-3-20, Appendix A.

INTENDED ACTION: Amend Chapters 420-3-20-.01, 420-3-20-.02, 420-3-20-.03, 420-3-20-.04, 420-3-20-.05, 420-3-20-.06, 420-3-20 Appendix A.

SUBSTANCE OF PROPOSED ACTION: Update Code of Federal Regulations adopted by reference from 2009 version to 2013 version; specify priority levels for inspection and reinspection frequencies.

TIME, PLACE, AND MANNER OF PRESENTING VIEWS: A public hearing will be held at 10:00 a.m. October 28, 2014, at the Alabama Department of Public Health, RSA Tower, Suite 1540, 201 Monroe Street, Montgomery, AL 36104.

FINAL DATE FOR COMMENTS AND COMPLETION OF NOTICE: Written or oral comments will be received until the close of the record at 5:00 p.m. on November 4, 2014. All comments and requests for copies of the proposed amendments should be addressed to the contact person listed below.

CONTACT PERSON AT AGENCY: Ronald Dawsey, Division of Food, Milk, and Lodging, Bureau of Environmental Services, Department of Public Health, 201 Monroe Street, Suite 1250, Montgomery, Alabama 36104. Telephone number (334) 206-5375.

  
Pat Ivie, Agency Secretary

**420-3-20-.04 Permits.**

**(1) General.** It shall be unlawful for any person to operate a food processing establishment unless such person possesses a valid permit issued by the Health Officer for the operation of such establishment. Only persons who comply with the provisions of these rules shall be entitled to receive and retain such a permit. Permits shall not be transferable with respect to person, food processing establishment, or location. The permit shall be kept posted in a conspicuous place within the food processing establishment, but shall remain the property of the Health Department.

**(2) Issuance of permits.**

(a) Any person desiring to operate a food processing establishment shall make written application for a permit on forms provided by the Department. Such application shall include the name and address of each applicant, the location and type of the proposed food processing establishment, and the signature of each applicant. The permits shall be applied for and issued on forms prescribed by the Board. Permits shall automatically expire on the date upon which state, county, and municipal annual privilege licenses expire or on a date designated by the Health Officer, and shall be renewable each year upon written application from the permit holder within 90 days prior to the stated date of expiration and upon compliance with these rules.

(b) Prior to approval of an application for a permit, the Health Officer shall inspect the proposed food processing establishment or review the most recent twelve months inspection history to determine compliance with the requirements of these rules.

(c) The Health Officer may issue a permit to the applicant if his or her inspection or review of the inspection history reveals that the proposed food processing establishment complies with the requirements of these rules.

(d) It shall be unlawful for the operator of a food processing establishment to distribute products in commerce if the operator does not possess a valid permit.

(e) The Department is hereby authorized to function as a clearinghouse for information concerning compliance of Alabama food processing establishments which distribute products in intercounty or interstate commerce.

(f) The Health Officers of recipient counties are hereby authorized to prohibit the sale and distribution of all products from any food processing establishment located outside their jurisdiction which does not hold a valid permit.

**(3) Permit denials, suspensions, and revocations.** The Health Officer's denial, suspension, and/or revocation of a permit shall be governed by the Alabama

Administrative Procedure Act, Code of Ala. 1975, § 41-22-1, et seq., and the State Board of Health's Rules for Hearing of Contested Cases, Chapter 420-1-3, Ala. Admin. Code.

**(4) Hearings.** Contested case hearings shall be provided in accordance with the Alabama Administrative Procedure Act, Code of Ala. 1975, § 41-22-1, et seq., and the State Board of Health's Rules for Hearing of Contested Cases, Chapter 420-1-3, Ala. Admin. Code. Informal settlement conferences may be conducted as provided in the State Board of Health's Rules for Hearing of Contested Cases, Chapter 420-1-3, Ala. Admin. Code.

**(5) Suspension of permits.** Permits may be temporarily suspended by an emergency order of the Health Officer for a permit holder's failure to comply with one or more requirements of these rules that pose an imminent hazard to the public's health.

**(6) Revocation of permits.** The Health Officer may, after providing opportunity for hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for interference with the Health Officer in the performance of his or her duties or for failure to comply with the provisions of a notice of permit suspension issued pursuant to Rule 420-3-20-.04(5).

**(7) Application after revocation.** Whenever the revocation of a permit has become final, the holder of the revoked permit may make written application for a new permit after 90 days from the date of revocation.

**(8) Service of notice.** A notice provided for in these rules is properly served when it is delivered to the permit holder or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the permit holder. A copy of the notice shall be filed in the records of the Health Officer.

**Author:** Ronald Dawsey

**Statutory Authority:** Code of Ala. 1975, §§ 22-2-2(6), 22-20-5.

**History:** Filed March 23, 1984. Amended: Filed November 19, 1987. Repeal and replace filed November 19, 2010; effective date December 24, 2010.