

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-.06

Rule Title Examination and Condemnation of Food

 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 *Patricia Brie* Date 9/18/2014

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-.06 Examination and Condemnation of Food.

- (a) Food may be examined or sampled by the Health Officer as often as necessary for enforcement of these rules.
- (b) The Health Officer may, upon written notice to the owner or person in charge of the establishment and specifying with particularity the reason therefore, place a hold order on any food which he or she believes to be in violation of these rules. The Health Officer shall tag, label, or otherwise identify any food subject to the hold order.
- (c) No food subject to a hold or do not sell order shall be used or moved from the establishment. The Health Officer shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public's health, in which case the food shall be destroyed in accordance with Code of Ala. 1975, § 22-10-3.
- (d) The hold or do not sell order shall state that a request for hearing may be filed within 15 days and that if no hearing is requested, the food shall be destroyed. If a request for hearing is received, the hearing shall be held in accordance with the Board's Rules for Hearing Contested Cases.
- (e) Nothing in these rules shall be construed to prevent the Health Officer from imposing additional requirements to protect against a potential health hazard, including removing from sale or distribution in commerce a potentially adulterated food, or misbranded or mislabeled food, when, in his/her opinion, such additional requirements are necessary to protect public health.

Author: Ronald Dawsey

Statutory Authority: Code of Ala. 1975, 22-2-2(6), 22-10-1 et seq., 22-20-5.

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