

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-.05

Rule Title Inspections

 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 Johnnie Blue 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-.05 Inspections.

(1) Inspection frequency. Food processing establishments shall be inspected:

(a) ~~At least four times each year with a maximum lapse of 120 days between inspections for those food processing establishments which have a potentially hazardous food as their final food product.~~ At least two times each year with a maximum lapse of 210 days between inspections for Priority Category 1 food processing establishments.

(b) ~~At least two times each year with a maximum lapse of 210 days between inspections for those food processing establishments which have a non-potentially hazardous food as their final food product.~~ At least four times each year with a maximum lapse of 120 days between inspections for Priority Category 2 food processing establishments.

(c) Establishments with less than a satisfactory compliance level on the most recent inspection as evidenced by observations of ten or more enumerated violations shall be inspected again within ~~30~~ 10 days.

(d) Legal notices shall be issued when ~~critical~~ priority items including: food source and condition; potentially hazardous food temperatures; facilities to maintain product temperature; failure to follow a HACCP plan when such plan is required by these rules; infected persons; good hygienic practices; sanitization; water supply; sewage; cross connections, back-siphonage and back-flow; toilet and handwashing facilities; vermin control; and toxic items are violated. Necessary reinspections shall be made in accordance with Rule 420-3-20-.05(4).

~~(d)~~ (e) Additional inspections of food processing establishments shall be performed as often as necessary for the enforcement of these rules.

(2) Access. The Health Officer, after proper identification, shall be permitted to enter any food processing establishment at any reasonable time for the purpose of making inspections to determine compliance with these rules. The Health Officer shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed, copy records if necessary as part of an inspection or investigation, and to make photographs for documentation purposes.

(3) Report of inspections. Whenever an inspection of a food processing establishment is made, the findings shall be recorded on the inspection report form prescribed by the Board. Inspection remarks shall be written to reference, by rule number, the rule violated and shall state the corrections to be made. The original of the inspection report form shall be conspicuously displayed for public view within the establishment. A copy of the inspection report shall be filed with

the records of the County Health Department. The completed inspection report form is a public document that shall be made available for public disclosure.

(4) Correction of violations.

(a) The complete inspection report form shall specify a reasonable period of time for the correction of the violations found; and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

1. If an imminent health hazard exists, such as extended interruption of electrical or water service, complete lack of refrigeration, complete lack of hot water under pressure when required for sanitary operation, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health, the establishment shall immediately cease operations. Operations shall not be resumed until authorized by the Health Officer. *A permit holder need not discontinue operations in an area of an establishment if, in the opinion of the Health Officer, the area is unaffected by the imminent health hazard.*

2. Violations of critical priority items shall be corrected as soon as possible, but in any event, within 10 days following the inspection.

3. All other items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

~~4. When the sanitary condition of the establishment is substantially less than satisfactory, the establishment shall initiate corrective action on all identified violations within 48 hours.~~

(b) The inspection report shall state that failure to comply with any time limits to take corrective actions may result in a proposed suspension or revocation of the permit.

(c) A deviation from a required HACCP plan that has been corrected, with the corrective action documented by the time of the inspection, is not considered a violation. This allowance does not preclude the Health Officer from taking necessary action under 420-3-20-.06 if potentially contaminated food has entered commerce.

(5) Surveys and training. The Department shall make Food Processing Establishment Sanitation Surveys and Program Evaluations as deemed necessary by the Board. The survey shall be made in accordance with these rules, and the results shall be incorporated in the Annual Alabama Public Health Report. The Department shall provide education and training in food processing

establishment sanitation; in standardized inspection techniques; in enforcement procedures; and issue rule interpretations as needed.

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.