

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 80 Department or Agency Department of Agriculture and Industries
Rule No.: 80-10-21-.31
Rule Title: Criminal Background Check

_____ New X 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 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 action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? _____ No _____

Does the proposed rule have any 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 Services Agency.

Signature of certifying officer _____


Date: 2/11/2022

REC'D & FILED
FEB 11 2022
LEGISLATIVE SVC AGENCY

APA-2

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
Plant Protection

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Agriculture and Industries

Rule NO. & TITLE: 80-10-21-.31 Criminal Background Check

INTENDED ACTION: To amend rule.

SUBSTANCE OF PROPOSED ACTION: To comply with the United States Department of Agriculture (USDA) 2018 Farm Bill requirements.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Views may be presented in writing to the contact person below or in person on Tuesday, May 10, 2022, at 10:00 a.m., in the Board Room of the Richard Beard Building, 1445 Federal Drive, Montgomery, Alabama, 36117.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: May 10, 2022.

CONTACT PERSON AT AGENCY: N. Gunter Guy, Jr., General Counsel, Department of Agriculture and Industries, 1445 Federal Drive, Montgomery, Alabama 36107-1123, Telephone No. (334) 240-7117.

2/11/2022
Date



Rick Pate
Commissioner of Agriculture
and Industries

80-10-21-.31 Criminal Background Check

(1) Each licensed grower, processor, handler, university representative or applicant shall undergo and pay for an annual criminal background check.

(2) A licensed grower, processor, handler or applicant shall, following completion of the background check, ensure delivery of the report to the department ~~not more than fourteen (14) days after the application deadline.~~ according to application instructions.

(3) The department shall not accept a report from a criminal background check that is dated more than 60 days prior to the application submission date.

(4) Failure to submit the background check by the deadline stated in subsection (2) of this section shall be grounds for license denial.

(5) Substitution of a signing authority shall require approval from the department and the submission of a current criminal background check on the signing authority.

(6) A license shall not be issued unless the criminal background check submitted with the license application confirms that all key participants to be covered by the license have not been convicted of a felony, under State or Federal law, relating to a controlled substance with the past ten (10) years; provided however, that an exception applies to a person who was lawfully growing Hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before that date. If the licensee is an entity, all Key Participants of the entity are subject to this requirement.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §2-8-383

History: New Rule: Filed November 15, 2018; effective December 30, 2018. **Repealed and New Rule:** Published August 31, 2020; effective October 15, 2020; operative November 1, 2020. **Amended:** Filed: November 10, 2021, effective: January 14, 2022. **Amended:**