

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control _____ Department or Agency: Dept. of Labor

Rule No. 480-1-2-.02

Rule Title: Petition for Declaratory Ruling

_____ New X Amend _____ 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? NO

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 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 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 Services Agency.

Signature of certifying officer Stephen McConick

Date 6-15-18

(DATE FILED)
(STAMP)

APA-2

Department of
Labor

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF LABOR

RULE NO. & TITLE: 480-1-2-.02 Petition for Declaratory Ruling

INTENDED ACTION: Amendment.

SUBSTANCE OF PROPOSED ACTION: To amend the above section under the Administrative Procedures to update certain administrative provisions for the Alabama Department of Labor.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested persons may submit data, views, or arguments in writing to Stephen McCormick, Department of Labor, 649 Monroe Street, Montgomery, Alabama 36131 by mail or in person between the hours of 8:00 am and 4:30 pm, Monday through Friday until and including August 06, 2018. Persons wishing to submit data, views or arguments orally should contact Stephen McCormick by telephone at (334) 242-8274 during this period to arrange an appointment.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: August 06, 2018

CONTACT PERSON AT AGENCY:

Stephen McCormick
Department of Labor
649 Monroe Street
Montgomery, AL 36131
Telephone: (334) 242-8274

Stephen McCormick

Stephen McCormick
Director, Governmental Affairs

ALABAMA DEPARTMENT OF LABOR
ADMINISTRATIVE CODE

CHAPTER 480-1-2
ADMINISTRATIVE PROCEDURE

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480-1-2-.02 Petition For Declaratory Ruling.

(1) A Declaratory Ruling is a formal written ruling issued to members of the public by the Department with respect to the validity of a rule or with respect to the applicability to any person, property or state of facts of any rule or statute enforceable by it or with respect to the meaning and scope of any order of the Department.

(a) A Declaratory ruling is binding on the Department and the person requesting it unless it is altered or set aside by a court in a proper proceeding.

(b) Such rulings are subject to review in the Circuit Court of Montgomery County, unless otherwise specifically provided by statute, in the manner provided in Code of Ala. 1975, §41-22-12 for the review of decisions in contested cases.

(c) Nothing herein shall prevent any individual from seeking informal advise on any pertinent subject from the

Department.

(2) A petition for a Declaratory Ruling may be filed by any person substantially affected.

(3) A petition for a declaratory ruling shall adhere to the form described below. Petitions not in substantial compliance with the prescribed form shall be returned to the petitioner for correction.

(a) The 45 day time limit described in Code of Ala. 1975, §41-22-11(b), shall start with the receipt of the petition, in proper form, by the Department.

(b) Petition shall be on white paper, 8 1/2" x 11" in size with no reverse side entries. The original and three legible copies shall be filed with the Department.

(c) The petition shall be delivered by personal service or First Class Mail to the Alabama Department of Labor, ATTN: Administrative Procedure Secretary, Room 543 2209, ~~Industrial Relations Building~~, 649 Monroe Street, Montgomery, Alabama 361301.

~~ALABAMA DEPARTMENT OF LABOR
649 Monroe Street
Montgomery, Alabama 36130~~

PETITION FOR DECLARATORY RULING

IN RE: THE PETITION OF _____ DOCKET NO. _____
(state petitioner's name) (filled in by department)

FOR A DECLARATORY RULING ON _____
(state rule number, statute for which interpretation sought, etc.)

(d) The body petition shall be set out in numbered paragraphs as follows:

1. Petitioner's name:
2. Petitioner's full address:
3. All rules or statutes that may be involved in the petition, if known:
4. Clear and concise statement of the precise factual situation involved:
5. The exact question to which an answer is desired:

6. The reasons for submitting the petition:
7. Full disclosure of the petitioner's interest:
8. Statement as to whether the petitioner's case is presently under consideration by the Department or in any pending proceeding:
9. Subscription and verification by the petitioner before a notary public:

(4) Upon receipt of a petition for a declaratory ruling the Administrative Procedure Secretary shall enter the date of receipt of the petition and the docket number and notify the petitioner of receipt of petition, the date and the docket number.

(5) The Department may then:

1. Notify the petitioner that no declaratory ruling will be issued;

2. Immediately issue a declaratory ruling;

3. Forward the petition to the proper office for investigation to determine if a ruling should be issued and, if so, receive the recommended contents of such a ruling;

4. If the Department deems it necessary, a hearing officer shall be requested to schedule a hearing as promptly as possible for the submission of testimony by the petitioner and reasonable notification given to all interested persons of the time and place for such a hearing; or

5. If the Department deems it necessary, the petitioner may be requested to submit a written brief concerning the petition.

(a) If a hearing is conducted a transcript shall be given to the applicable office which will then forward it's recommendations or a recommended ruling. The Department shall, upon due consideration of the evidence and recommendations and within 45 days of the request for such ruling:

1. Issue a binding declaratory ruling; or

2. Notify the petitioner that no declaratory ruling will be issued and the reasons therefor.

(b) If no hearing is conducted, the Department shall, after receiving the recommendation of the applicable office and within 45 days from the receipt of the petition:

1. Issue a binding declaratory ruling; or

2. Notify the petitioner that no ruling will be issued.

(6) All declaratory rulings shall be issued by the Department. A declaratory ruling shall have the same status as an order rendered in a contested case and shall be final for purposes of appeal and judicial review. Failure to issue a declaratory ruling within 45 days of the request of such ruling shall constitute a denial of the request and shall be subject to judicial review.

(7) A declaratory ruling shall not be issued:

1. On a petition which seeks the immediate payment or non-payment of benefits under the Alabama Unemployment Compensation Law;

2. If petitioned for by a person not a party to the contested case if the matter is involved in a contested case.

3. On matters in litigation.

Author: W. F. Willett, Jr.; Stephen C. McCormick
Statutory Authority: Code of Ala. 1975, §25-2-8.
History: Amended: Filed June 15, 2018; effective: