

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control _____ Department or Agency: Dept. of Labor
Rule No. 480-1-4-.06
Rule Title: Subpoenas and Depositions.
 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 McCormick

Date 6-15-18

(DATE FILED)
(STAMP)

APA-2

Department of
Labor

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF LABOR

RULE NO. & TITLE: 480-1-4-.06 Subpoenas and Depositions.

INTENDED ACTION: Amendment.

SUBSTANCE OF PROPOSED ACTION: To amend the above section under the Hearings and Appeals Chapter to update certain obsolete verbiage.

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 480-1-4
HEARINGS AND APPEALS

TABLE OF CONTENTS

480-1-4-.01	Repealed
480-1-4-.02	Authority Of A Hearing Officer
480-1-4-.03	Duties And Disqualifications Of Hearing Officers
480-1-4-.04	Conduct Of Hearings
480-1-4-.05	Representation
480-1-4-.06	Subpoenas And Depositions
480-1-4-.07	Withdrawals
480-1-4-.08	Identification Of Interested Parties
480-1-4-.09	Scheduling And Notice Of Hearing
480-1-4-.10	Postponements, Default, Consent Orders And Agreed settlements
480-1-4-.11	Decision And Notice Of Decision
480-1-4-.12	Filing Of An Appeal
480-1-4-.13	Telephone Hearings

480-1-4-.06 Subpoenas And Depositions.

(1) Upon a proper request by either party or an intervenor, the Hearing Officer may issue a subpoena to compel the attendance of a witness or witnesses or may command the person to whom it is directed to produce designated books, papers, documents or tangible things which constitute or contain matters within the scope of the examination. Whether a subpoena shall be issued shall rest within the sound discretion of the Hearing Officer and may be denied if it is frivolous or otherwise unnecessary or if the request is unreasonable or oppressive. Subpoenas for witnesses shall not exceed four (4) in number except upon an affirmative showing that a greater number is required for the proper presentation of a case. A request for a subpoena duces tecum shall set forth with particularity the documents or things to be produced and the identity of the custodian. All requests for subpoenas shall include addresses sufficient for personal service and service by certified mail.

(a) Subpoenas issued by the Hearing Officer shall be served by certified mail or by any authorized officer of the Department of Industrial Relations. No fee shall be allowed for

such personal service.

(b) Subpoenas issued by the Hearing Officer shall be enforceable according to the provisions of Code of Ala. 1975, §25-4-97.

(2) Witnesses subpoenaed for any hearing before a Hearing Officer shall be paid witness and mileage fees by the Department of Industrial Relations in accordance with the following schedule: \$7.50 per day while in attendance and mileage reimbursement at the current state mileage reimbursement rate ~~fifteen cents (.15)~~ per mile for each mile to and from their place of residence by the usually traveled routes. Under no circumstances shall a party to a hearing or an intervenor be granted witness fees.

(a) Witness fees and mileage shall be claimed no later than the time of hearing and shall be certified to by the witness and approved by the Hearing Officer.

Authors: George Cocoris, C. Lamon Till, Venessa Watkins

Statutory Authority: Code of Ala. 1975, §25-2-8.

History: Effective September 30, 1982. **Amended:** Filed June 15, 2018; effective