

875—5.21(88) Decisions of hearing examiner.

5.21(1) *Proposed findings of fact, conclusions, and rules or orders.* Within ten days after receipt of notice that the transcript of the testimony has been filed or such additional time as the hearing examiner may allow, each party may file with the hearing examiner proposed findings of fact, conclusions of law, and rule or order, together with supporting briefs served on all other parties, and refer to all portions of the record and to all authorities relied upon in support of each proposal.

5.21(2) *Decision.* Within a reasonable time after the time allowed for the filing of proposed findings of fact, conclusions of law, and rule or order, the hearing examiner will issue a decision that will be reviewed and countersigned by the commissioner. The commissioner will serve the decision upon each party, and the decision is final upon the twentieth day after service thereof. The decision will include: (1) a statement of findings and conclusions, with reasons and bases therefor, upon each material issue of fact, law, or discretion presented on the record, and (2) the appropriate rule, order, relief or denial thereof.

5.21(3) *Grant of a special variance.* The grant of a special variance is renewable upon review by the commissioner at six-month intervals beginning on the date the decision becomes final under subrule 5.21(2). If at the time of the review the commissioner finds that there has been a change in the standard, rule, or regulation or a change in the interpretation of such standard, rule or regulation of the federal agency or the division of labor services affecting or resolving the conflict on which the special variance was granted, the commissioner will set the case for an evidentiary hearing in accordance with rules 875—5.14(88) through 875—5.21(88). Enforcement is stayed during review and hearing procedures under this rule.

Affected employees shall be notified by their employer of a renewal or a refusal to renew by: (1) giving a copy of the commissioner's notice to the authorized employee representative; (2) posting a copy of the commissioner's notice at the place or places where notices to employees are normally posted; and (3) other appropriate means.

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