

191—3.27(17A) Appeals and review by the commissioner of proposed decisions.

3.27(1) Any adversely affected party may appeal a proposed decision to the commissioner within 30 days after issuance of the proposed decision.

3.27(2) The division may initiate review of a proposed decision on its own motion at any time within 30 days following issuance of such a decision.

3.27(3) An appeal of a proposed decision is initiated by filing a timely notice of appeal with the commissioner. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The proposed decision or order appealed from;
- b. The parties initiating the appeal;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The grounds for relief; and
- e. The relief sought.

3.27(4) On appeal from a proposed decision of a presiding officer, the issues shall be limited to those raised before the presiding officer. No new issues will be considered for the first time on appeal.

3.27(5) On appeal, a party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within ten days of service of the notice of appeal. The commissioner may remand a case to the presiding officer for further hearing or the commissioner may preside at the taking of additional evidence.

3.27(6) The commissioner shall issue a schedule for consideration of the appeal.

3.27(7) Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Any written requests to present oral argument shall be filed with the briefs. The commissioner may resolve the appeal on the briefs or provide an opportunity for oral argument. The commissioner may shorten or extend the briefing period as appropriate.

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