

## **CHAPTER 33-22-06**

### **REOPENING - REHEARING - REVIEW**

#### **Section**

33-22-06-01	Petition to Reopen
33-22-06-02	Petition for Rehearing
33-22-06-03	Appeal

#### **33-22-06-01. Petition to reopen.**

At any time after the conclusion of a hearing, but before entry of the final order by the department, any party to a proceeding may file with the department a petition to reopen the proceeding for the purpose of taking additional evidence.

1. Such petition shall set forth clearly the facts claimed to constitute the grounds requiring reopening of the proceeding, including the material changes of fact or law alleged to have occurred since the conclusion of the hearing.
2. A copy of the petition to reopen shall be served by the petitioning party upon all parties to the proceedings or their attorneys of record, and a certificate to that effect will be attached to the petition when filed with the department.
3. Within ten days following the service of any petition to reopen, any other party to the proceeding may file with the department the party's answer thereto. Any party not filing such answer is in default thereof and shall be deemed to have waived any objection to the granting of such petition.

If, after the hearing in a proceeding, either before or after the issuance of its final order, or if no hearing has been held, only after the issuance of its final order, the department shall have reason to believe the conditions of fact or law have so changed as to require, or that public interest requires, the reopening of such proceeding, the department will issue an order for the reopening of the proceeding. The department shall act on any petition to reopen within ten days of receipt thereof and may, in its discretion, hear oral argument on any such petition.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-14, 28-32-15, 28-32-16, 28-32-17, 28-32-18, 28-32-19, 28-32-20, 28-32-21

#### **33-22-06-02. Petition for rehearing.**

1. Petition for rehearing of a proceeding must be filed within fifteen days after a copy of the final order has been sent to the petitioning party by the department.
2. The petition shall state concisely the alleged errors in the department's decision or order and the specific grounds relied upon by the petitioner. If an order of the department is sought to be vacated, reversed, or modified by reason of matters that have arisen since the hearing and decision or order, or by reason of a consequence that would result from the compliance therewith, the matters relied upon by the petitioner shall be set forth in the petition.
3. A petition for rehearing shall be served by the petitioner upon all parties to the proceeding or to their attorneys of record.
4. Within ten days following the service of such petition, any party to the proceeding may file with the department the party's answer thereto. Any party not filing such an answer is in default thereof and shall be deemed to have waived any objection to the granting of such petition.

5. The department shall act on any petition for rehearing within ten days of receipt thereof and may, in its discretion, hear oral argument on such petition.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-14, 28-32-15, 28-32-16, 28-32-17, 28-32-18, 28-32-19, 28-32-20, 28-32-21

### **33-22-06-03. Appeal.**

Any party to a proceeding conducted pursuant to this article or other provisions of North Dakota Century Code chapter 28-32 shall have the right of appeal, in the manner provided in North Dakota Century Code chapter 28-32, from any adverse ruling by the department. Such appeal shall not be a trial de novo but shall be limited to the hearing record and to those issues specified in North Dakota Century Code section 28-32-19.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-15, 28-32-16, 28-32-17, 28-32-18, 28-32-19, 28-32-21