

more than three pages) of its position on the issues. If the administrative law judge (or the Board) approves the stipulation, the administrative law judge (or the Board) will set a time for the filing of briefs. In proceedings before an administrative law judge, no further briefs shall be filed except by special leave of the administrative law judge. In proceedings before the Board, answering briefs may be filed within 14 days, or such further period as the Board may allow, from the last date on which an initial brief may be filed. No further briefs shall be filed except by special leave of the Board. At the conclusion of the briefing schedule, the judge (or the Board) will decide the case or make other disposition of it.

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Dated, Washington, DC, December 21, 2001.

By direction of the Board.

**John J. Toner,**

*Executive Secretary, National Labor Relations Board.*

[FR Doc. 02-80 Filed 1-4-02; 8:45 am]

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## NATIONAL LABOR RELATIONS BOARD

### 29 CFR Part 102

#### Procedural Rules Eliminating Requirement to File Extra Copies of Unfair Labor Practice Charges and Representation Petitions With the National Labor Relations Board

**AGENCY:** National Labor Relations Board.

**ACTION:** Final rule.

**SUMMARY:** The National Labor Relations Board is revising its rules that govern filing extra copies of unfair labor practice charges and representation petitions with the Board. The revisions are being adopted in order to relieve persons filing charges and petitions from the requirement of having to file extra copies which, as a practical matter, the Board no longer needs. The intended effect of the revisions is to relieve members of the public of paperwork burdens without adversely affecting case processing.

**EFFECTIVE DATE:** February 6, 2002.

**FOR FURTHER INFORMATION CONTACT:** John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570. Telephone: (202) 273-1936.

**SUPPLEMENTARY INFORMATION:** At present, the rules of the National Labor Relations Board (NLRB) provide that

parties filing unfair labor practice charges (section 102.11, 29 CFR 102.11), petitions for certification or decertification (section 102.60(a), 29 CFR 102.60(a)), and petitions for referendum under 29 U.S.C. sec. 9(e)(1) of the National Labor Relations Act (section 102.83, 29 CFR 102.83) must file an original and at least four additional copies of such charges or petitions. Although the number of copies required has changed slightly over the years, the requirement to file extra copies of charges and petitions dates to the inception of the NLRB in 1936, a time predating modern photocopy methods. In those days, extra copies were required in order to facilitate service of those documents by the Board on other parties as well as for the Board to maintain extra copies that its staff needed when processing the charges or petitions. Upon receipt of the charge or petition, a Board employee would assign a case number to the incoming document, stamp that number on each of the copies, and then serve or distribute those copies as needed.

At the present time, Regional Offices of the Board generally find that it is simpler and more cost-efficient just to enter the date and the number of the case on the original of the filed charge or petition and then photocopy that document for service and distribution. This practice was implicitly recognized when the Board's Rules were amended in 1995 to permit filing charges and petitions by facsimile transmission and not to require extra copies filed in that manner, beyond the requirement to send in a signed original in addition to the document filed by facsimile. The amendments the Board is now making remove the requirements to file extra copies of charges or petitions filed in any manner.

Finally, in reviewing this proposal, we found that we had omitted to include in § 102.83 a reference to the requirement that persons who file petitions covered by that section by facsimile transmission shall also file an original for the Agency's records. We now amend § 102.83 to include that reference.

#### Executive Order 12866

The regulatory review provisions of Executive Order 12866 do not apply to independent regulatory agencies. However, even if they did, the proposed changes in the Board's rules would not be classified as "significant rules" under Section 6 of Executive Order 12866, because they will not result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers,

individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required.

#### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$ 100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### Regulatory Flexibility Act

Because no notice of proposed rule-making is required for procedural rules, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) pertaining to regulatory flexibility analysis do not apply to these rules. However, even if the Regulatory Flexibility Act were to apply, the NLRB certifies that these rules will not have a significant economic impact on a substantial number of small business entities as they merely relieve members of the public of an unnecessary requirement to file extra copies of charges or petitions with the NLRB.

#### Paperwork Reduction Act

These rules are not subject to Section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501) since they do not contain any new information collection requirements.

#### Small Business Regulatory Enforcement Fairness Act

Because these rules relate to Agency procedure and practice and merely modify the agency's filing procedures, the Board has determined that the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801) do not apply.

#### List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

To relieve members of the public of the unnecessary burden of filing extra copies of charges or petitions with the NLRB, the Board amends 29 CFR part 102 as follows:

## PART 102—RULES AND REGULATIONS, SERIES 8

1. The authority citation for 29 CFR part 102 continues to read as follows:

**Authority:** Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117 also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.11 is revised to read as follows:

### § 102.11 Forms; jurat; or declaration.

Such charges shall be in writing and signed, and either shall be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments or shall contain a declaration by the person signing it, under the penalty of perjury that its contents are true and correct (see 28 U.S.C. Sec. 1746). One original of such charge shall be filed. A party filing a charge by facsimile pursuant to § 102.114(f) shall also file an original for the Agency's records, but failure to do so shall not affect the validity of the filing by facsimile, if otherwise proper.

3. Section 102.60(a) is revised to read as follows:

### § 102.60 Petitions.

(a) *Petition for certification or decertification; who may file; where to file; withdrawal.*—A petition for investigation of a question concerning representation of employees under paragraphs (1)(A)(i) and (1)(B) of section 9(c) of the Act (hereinafter called a petition for certification) may be filed by an employee or group of employees or any individual or labor organization acting in their behalf or by an employer. A petition under paragraph (1)(A)(ii) of section 9(c) of the Act, alleging that the individual or labor organization which has been certified or is being currently recognized as the bargaining representative is no longer such representative (hereinafter called a petition for decertification), may be filed by any employee or group of employees or any individual or labor organization acting in their behalf. Petitions under this section shall be in writing and signed, and either shall be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments or shall contain a declaration by the person signing it, under the penalty of perjury, that its contents are true and correct (see 28

U.S.C. Sec. 1746). One original of the petition shall be filed. A person filing a petition by facsimile pursuant to § 102.114(f) shall also file an original for the Agency's records, but failure to do so shall not affect the validity of the filing by facsimile, if otherwise proper. Except as provided in § 102.72, such petitions shall be filed with the Regional Director for the Region wherein the bargaining unit exists, or, if the bargaining unit exists in two or more Regions, with the Regional Director for any of such Regions. Prior to the transfer of the case to the Board, pursuant to § 102.67, the petition may be withdrawn only with the consent of the Regional Director with whom such petition was filed. After the transfer of the case to the Board, the petition may be withdrawn only with the consent of the Board. Whenever the Regional Director or the Board, as the case may be, approves the withdrawal of any petition, the case shall be closed.

\* \* \* \* \*

4. Section 102.83 is revised to read as follows:

### § 102.83 Petition for referendum under section 9(e)(1) of the Act; who may file; where to file; withdrawal.

A petition to rescind the authority of a labor organization to make an agreement requiring as a condition of employment membership in such labor organization may be filed by an employee or group of employees on behalf of 30 percent or more of the employees in a bargaining unit covered by such an agreement. The petition shall be in writing and signed, and either shall be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments or shall contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. One original of the petition shall be filed with the Regional Director wherein the bargaining unit exists or, if the unit exists in two or more Regions, with the Regional Director for any of such Regions. A person filing a petition by facsimile pursuant to § 102.114(f) shall also file an original for the Agency's records, but failure to do so shall not affect the validity of the filing by facsimile, if otherwise proper. The petition may be withdrawn only with the approval of the Regional Director with whom such petition was filed, except that if the proceeding has been transferred to the Board, pursuant to § 102.67, the petition may be withdrawn only with the consent of the Board.

Upon approval of the withdrawal of any petition the case shall be closed.

Dated, Washington, DC, December 21, 2001.

By Direction of the Board.

**John J. Toner,**

*Executive Secretary, National Labor Relations Board.*

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Parts 1912 and 1912a

RIN 1218-AC04

#### Advisory Committees

**ACTION:** Final rule; amendments to procedural rules.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) is amending its rules governing membership on advisory committees to clarify that the Secretary has the discretion to remove and replace an advisory committee member at any time. The advisory committee rules, including the rules dealing with the tenure of members, are rules of agency organization, practice, or procedure, for which public notice and comment are not required.

**DATES:** These amendments are effective January 7, 2002.

**FOR FURTHER INFORMATION CONTACT:** Bonnie Friedman, OSHA Office of Public Affairs, U. S. Department of Labor, 200 Constitution Avenue, N.W., Room N3647, Washington, DC 20210, phone (202) 693-1999.

**SUPPLEMENTARY INFORMATION:** Section 7(a)(1) of the Occupational Safety and Health Act, 29 U.S.C. 656(a)(1), establishes a National Advisory Committee on Occupational Safety and Health (NACOSH). The purpose of NACOSH is to "advise, consult with, and make recommendations to the Secretary [of Labor] and the Secretary of Health and Human Services on matters relating to the administration of the Act." 29 U.S.C. 656(a)(2). NACOSH consists of 12 members, appointed by the Secretary of Labor, who represent management, labor, occupational safety and occupational health professions, and the public.

The Construction Safety Act (CSA), 40 U.S.C. 333, created the Advisory Committee on Construction Safety and Health (ACCSH), to advise the Secretary on standard-setting and other matters