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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 The petition may be withdrawn only with the approval of the Regional Director with whom such petition was filed, except that if the proceeding has been transferred to the Board, pursuant to §102.67, the petition may be withdrawn only with the consent of the Board.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.

[67 FR 658, Jan. 7, 2002]

§ 102.84 Contents of petition to rescind authority.

- (a) The name of the employer.
- (b) The address of the establishments involved.
- (c) The general nature of the employer's business.
- (d) A description of the bargaining unit involved.
- (e) The name and address of the labor organization whose authority it is desired to rescind.
- (f) The number of employees in the unit.
- (g) Whether there is a strike or picketing in progress at the establishment involved and, if so, the approximate number of employees participating, and the date such strike or picketing commenced.
- (h) The date of execution and of expiration of any contract in effect covering the unit involved.
- (i) The name and address of the person designated to accept service of documents for petitioners.
- (j) Any other relevant facts.

§ 102.85 Investigation of petition by regional director; consent referendum; directed referendum.

Where a petition has been filed pursuant to §102.83 and it appears to the regional director that the petitioner has made an appropriate showing, in such form as the regional director may determine, that 30 percent or more of

the employees within a unit covered by an agreement between their employer and a labor organization requiring membership in such labor organization desire to rescind the authority of such labor organization to make such an agreement, he shall proceed to conduct a secret ballot of the employees involved on the question whether they desire to rescind the authority of the labor organization to make such an agreement with their employer: *Provided, however,* That in any case in which it appears to the regional director that the proceeding raises questions which cannot be decided without a hearing, he may issue and cause to be served on the parties a notice of hearing before a hearing officer at a time and place fixed therein. The regional director shall fix the time and place of the election, eligibility requirements for voting, and other arrangements of the balloting, but the parties may enter into an agreement, subject to the approval of the regional director, fixing such arrangements. In any such consent agreements, provision may be made for final determination of all questions arising with respect to the balloting by the regional director or by the Board.

[26 FR 3892, May 4, 1961]

§ 102.86 Hearing; posthearing procedure.

The method of conducting the hearing and the procedure following the hearing, including transfer of the case to the Board, shall be governed, insofar as applicable, by §§102.63 to 102.68, inclusive.

§ 102.87 Method of conducting balloting; postballoting procedure.

The method of conducting the balloting and the postballoting procedure shall be governed by the provisions of § 102.69, insofar as applicable.

§ 102.88 Refusal to conduct referendum; appeal to Board.

If, after a petition has been filed, and prior to the close of the hearing, it shall appear to the regional director that no referendum should be conducted, he shall dismiss the petition by administrative action. Such dismissal shall be in writing and accompanied by

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a simple statement of the procedural or other grounds. The petitioner may obtain a review of such action by filing a request therefor with the Board in Washington, DC, and filing a copy of such request with the regional director and the other parties within 14 days from the service of notice of such dismissal. The request shall contain a complete statement setting forth the facts and reasons upon which the request is based.

[51 FR 30636, Aug. 28, 1986]

Subpart F—Procedure To Hear and Determine Disputes Under Section 10(k) of the Act

§ 102.89 Initiation of proceedings.

Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of paragraph (4)(D) of section 8(b) of the Act, the regional director of the office in which such charge is filed or to which it is referred shall, as soon as possible after the charge has been filed, serve upon the parties a copy of the charge together with a notice of the filing of the charge and shall investigate such charge and if it is deemed appropriate to seek injunctive relief of a district court pursuant to section 10(l) of the Act, he shall give it priority over all other cases in the office except other cases under section 10(l) and cases of like character.

[26 FR 7546, Aug. 15, 1961]

§ 102.90 Notice of filing of charge; notice of hearing; hearing; proceedings before the Board; briefs; determination of dispute.

If it appears to the Regional Director that the charge has merit and the parties to the dispute have not submitted satisfactory evidence to the Regional Director that they have adjusted, or have agreed upon methods for the voluntary adjustment of, the dispute out of which such unfair labor practice shall have arisen, he shall cause to be served on all parties to such dispute a notice of hearing under section 10(k) of the Act before a hearing officer at a time and place fixed therein which shall be not less than 10 days after service of the notice of the filing of

said charge. The notice of hearing shall contain a simple statement of the issues involved in such dispute. Such notice shall be issued promptly, and, in cases in which it is deemed appropriate to seek injunctive relief pursuant to section 10(l) of the Act, shall normally be issued within 5 days of the date upon which injunctive relief is first sought. Hearings shall be conducted by a hearing officer, and the procedure shall conform, insofar as applicable, to the procedure set forth in §§ 102.64 to 102.68, inclusive. Upon the close of the hearing, the proceeding shall be transferred to the Board and the Board shall proceed either forthwith upon the record, or after oral argument, or the submission of briefs, or further hearing, to determine the dispute or make other disposition of the matter. Should any party desire to file a brief with the Board, eight copies thereof shall be filed with the Board in Washington, DC, within 7 days after the close of the hearing: *Provided, however,* That in cases involving the national defense and so designated in the notice of hearing no briefs shall be filed, and the parties, after the close of the evidence, may argue orally upon the record their respective contentions and positions: *Provided further,* That, in cases involving the national defense, upon application for leave to file briefs expeditiously made to the Board in Washington, DC, after the close of the hearing, the Board may for good cause shown grant such leave and thereupon specify the time for filing. Immediately upon such filing, a copy shall be served on the other parties. Such brief shall be printed or otherwise legibly duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted. Requests for extension of time in which to file a brief under authority of this section shall be in writing with copies thereof served on the other parties. No reply brief may be filed except upon special leave of the Board.

[56 FR 49144, Sept. 27, 1991]

§ 102.91 Compliance with determination; further proceedings.

If, after issuance of the determination by the Board, the parties submit