

DEPARTMENT OF LABOR

29 CFR Parts 402, 403, 404, 406, 408, 409, 417, 452, 453, 457, and 458

RIN 1215-AB22

Office of Labor-Management Standards, Technical Amendments of Rules Relating to Labor-Management Standards and Standards of Conduct for Federal Sector Labor Organizations

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document makes a number of technical amendments to the Department of Labor's regulations at Chapter IV of title 29 of the Code of Federal Regulations. These amendments are necessary to ensure that the regulations conform to prior regulatory revisions and organizational changes, and to correct typographical and other errors.

EFFECTIVE DATE: June 19, 1998.

FOR FURTHER INFORMATION CONTACT: Kay H. Oshel, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Employment Standards Administration, U.S. Department of Labor, Room N-5605, Washington, D.C. 20210, (202) 219-7373 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Chapter IV of title 29 of the Code of Federal Regulations contains the regulations implementing the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) and the standards of conduct for federal sector labor organizations. An internal review of Chapter IV disclosed the need to make a number of technical corrections and amendments to the regulations.

First, section 408.6 is amended to delete the reference to Form LM-1A. That reporting form had previously been used by unions to disclose changes in their constitution and bylaws and changes to the information reported on Form LM-1. Form LM-1A was eliminated in the final rule published in the **Federal Register** on December 21, 1993, 58 FR 67594, 67599. However, that final rule inadvertently neglected to revise section 408.6 to eliminate the reference to Form LM-1A.

Second, due to a reorganization in the Department of Labor pursuant to Secretary's Order No. 5-96 (62 FR 107), the Office of Management and Budget (OMB) assigned new control numbers approving the reporting forms required by the LMRDA and the standards of

conduct regulations. Accordingly, the regulations are amended to cite the new OMB control numbers.

Third, sections 417.2(a), 457.15, and 457.16, which define positions in the Office of Labor-Management Standards (OLMS), are amended to clarify that OLMS is a unit within the Employment Standards Administration pursuant to the reorganization established in Secretary's Order No. 5-96 (62 FR 107).

Fourth, sections 458.53 and 458.85 are amended to change the words "area office" to "district office." This revision is necessary because of a reorganization within OLMS which changed the name of its field offices.

Fifth, section 417.7, 417.21, and 458.85, which deal with obtaining transcripts for hearings before an administrative law judge, are amended to change the reference to "29 CFR 70.62" to "part 70 of this title." The Department amended 29 CFR part 70 in a final rule published on May 30, 1989, 54 FR 23144, and section 70.62 no longer exists.

The other revisions in this final rule correct typographical and grammatical errors and make minor stylistic changes.

Publication in Final

The undersigned has determined that this rulemaking need not be published as a proposed rule, as generally required by the Administrative Procedure Act (APA), 5 U.S.C. 553. The portion of this rulemaking that reflects agency organization, procedure, and practice is exempt under section 553(b)(A) of the APA. For the portion of this rulemaking that makes technical amendments and corrections, there is good cause for finding that notice and public procedure is unnecessary and contrary to the public interest, pursuant to section 553(b)(B) of the APA.

Effective Date

The undersigned has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication since this rule is technical and nonsubstantive, merely reflects agency organization, practice, and procedure, and makes amendments required by statute and technical amendments and corrections. Therefore, these amendments shall be effective upon publication. See 5 U.S.C. 553(d).

Administrative Requirements

A. Executive Order 12866

The Department of Labor has determined that this rule is not a significant regulatory action as defined in section 3(f) of Executive Order 12866

in that it will not (1) have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities, (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof, or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

B. Regulatory Flexibility Act

Because a notice of proposed rulemaking is not required for this rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, pertaining to regulatory flexibility analysis do not apply. See 5 U.S.C. 601(2). Therefore, a regulatory flexibility analysis is not required.

C. Paperwork Reduction Act

This rule contains no additional information collection requirements. The information collection requirements in the regulations to which this rule makes technical amendments have been approved by the Office of Management and Budget (OMB control number 1215-0188).

D. Small Business Regulatory Enforcement Fairness Act

The Department has determined that this final rule is not a "major rule" requiring prior approval by the Congress and the President pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 804), because it is not likely to 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 the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Further, since the Department has determined, for good cause, that publication of a proposed rule and solicitation of comments on this rule is not necessary, under 5 U.S.C. 808(2), this final rule is effective immediately

upon publication as stated previously in this notice.

E. Unfunded Mandates Reform Act

For purposes of Section 2 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, as well as Executive Order 12875 (58 FR 58093, October 28, 1993), this rule does not include any federal mandate that may result in increased expenditures by State, local and tribal governments, or increased expenditures by the private sector of more than \$100 million.

List of Subjects

29 CFR Parts 417 and 452

Labor unions.

29 CFR Parts 402, 403, 404, and 408

Labor unions, Reporting and recordkeeping requirements.

29 CFR 405 and 406

Labor management relations, Reporting and recordkeeping requirements.

29 CFR 409

Insurance companies, Reporting and recordkeeping requirements.

29 CFR Part 453

Labor unions, Surety bonds.

29 CFR Parts 457 and 458

Administrative practice and procedure, Labor unions, Reporting and recordkeeping requirements.

Adoption of Amendments of Regulations

In consideration of the foregoing, the Office of Labor-Management Standards, Employment Standards Administration, Department of Labor hereby amends Chapter IV of title 29 of the Code of Federal Regulations as set forth below.

CHAPTER IV—OFFICE OF LABOR-MANAGEMENT STANDARDS,
DEPARTMENT OF LABOR

PART 402—LABOR ORGANIZATION INFORMATION REPORTS

1–2. The authority citation for part 402 continues to read as follows:

Authority: Secs. 201, 207, 208, 73 Stat. 524, 529 (29 U.S.C. 431, 437, 438); Secretary's Order No. 5–96 (62 FR 107, January 2, 1997).

§ 402.13 [Amended]

3. Section 402.13 is amended by changing the OMB control number at the end of the section to “1215–0188.”

PART 403—LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS

4. The authority citation for part 403 continues to read as follows:

Authority: Secs. 201, 207, 208, 301, 73 Stat. 524, 529, 530 (29 U.S.C. 431, 437, 438, 461); Secretary's Order No. 5–96 (62 FR 107, January 2, 1997).

§ 403.11 [Amended]

5. Section 403.11 is amended by changing the OMB control number at the end of the section to “1215–0188.”

PART 404—LABOR ORGANIZATION OFFICER AND EMPLOYEE REPORTS

6. The authority citation for part 404 continues to read as follows:

Authority: Secs. 202, 207, 208, 73 Stat. 525, 529 (29 U.S.C. 432, 437, 438); Secretary's Order No. 5–96 (62 FR 107, January 2, 1997).

§ 404.9 [Amended]

7. Section 404.9 is amended by changing the OMB control number at the end of the section to “1215–0188.”

PART 405—EMPLOYER REPORTS

8. The authority citation for part 405 continues to read as follows:

Authority: Secs. 203, 207, 208, 73 Stat. 526, 529 (29 U.S.C. 433, 437, 438); Secretary's Order No. 5–96 (62 FR 107, January 2, 1997).

§ 405.11 [Amended]

9. Section 405.11 is amended by changing the OMB control number at the end of the section to “1215–0188.”

PART 406—REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS, CERTAIN AGREEMENTS WITH EMPLOYERS

10. The authority citation for part 406 continues to read as follows:

Authority: Secs. 203, 207, 208, 73 Stat. 526, 529 (29 U.S.C. 433, 437, 438); Secretary's Order No. 5–96 (62 FR 107, January 2, 1997).

§ 406.1 [Amended]

11. Section 406.1(b) is amended by changing the word “designated” in the second sentence to “designates.”

PART 408—LABOR ORGANIZATION TRUSTEESHIP REPORTS

12. The authority citation for part 408 continues to read as follows:

Authority: Secs. 201, 207, 208, 301, 73 Stat. 524, 529, 530 (29 U.S.C. 431, 437, 438, 461); Secretary's Order No. 5–96 (62 FR 107, January 2, 1997).

13. Section 408.6 is revised to read as follows:

§ 408.6 Amendments to the Labor Organization Information Report filed by or on behalf of the subordinate labor organization.

During the continuance of a trusteeship, the labor organization which has assumed trusteeship over a subordinate labor organization shall file with the Office of Labor-Management Standards on behalf of the subordinate labor organization any change in the information required by part 402 of this chapter in accordance with the procedure set out in § 402.4.

PART 409—REPORTS BY SURETY COMPANIES

14. The authority citation for part 409 continues to read as follows:

Authority: Secs. 207, 208, 211; 79 Stat. 888; 88 Stat. 852 (29 U.S.C. 437, 438, 441); Secretary's Order No. 5–96 (62 FR 107, January 2, 1997).

§ 409.7 [Amended]

15. Section 409.7 is amended by changing the OMB control number at the end of the section to “1215–0188.”

PART 417—PROCEDURE FOR REMOVAL OF LOCAL LABOR ORGANIZATION OFFICERS

16. The authority citation for part 417 continues to read as follows:

Authority: Secs. 401, 402, 73 Stat. 533, 534 (29 U.S.C. 481, 482); Secretary's Order No. 5–96 (62 FR 107, January 2, 1997).

17. In § 417.2, paragraph (a) is revised to read as follows:

§ 417.2 Definitions.

(a) “Chief, DOE” means the Chief of the Division of Enforcement within the Office of Labor-Management Standards, Employment Standards Administration.

* * * * *

§ 417.7 [Amended]

18. Section 417.7 is amended by changing “29 CFR 70.62” to “part 70 of this title.”

§ 417.21 [Amended]

19. Section 417.21 is amended by changing “29 CFR 70.62” to “part 70 of this title.”

§ 417.22 [Amended]

20. The heading for section 417.22 is amended by changing the word “organizations” to “organization.”

PART 452—GENERAL STATEMENT CONCERNING THE ELECTION PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

21. The authority citation for part 452 continues to read as follows:

Authority: Secs. 401, 402, 73 Stat. 532, 534 (29 U.S.C. 481, 482); Secretary's Order No. 5-96 (62 FR 107, January 2, 1997).

§ 452.2 [Amended]

22. Section 452.2 is amended by changing the words "the title" to "title IV."

§ 452.5 [Amended]

23. Section 452.5 is amended by changing the parenthetical at the end of footnote 6 from "(1966)" to "(S.D.N.Y. 1966)."

§ 452.12 [Amended]

24. Section 452.12 is amended by changing the last word in footnote 13 from "title" to "chapter."

§ 452.77 [Amended]

25. Section 452.77 is amended by changing the word "rules" to "ruled" in the second sentence.

§ 452.99 [Amended]

26. Section 452.99 is amended by changing the word "residents" to "residence" in the second to last sentence.

PART 453—GENERAL STATEMENT CONCERNING THE BONDING REQUIREMENTS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

27. The authority citation for part 453 continues to read as follows:

Authority: Sec. 502, 73 Stat. 536; 79 Stat. 888 (29 U.S.C. 502); Secretary's Order No. 5-96 (62 FR 107, January 2, 1997).

28. The centered heading before section 453.2 is amended by removing the number "1" after the word "BONDED."

§ 453.21 [Amended]

29. Section 453.21(a) is amended by changing the word "is," which appears in the third sentence after the words "It appears, therefore, that," to "it."

PART 457—GENERAL

30. The authority citation for part 457 continues to read as follows:

Authority: 5 U.S.C. 7120, 7134; 22 U.S.C. 4117; 2 U.S.C. 1351(a)(1); Secretary's Order No. 5-96 (62 FR 107, January 2, 1997).

31. Section 457.15 is revised to read as follows:

§ 457.15 District Director.

District Director means the Director of a district office within the Office of Labor-Management Standards, Employment Standards Administration.

32. Section 457.16 is revised to read as follows:

§ 457.16 Chief, DOE.

Chief, DOE means the Chief of the Division of Enforcement within the Office of Labor-Management Standards, Employment Standards Administration.

PART 458—STANDARDS OF CONDUCT

33. The authority citation for part 458 continues to read as follows:

Authority: 5 U.S.C. 7105, 7111, 7120, 7134; 22 U.S.C. 4107, 4111, 4117; 2 U.S.C. 1351(a)(1); Secretary's Order No. 5-96 (62 FR 107, January 2, 1997).

§ 458.3 [Amended]

34. Section 458.3 is amended by changing the OMB control number in the parenthetical statement after the text to "1215-0188."

§ 458.33 [Amended]

35. Section 458.53 is amended by changing the words "area office" to "district office."

§ 458.85 [Amended]

36. Section 458.85 is amended by changing the words "Area Office" to "district office."

37. Section 458.85 is further amended by changing "29 CFR 70.62(c)" to "part 70 of this title."

Signed in Washington, D.C. this 12th day of June, 1998.

Bernard E. Anderson,

Assistant Secretary for Employment Standards.

[FR Doc. 98-16276 Filed 6-18-98; 8:45 am]

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