

Foreign Service Labor Relations Board, etc.

§ 1422.3

recognition or certification, or for determination of eligibility for dues allotment, filed pursuant to paragraphs (a), (b), (c), or (d) of this section respectively, shall be filed with the Regional Director for the region in which the unit exists, or, if the claimed unit exists in two or more regions, the petition shall be filed with the Regional Director for the region in which the affected employees are located.

(2) An original and four (4) copies of a petition shall be filed, together with a statement of any other relevant facts and of all correspondence relating to the question concerning representation.

(3) Copies of the petition together with any attachments shall be served by the petitioner on all known interested parties, and a written statement of such service shall be filed with the Regional Director: *Provided, however,* That the showing of interest or the showing of membership submitted with a petition filed pursuant to paragraphs (a), (b)(2), (d), or (h) of this section shall not be furnished to any other person.

(f) *Adequacy and validity of showing of interest or showing of membership.* (1) The Regional Director shall determine the adequacy of the showing of interest or the showing of membership administratively, and such determination shall not be subject to collateral attack at a unit or representation hearing. If the petition is dismissed or the intervention sought pursuant to §1422.5 is denied, a request for review of such dismissal or denial may be filed with the Board in accordance with the procedures set forth in §1422.6(d).

(2) Any party challenging the validity of any showing of interest or showing of membership of a petitioner, or a cross-petitioner filing pursuant to §1422.5(b), or of a labor organization seeking to intervene pursuant to §1422.5, must file its challenge with the Regional Director, with respect to the petitioner or a cross-petitioner, within twenty (20) days after the initial date of posting of the notice of petition as provided in §1422.4(a), and with respect to any labor organization seeking to intervene, within twenty (20) days of service of a copy of the request for intervention on the challenging party.

The challenge shall be supported with evidence including signed statements of employees and any other written evidence. The Regional Director shall investigate the challenge and thereafter shall take such action as the Regional Director deems appropriate which shall be final and not subject to review by the Board, unless the petition is dismissed or the intervention is denied on the basis of the challenge. Such request for review shall be filed with the Board in accordance with the procedures set forth in §1422.6(d).

(g) *Challenge to status of a labor organization.* Any party challenging the status of a labor organization under chapter 41 of title 22 of the United States Code must file its challenge with the Regional Director and support the challenge with evidence. With respect to the petitioner or a cross-petitioner filing pursuant to §1422.5(b), such a challenge must be filed within twenty (20) days after the initial date of posting of the notice of petition as provided in §1422.4(a), and with respect to a labor organization seeking to intervene pursuant to §1422.5, within twenty (20) days after service of a copy of the request for intervention on the challenging party. The Regional Director shall investigate the challenge and thereafter shall take such action as the Regional Director deems appropriate, which shall be subject to review by the Board. Such request for review shall be filed with the Board in accordance with the procedures set forth in §1422.6(d).

§ 1422.3 Timeliness of petition.

(a) When there is no certified exclusive representative of the employees, a petition will be considered timely filed provided a valid election has not been held within the preceding twelve (12) month period in the unit described in 22 U.S.C. 4112.

(b) When there is a certified exclusive representative of the employees, a petition will not be considered timely if filed within twenty-four (24) months after the certification as the exclusive representative of employees in unit described in 22 U.S.C. 4112, unless a signed and dated collective bargaining agreement covering the unit has been entered into in which case paragraphs

§ 1422.4

22 CFR Ch. XIV (4-1-09 Edition)

(c) and (d) of this section shall be applicable.

(c) When a collective bargaining agreement covering the unit described in 22 U.S.C. 4112 has been signed and dated by the Department and the incumbent exclusive representative, a petition for exclusive recognition or other election petition will not be considered timely if filed during the period of review by the Secretary as set forth in 22 U.S.C. 4113(f), absent unusual circumstances.

(d) A petition for exclusive recognition or other election petition will be considered timely when filed as follows:

(1) Not more than one hundred and five (105) days and not less than (60) days prior to the expiration date of a collective bargaining agreement having a term of three (3) years or less from the date it became effective.

(2) Not more than one hundred and five (105) days and not less than sixty (60) days prior to the expiration of the initial three (3) year period of a collective bargaining agreement having a term of more than three (3) years from the date it became effective, and any time after the expiration of the initial three (3) year period of such a collective bargaining agreement; and

(3) Any time when unusual circumstances exist which substantially affect the unit or the majority representation.

(e) When a collective bargaining agreement having a term of three (3) years or less is in effect between the Department and the incumbent exclusive representative, and a petition has been filed challenging the representation status of the incumbent exclusive representative and the petition is subsequently withdrawn or dismissed less than sixty (60) days prior to the expiration date of that collective bargaining agreement, or any time thereafter, the Department and incumbent exclusive representative shall be afforded a ninety (90) day period from the date the withdrawal is approved or the petition is dismissed free from rival claim within which to consummate a collective bargaining agreement: *Provided, however,* That the provisions of this paragraph shall not be applicable when any other petition is pending which has

been filed pursuant to paragraph (d)(1) of this section.

(f) When an extension of a collective bargaining agreement having a term of three (3) years or less has been signed more than sixty (60) days before its expiration date, such extension shall not serve as a basis for the denial of a petition submitted in accordance with the time limitations provided herein.

(g) Collective bargaining agreements which go into effect automatically pursuant to 22 U.S.C. 4113(f) and which do not contain the date on which the agreement became effective shall not constitute a bar to an election petition.

(h) A petitioner who withdraws a petition after the issuance of a notice of hearing or after the approval of an agreement for an election, shall be barred from filing another petition for the unit described in 22 U.S.C. 4112 for six (6) months, unless a withdrawal request has been received by the Regional Director not later than three (3) days before the date of the hearing.

(i) The time limits set forth in this section shall not apply to a petition for clarification of unit or for amendment of recognition or certification, or to a petition for dues allotment.

§ 1422.4 Investigation of petition and posting of notice of petition; action by Regional Director.

(a) Upon the request of the Regional Director, after the filing of a petition, the Department shall post copies of a notice to all employees in places where notices are normally posted affecting the employees in the unit described in 22 U.S.C. 4112.

(b) Such notice shall set forth:

(1) The name of the petitioner;

(2) The description of the unit;

(3) If appropriate, the proposed clarification of unit or the proposed amendment of recognition or certification; and

(4) A statement that all interested parties are to advise the Regional Director in writing of their interest and position within twenty (20) days after the date of posting of such notice: *Provided, however,* That the notice in a petition for determination of eligibility