

(b) *Contents.* An application for review must be sufficient to enable the Authority to rule on the application without recourse to the record. An application must specify the matters and rulings to which exception(s) is taken, include a summary of evidence relating to any issue raised in the application, and make specific reference to page citations in the transcript if a hearing was held. An application may not raise any issue or rely on any facts not timely presented to the Hearing Officer or Regional Director.

Option 1

(c) *Review.* The Authority may grant an application for review only where it appears that compelling reasons exist therefor. Accordingly, an application for review may be granted only upon one or more of the following grounds:

(1) The decision raises an issue for which there is an absence of precedent or the decision is based upon a clear error in application of law or policy;

(2) The decision is based on law or policy which clearly warrants reconsideration;

(3) The conduct of a hearing or a procedural ruling has resulted in prejudicial error;

(4) The Regional Director's decision regarding a substantial factual issue was clearly erroneous and prejudicially affected the rights of a party;

Option 2

(c) *Review.* (1) Assertions required for review. The Authority will grant an application for review when a party filing has specifically asserted and established that:

(i) Review of the decision is warranted on one or more of the grounds set forth in paragraph (c)(2) of this section and,

(ii) The Authority's decision will have a substantial impact on labor-management relations law, as set forth in paragraph (c)(3) of this section.

(2) Grounds warranting review. A filing party must assert and establish that review of a Regional Director's decision is warranted on one or more of the following grounds:

(i) The decision raises an issue for which there is an absence of precedence or the decision is based upon a clear error in application of law or policy;

(ii) The decision is based on law or policy which clearly warrants reconsideration;

(iii) The conduct of a hearing or a procedural ruling has resulted in prejudicial error;

(iv) The Regional Director's decision regarding a substantial factual issue was clearly erroneous and prejudicially affected the rights of a party;

(3) Substantial impact on labor-management relations law. In addition to the requirements set forth in subsection (d), a filing party must assert and establish that the Authority's decision will have a substantial impact on labor-management relations law. Such impact may be found, but is not limited to, situations where:

(i) The Regional Director's Decision is likely to have a substantial impact in cases other than the one(s) directly involved in the decision; or

(ii) Review would resolve a question of particular importance to the Federal sector labor-management relations program.

(4) Discretionary determination of Authority to review. Notwithstanding paragraphs (c), (d), and (e) of this section, an application for review may be granted when, in the Authority's discretion, extraordinary circumstances exist for reviewing the Regional Director's Decision and Order.

(d) *Opposition.* A party may file with the Authority an opposition to an application for review within ten (10) days after the party is served with the application. A copy must be served on the Regional Director and all other parties and a statement of service must be filed with the Authority.

(e) *Regional Director Decision and Order becomes the Authority's action.* A Decision and Order of a Regional Director becomes the action of the Authority when:

(1) No application for review is filed with the Authority within sixty (60) days after the date of the Regional Director's Decision and Order; or

(2) A timely application for review is filed with the Authority and the Authority does not undertake to grant review of the Regional Director's Decision and Order within sixty (60) days of the filing of the application; or

(3) The Authority denies an application for review of the Regional Director's Decision and Order.

(f) *Authority grant of review and stay.* The Authority may rule on the issue(s) in an application for review in its order granting the application for review. Neither filing nor granting an application for review does not stay any action ordered by the Regional Director unless specifically ordered by the Authority.

(g) *Briefs if review is granted.* If the Authority does not rule on the issue(s) in the application for review in its order granting review, the Authority may, in its discretion, afford the parties an opportunity to file briefs. The briefs will be limited to the issue(s) referenced in the Authority's order granting review.

§ 2422.32 Certifications and revocations.

(a) *Certifications.* The Regional Director will issue an appropriate certification when:

(1) After an election, runoff, or rerun,

(i) No objections are filed or challenged ballots are not determinative, or

(ii) Objections and determinative challenged ballots are decided and resolved; or

(2) The Regional Director issues a Decision and Order requiring a certification and the Decision and Order becomes the action of the Authority under § 2422.31(h) or the Authority otherwise directs the issuance of a certification.

(c) *Revocations.* Without prejudice to any rights and obligations which may exist under the Statute, the Regional Director will revoke a recognition or certification, as appropriate, and provide a written statement of reasons when:

(1) An incumbent exclusive representative files, during a representation proceeding, a disclaimer of any representational interest in the unit; or

(2) Due to a substantial change in the character and scope of the unit, the unit is no longer appropriate and an election is not warranted.

§ 2422.33 Relief obtainable under Part 2423.

Remedial relief that was or could have been obtained as a result of a motion, objection, or challenge filed or raised under this subpart, may not be the basis for similar relief if filed or raised as an unfair labor practice under Part 2423 of this Chapter, *Provided*, that related matters may be consolidated for hearing as noted in § 2422.27(c) of this subpart.

§ 2422.34 Rights and obligations during the pendency of representation proceedings.

(a) *Existing recognitions, agreements, and obligations under the Statute.*

During the pendency of any representation proceeding, parties are obligated to maintain existing recognitions, adhere to the terms and conditions of existing collective bargaining agreements, and fulfill all other representational and bargaining responsibilities under the Statute.

(b) *Unit status of individual employees.* Notwithstanding paragraph (a) of this section and except as otherwise prohibited by law, a party may take action based on its position regarding the bargaining unit status of individual employees, *Provided*, that its actions may be challenged, reviewed, and remedied where appropriate.