

effective whole ad? Why or why not? How might it be improved?

At the end of the session, the participants will fill out a short outtake questionnaire that will contain some questions about smoking status, number of cigarettes smoked, brands smoked, and other relevant information.

Dated: November 28, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95-29299 Filed 11-30-95; 8:45 am]

BILLING CODE 4160-01-F

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Modifications to Role of National Labor Relations Board's Administrative Law Judges Including: Assignment of Administrative Law Judges as Settlement Judges; Discretion of Administrative Law Judges to Dispense With Briefs, to Hear Oral Argument in Lieu of Briefs, and to Issue Bench Decisions

AGENCY: National Labor Relations Board.

ACTION: Proposed permanent modification of rules upon expiration of one-year experiment.

SUMMARY: The National Labor Relations Board (NLRB) issues a document proposing to make permanent, following expiration of the one-year experimental period on January 31, 1996, the experimental modification to its rules authorizing the use of settlement judges and providing administrative law judges (ALJs) with the discretion to dispense with briefs, to hear oral argument in lieu of briefs, and to issue bench decisions.

DATES: Comments must be received on or before December 29, 1995.

ADDRESSES: Comments should be sent to: Office of the Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Room 11600, Washington, D.C. 20570. Telephone: (202) 273-1940.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Acting Executive Secretary, Telephone: (202) 273-1940.

SUPPLEMENTARY INFORMATION: On September 8, 1994, the Board issued a Notice of Proposed Rulemaking (NPR) which proposed certain modifications to the Board's rules to permit the assignment of ALJs to serve as settlement judges, and to provide ALJs with the discretion to dispense with briefs, to hear oral argument in lieu of briefs, and to issue bench decisions (59 FR 46375). The NPR provided for a

comment period ending October 7, 1994.

Thereafter, on December 22, 1994, following consideration of the comments received to the NPR, the Board¹ issued a notice implementing, on a one-year experimental basis, the proposed modifications (59 FR 65942). The notice provided that the modifications would become effective on February 1, 1995, and would expire at the end of the one-year experimental period on January 31, 1996, absent renewal by the Board.

Recently, on November 6 and 8, 1995, the Board met with the Management and Union-side Panels of the NLRB Advisory Committee on Agency Procedure to discuss, among other matters, the experience to date with the experimental modifications and whether the modifications should be extended or made permanent following expiration of the one-year experimental period.² The following is a summary of the information that the Board provided to the members of the Advisory Committee Panels on this question.

Settlement Judges

Since February 1, 1995, settlement judges have been assigned in 55 cases. There have been settlements in 35 of the cases. Eighteen cases did not settle and went to trial. Settlement is still possible in some of the remaining cases. Some of the cases which settled did so after a trial judge was assigned and occurred either after conference calls conducted by the trial judge or at the hearing site. Twenty seven, or just about half of the cases in which settlement judges were assigned, were Region 4 (Philadelphia) cases in which the region played an active role in setting up settlement conferences. In about half a dozen other cases appointment of a settlement judge was requested by the General Counsel or a party. In the remaining 22 cases, settlement judges were assigned at the initiative of the Division of Judges. The Division of Judges has suggested appointment of settlement judges in other cases, but not all the parties have agreed. At the end of August 1995, there were a total of 577 settlements by ALJs compared to 544 at the end of August 1994. The difference is almost the same as the number of cases in which

settlement judges were assigned and settlements were reached.

Bench Decisions

Ten bench decision have issued since February 1, 1995 (out of approximately 400 total ALJ decisions). Several of the bench decisions turned on simple credibility determinations. None of the cases involved complex legal issues. The average transcript length was 144 pages; the median length was slightly higher. All of the cases took less than one day. In six of the 10 cases, no exceptions were filed to the ALJ's bench decision, and the Board therefore adopted the ALJ's decision in the absence of exceptions. Of the four other bench-decision cases, the Board short-form adopted the ALJ's decision in three of the cases,³ and the other case is still pending before the Board on exceptions.

The response of both the Management and the Union-side Panel of the Advisory Committee generally favored a continuation of the modifications, with the exception of the modification authorizing bench decisions, which received a mixed response from the Management-side Panel. The response of the Management-side Panel of the Advisory Committee generally favored a continuation of the modification authorizing the use of settlement judges. Several members of the Panel stated that they favored extending the settlement judge procedure, provided that the use of settlement judges continued to be consensual as currently provided. One member, however, stated the view that the emphasis with respect to settlement should be on the trial judges themselves and the Regional Office staff rather than on settlement judges. With respect to bench decisions, one member of the Management-side Panel stated the view that this procedure should also be extended and used in more cases. However, two other members expressed concern about the lack of discovery and the absence of an opportunity to file a brief.

The Union-side Panel also generally favored continuation of the settlement judge procedure. The Panel emphasized, however, that the settlement judge should not have the authority to postpone the trial date. Further, the Panel indicated that it was not necessarily opposed to eliminating the requirement that all parties agree to the use of a settlement judge or mandating that parties appear at an initial settlement conference. Finally, the

¹ Chairman Gould and Members Devaney and Browning; Members Stephens and Cohen dissenting in part.

² A notice of these meetings was issued on October 19, 1995, advising the public of the agenda and of the right to attend and file written comments on the matters discussed within 30 days thereafter (60 FR 54090). To date, no written public comments have been received.

³ *Sylvan Industrial Piping, Inc.*, 317 NLRB 772 (1995); *The Riverboat Hotel*, 319 NLRB No. 30 (Sept. 29, 1995); and *Kinco, Ltd.*, 319 NLRB No. 56 (Oct. 23, 1995) (Member Cohen dissenting in part).