

DEPARTMENT OF LABOR**Office of Labor-Management Standards****29 CFR Part 403**

RIN 1215-AB29

Labor Organization Annual Financial Reports

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

ACTION: Final rule.

SUMMARY: This final rule makes several minor and technical revisions to the annual financial reporting forms which labor organizations are required to file under the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). It also makes several technical amendments to the Department of Labor's regulations in which those reporting forms are prescribed. These changes are being made in order to enable the Department to optically scan the reports and make them available on its Internet Web site, and to make the reports more uniform.

EFFECTIVE DATE: January 1, 2000.

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, DC 20210, (202) 693-0123 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), 29 U.S.C. 431(b), requires that each covered labor organization file an annual report with the Secretary of Labor disclosing its financial condition and operations. The requirements of LMRDA section 201(b) apply to all labor organizations in the private sector. In addition, section 1209(b) of the Postal Reorganization Act, 39 U.S.C. 1209(b), makes the LMRDA applicable to labor organizations which represent employees of the U.S. Postal Service. Finally, the Department's regulations, at 29 CFR 458.3, which implement the provisions of the Civil Service Reform Act of 1978 and the Foreign Service Act of 1980 relating to standards of conduct for federal sector labor organizations, 5 U.S.C. 7120 and 22 U.S.C. 1017, respectively, apply the LMRDA reporting requirements to labor organizations which represent certain employees of the federal government.

Section 208 of the LMRDA authorizes the Secretary to issue, amend, and

rescind rules prescribing the form and publication of the information and annual financial reports required by sections 201(a) and 201(b), and to provide simplified reports for labor organizations for whom the Secretary finds that by virtue of their size a detailed report would be unduly burdensome. Part 403 of title 29 of the Code of Federal Regulations contains the regulations implementing these reporting requirements and prescribing the reporting forms. The Secretary of Labor has delegated authority under the LMRDA to the Assistant Secretary for Employment Standards. See Secretary's Order No. 5-96 (62 FR 107, January 2, 1997).

The regulations, at 29 CFR 403.3 and 403.4(a), prescribe Form LM-2 for labor organizations with total annual receipts of \$200,000 or more, simplified Form LM-3 for labor organizations with total annual receipts of less than \$200,000, and simplified Form LM-4 for labor organizations with total annual receipts of less than \$10,000. The regulations at 29 CFR 403.4(b) also provide a simplified reporting format which a parent national or international labor organization may submit on behalf of a subordinate local labor organization which has no assets, liabilities, receipts, or disbursements.

The Department has redesigned Forms LM-2/3/4 so that they can be optically scanned and made available on the Internet. The major changes to the forms are in their appearance. The most important of these changes are (1) the reporting forms are now landscape rather than portrait orientation, (2) they have pre-printed green boxes for entering information for most of the items, and (3) the spaces for entering information are larger and, consequently, the forms have more pages (twelve pages instead of six for Form LM-2, eight pages instead of four for Form LM-3, and two pages instead of one for Form LM-4). In addition, labor organizations will have to file only one copy of the report rather than the two that are now required.

The only change in the content of Forms LM-2/3/4 is that item 3 has been expanded. Currently, labor organizations are asked in item 3 to indicate whether the report is a terminal report. In the revised Forms LM-2 and LM-3, labor organizations are also asked to indicate whether the report is an amended report or a separate report for a subsidiary organization; in the revised Form LM-4, labor organizations are also asked to indicate whether the report is an amended report. This information will facilitate the processing and scanning of the reports.

The changes made in this final rule to Forms LM-2/3/4, prescribed in the regulations at 29 CFR 403.3 and 403.4(a), do not require any change in the text of the regulations.

This final rule also makes several changes to the regulations at 29 CFR 403.4(b). That regulation provides that a parent body may fulfill the reporting obligation of any of its subordinate local labor organizations which have no assets, liabilities, receipts, or disbursements, and which meet certain other conditions. It also sets out a simplified format for the parent body to follow in reporting the required information.

This final rule makes several changes to the information required to be reported by a parent national or international labor organization to fulfill the reporting obligations of its local labor organizations. First, this rule eliminates the requirement to report the location in which the local labor organization is chartered to operate. The requirement to report this information in Forms LM-2/3/4 was eliminated when those forms were revised on December 21, 1993 (58 FR 67594). This change will therefore make the reporting requirement for the simplified format the same as the requirement for Forms LM-2/3/4 with regard to the reporting of charter location.

In addition, this rule eliminates the requirement that the simplified reporting format be submitted in duplicate. This change will also make the report filing requirement uniform with Forms LM-2/3/4.

This rule also eliminates the requirement to report the names and titles of all officers of the local labor organizations for which the parent body files reports under 29 CFR 403.4(b). Only the names and titles of the president and treasurer, or corresponding principal officers, will have to be reported. This will make the simplified format reporting requirement the same as the requirements for Form LM-4 with regard to the reporting of officers.

Finally, this rule changes the regulations so that the information reported by parent national and international unions on behalf of their local labor organizations will have to be submitted on letter-size paper. Forms LM-2/3/4 are letter-size, and the instructions for those forms provide that any attached additional sheets should be letter-size. This change will, therefore, make the simplified format reports the same size as Forms LM-2/3/4, and will facilitate the processing and scanning of the reports.

The changes made by this rule will be effective January 1, 2000. Thus, labor organizations will file the new reporting forms and format for fiscal years beginning on and after January 1, 2000.

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. This rulemaking makes technical and nonsubstantive amendments to facilitate wider availability of public information, and imposes no additional burden on the public. Consequently, 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. Therefore, these amendments shall be effective January 1, 2000. 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, a sector of 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.

F. Federalism

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have "federalism implications." The rule does not "have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

List of Subjects in 29 CFR Part 403

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 follows.

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

PART 403—LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS

1. 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).

2. Section 403.4(b) is revised to read as follows:

§ 403.4 Simplified annual reports for smaller labor organizations.

* * * * *

(b) A local labor organization not in trusteeship, which has no assets, no liabilities, no receipts and no disbursements during the period covered by the annual report of the national organization with which it is affiliated need not file the annual report required by § 403.2 if the following conditions are met:

(1) It is governed by a uniform constitution and bylaws filed on its behalf pursuant to § 402.3(b) of this chapter, and does not have governing rules of its own;

(2) Its members are subject to uniform fees and dues applicable to all members of the local labor organizations for which such simplified reports are submitted;

(3) The national organization with which it is affiliated assumes responsibility for the accuracy of, and submits with its annual report, a separate letter-size sheet for each local labor organization containing the following information with respect to each local organization in the format illustrated below as part of this regulation:

(i) The name and designation number or other identifying information;

(ii) The file number which the Office of Labor-Management Standards has assigned to it;

(iii) The mailing address;

(iv) The beginning and ending date of the reporting period which must be the same as that of the report for the national organization;

(v) The names and titles of the president and treasurer or

corresponding principal officers as of the end of the reporting period;

(4) At least thirty days prior to first submitting simplified annual reports in accordance with this section, the national organization notifies the Office of Labor-Management Standards in writing of its intent to begin submitting simplified annual reports for affiliated local labor organizations;

(5) The national organization files the terminal report required by 29 CFR 403.5(a) on Form LM-3 or LM-4, as may be appropriate, clearly labeled on the form as a terminal report, for any local labor organization which has lost its identity through merger, consolidation, or otherwise if the national organization filed a simplified annual report on behalf of the local labor organization for its last reporting period; and

(6) The national organization with which it is affiliated assumes responsibility for the accuracy of, and submits with its annual report and the simplified annual reports for the affiliated local labor organizations, the following certification properly completed and signed by the president and treasurer of the national organization:

Certification

We, the undersigned, duly authorized officers of [name of national organization], hereby certify that the local labor organizations individually listed on the attached documents come within the purview of 29 CFR 403.4(b) for the reporting period from [beginning date of national

organization's fiscal year] through [ending date of national organization's fiscal year], namely:

(1) they are local labor organizations; (2) they are not in trusteeship; (3) they have no assets, liabilities, receipts, or disbursements; (4) they are governed by a uniform constitution and bylaws, and fifty copies of the most recent uniform constitution and bylaws have been filed with the Office of Labor-Management Standards; (5) they have no governing rules of their own; and (6) they are subject to the following uniform schedule of fees and dues: [specify schedule for dues, initiation fees, fees required from transfer members, and work permit fees, as applicable].

Each document attached contains the specific information called for in 29 CFR 403.4(b)(3)(i)-(vi), namely: (i) the local labor organization's name and designation number; (ii) the file number assigned the organization by the Office of Labor-Management Standards; (iii) the local labor organization's mailing address; (iv) the beginning and ending date of the reporting period; (v) the names and titles of the president and treasurer or corresponding principal officers of the local labor organization as of [the ending date of the national organization's fiscal year].

Furthermore, we certify that the terminal reports required by 29 CFR 403.4(b)(5) and 29 CFR 403.5(a) have been filed for any local labor organizations which have lost their identity through merger, consolidation, or otherwise on whose behalf a simplified annual report was filed for the last reporting period.

(Format for Simplified Annual Reporting)

SIMPLIFIED ANNUAL REPORT

Affiliation name:

Designation name and number:

Unit name:

Mailing address:

Name of person:

Number and street:

City, State and zip:

File number:

Period covered:

From Through

Names and Titles of president and treasurer or corresponding principal officers

For certification see NHQ file folder file number:

President _____

Where signed _____

Date _____

Treasurer _____

Where signed _____

Date _____

Signed in Washington, D.C. this 15th day of December, 1999.

Bernard E. Anderson,

Assistant Secretary for Employment Standards.

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