

## § 8.7

in the entire record before it and shall not consider any data not submitted to the Wage-Hour Administrator with the request for reconsideration. The Board in its decision affirming, modifying, or setting aside the wage determination, shall include a statement of reasons or bases for the actions taken. In any remand of a case as provided in § 8.1(d) of this title, the Board shall include appropriate instructions.

### Subpart C—Review of Other Proceedings and Related Matters

#### § 8.7 Review of decisions in other proceedings.

(a) A petition for review of a decision of an Administrative Law Judge pursuant to subparts B, D or E of part 6 of this title may be filed by any aggrieved party in accordance with the provisions therein.

(b) A petition for review of a final written decision (other than a wage determination) of the Administrator or authorized representative may be filed by any aggrieved party within 60 days of the date of the decision of which review is sought. Where a case has been referred directly to the Board pursuant to § 4.11 or § 4.12 of this title, no petition for review shall be necessary; a brief in support of the aggrieved party's position shall be filed within 30 days of filing of the administrative record by the Administrator.

(c) A petition shall state concisely the points relied upon, and shall be accompanied by a statement setting forth supporting reasons. The petition shall also indicate whether or not the petitioner consents to the disposition of the questions involved by a single member.

#### § 8.8 Filing of administrative record.

(a) If a petition for review has been filed concerning a decision pursuant to part 6 of this title, the Chief Administrative Law Judge shall promptly forward the record of the proceeding before the Administrative Law Judge to the Board.

(b) If a petition for review has been filed concerning a final decision of the Wage-Hour Administrator or authorized representative, the Associate Solicitor for Fair Labor Standards shall

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promptly file with the Board a record upon which the decision was based.

### § 8.9 Disposition by the Administrative Review Board.

(a) The Board may decline review of any case whenever in its judgment review would be inappropriate because of lack of timeliness, the nature of the relief sought, the case involves only settled issues of law, the appeal is frivolous on its face, or other reasons. A case will be reviewed upon the affirmative vote of one member.

(b) In issuing its decision the Board will take into consideration procurement deadlines where appropriate. The Board shall pass upon the points raised in the petition upon the basis of the entire record before it. The Board may affirm, modify or set aside, in whole or in part, the decision under review and shall issue a decision including a statement of reasons or bases for the actions taken. The Board shall modify or set aside findings of fact only when it determines that those findings are not supported by a preponderance of the evidence. In any remand of a case as provided in § 8.1(e) of this title, the Board shall include any appropriate instructions.

### Subpart D—General Procedural Matters

#### § 8.10 Filing and service.

(a) *Filing.* All papers submitted to the Board under this part shall be filed with the Executive Director of the Administrative Review Board, U.S. Department of Labor, Washington, DC 20210.

(b) *Number of copies.* An original and four copies of all papers shall be submitted.

(c) *Manner of service.* Service under this part shall be personal or by mail. Service by mail is complete on mailing. For purposes of this part, filing is accomplished upon the day of service, by mail or otherwise.

(d) *Proof of service.* Papers filed with the Board shall contain an acknowledgement of service by the person served or proof of service in the form of

a statement of the date and the manner of service and the names of the person or persons served, certified by the person who made service.

(e) *Service upon the Department of Labor and other interested parties.* A copy of all documents filed with the Board shall be served upon the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210; the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210; the Federal contracting agency involved; and all other interested parties.

**§ 8.11 Presentations of other interested persons.**

(a) Where a petition has been filed for review of a wage determination or other final decision of the Administrator or authorized representative, the Board shall notify the parties known or believed to be interested in the case. The Associate Solicitor and any other parties interested in presenting their views shall file a statement within 30 days of the filing of the petition (or such other time as is specified by the Board, with consideration of procurement deadlines, as appropriate).

(b) Where a petition has been filed for review of a decision issued pursuant to subparts B, D or E of part 6 of this title, any other parties to the proceeding interested in presenting their views shall file a statement within 30 days of the filing of the petition (or such other time as is specified by the Board, with consideration of procurement deadlines, as appropriate).

**§ 8.12 Intervention; other participation.**

For good cause shown, the Board may permit any interested party to intervene or otherwise participate in any proceeding held by the Board. Except when requested orally before the Board, a petition to intervene or otherwise participate shall be in writing (original and four copies) and shall state with precision and particularity:

(a) The petitioner's relationship to the matters involved in the proceedings, and

(b) The nature of the presentation which the petitioner would make.

**§ 8.13 Right to counsel.**

Each interested party shall have the right to appear in person or by counsel or other representative in any proceeding before the Board.

**§ 8.14 Consolidations.**

Upon its own initiative or upon motion of any interested party, the Board may consolidate any proceeding or concurrently consider two or more appeals which involve substantially the same parties, or issues which are the same or closely related, if it finds that such consolidation or concurrent review will contribute to a proper dispatch of its business and to the ends of justice, and it will not unduly delay consideration of any such appeals.

**§ 8.15 Motions; extensions of time.**

(a) Except as otherwise provided in this part, any application for an order or other relief shall be made by motion. Except when made orally before the Board, motions shall be in writing and shall be accompanied by proof of service on all other parties. If a motion is supported by briefs, affidavits, or other papers, they shall be served and filed with the motion. Any party may respond to the motion within such time as may be provided by the Board.

(b) Requests for extension of time as to the filing of papers or oral presentation shall be in the form of a motion under paragraph (a) of this section.

**§ 8.16 Oral proceedings.**

(a) With respect to any proceedings before it, the Board may upon its own initiative or upon request of any interested party direct the interested parties to appear before the Board or its designee at a specified time and place in order to simplify the issues presented or to take up any other matters which may tend to expedite or facilitate the disposition of the proceeding.

(b) In its discretion, the Board or a single presiding member may permit oral argument in any proceeding. The Board or the presiding member shall