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DATE: September 22, 2021

TO: Agricultural Labor Relations Board

CC: Santiago Avila-Gomez, Executive Secretary

FROM: Ralph Lightstone, Board Member
Barry Broad, Board Member

RE: Regulatory Proposals – Representation Proceedings (Elections)

Below are draft regulatory changes and proposals based on the Regulations Subcommittee's recommendations approved by the Board at the April 13, 2021 public meeting. Changes are reflected in underline (new language) and strikethrough (deletions) formats.

REPRESENTATION PROCEEDINGS (CHAPTER 3)

To allow a petition for certification to be served on a security guard located on the employer's premises, and to specify conditions which may warrant blocking an election or the impounding of ballots in an election:

To amend regulation 20300 to state:

§ 20300. Petition for Certification Under Labor Code Section 1156.-3.

(a) Procedure. A petition for investigation of a question concerning representation under Labor Code ~~§~~section 1156.3(a), hereinafter called a petition for certification, may be filed as provided for in this part and in the Act.

(b) Form of the Petition. A petition for certification shall be in writing and signed by hand or electronically. Printed forms for such petitions will be supplied by the regional offices of the Board upon request. Such petition shall contain a declaration, signed under penalty of perjury, that the petition's contents are true and correct to the best of the declarant's knowledge and belief.

(c) Amendments. A petition for certification may be amended by the petitioner, upon approval of the regional director, for good cause shown. Any amended petition shall be served upon the employer in accordance with the provisions of ~~subsection~~ subdivision (fg) below for service of the initial petition.

(d) ~~Number of Copies of Petition. An original and two copies of the petition for certification shall be filed in the regional office.~~

~~(e) Where Filed. A petition for certification shall be filed in the regional office having jurisdiction over the geographical area in which all or part of the unit encompassed by the petition is located.~~

(fe) Service of the Petition. A petition for certification shall be served upon the employer in the manner set out herein. In order to be filed, a petition must be accompanied by proof of service of the petition on the employer, either by verified return of the person making personal service or by the return receipt from the post office. Service on the employer may be accomplished by service upon any owner, officer, or director of the employer, or by leaving a copy at an office of the employer with a person apparently in charge of the office or other responsible person, ~~or by personal service upon a supervisor of employees covered by the petition for certification, or by personal service upon a security guard stationed at any location where employees covered by the petition for certification work.~~ If service is made by delivering a copy of the petition to anyone other than an owner, officer, or director of the employer, the petitioner shall immediately ~~send a telegram or facsimile transmission~~ provide notice to the owner, officer, or director of the employer declaring that a certification petition is being filed and stating the name and location of the person actually served. Such notice shall be provided by email, if an email address is available, and by a courier providing overnight delivery, and the petitioner and shall file with the regional office proof that the telegram or facsimile transmission notice was sent and received.

(gf) Filing of Petition. A petition for certification shall be deemed filed upon its receipt in the appropriate regional office accompanied by proof of service of the petition upon the employer. As soon as possible upon the filing of a petition for certification, the regional office in which the petition is filed shall telephone the employer and give the employer the following information: (1) the date and time of the filing of the petition and (2) the case number assigned to the petition. Notification by ~~telegram or facsimile transmission~~ email shall be permissible in the event that notification by telephone is unavailable or unsuccessful.

(hg) Withdrawal of Petition. A petition for certification may be withdrawn only with the consent of the regional director. Whenever the regional director approves the withdrawal of any petition, the matter shall be closed and the parties shall be notified of the withdrawal.

(ih) Dismissal of Petition.

(1) The petition for certification shall be dismissed by the regional director whenever the contents of the petition or the administrative investigation of the petition disclose the absence of reasonable cause to believe that a bona fide question concerning representation exists, or the unit petitioned for is not appropriate, or there is not an adequate showing of employee support pursuant to §section 20300(ji).

(2) When the regional director has determined that the petition shall be dismissed, ~~he or she~~ the regional director shall issue a dismissal letter to the filing party and the employer setting forth the reasons therefor.

(3) The dismissal of a petition may be reviewed by the Board pursuant to the provisions of Labor Code §section 1142(b) and §section 20393.

(ji) Evidence of Employee Support.

(1) Pursuant to Labor Code §section 1156.3(a), evidence that a majority of the currently employed employees in the bargaining unit sought in the election petition support the petitioner shall be submitted with the petition. Such evidence shall consist of either: (a) authorization cards, signed by employees, dated, and providing that the signer authorizes the union to be ~~his or her~~ the signer's collective bargaining representative, or (b) a petition to the same effect signed by employees, each signature dated. No employee authorization dated more than one year prior to the date of filing of the election petition shall be counted to determine majority showing of interest.

An authorization card or authorization petition signed by an employee at a time when the employee was not working for the employer named in the election petition shall, if otherwise valid, be counted in determining majority showing of interest.

(2) The regional director shall conduct an administrative investigation to determine whether there exists an adequate showing of employee support, as required by Labor Code §section 1156.3(a), to warrant the conduct of an election.

The administrative investigation may include solicitation from the petitioner and intervenor of their positions with respect to the accuracy and completeness of the employee list submitted pursuant to §section 20310(a)(2). If the regional director determines that there is insufficient showing of interest, ~~he or she~~the regional director may grant the petitioner an additional 24-hour period, from the time the regional director notifies the petitioner that its showing of interest is insufficient, to submit additional showing of interest. Authorization cards or other showing of interest shall be held confidential.

(3) In determining the number of currently employed employees for the purposes of Labor Code §section 1156.3(a) or these regulations, when the number of employees on the employer's list conflicts with the number alleged in the petition, the regional director may independently ascertain by administrative investigation the number of persons actually working in the appropriate payroll period.

(4)(A) Any party which contends that the showing of interest was obtained by fraud, coercion, or employer assistance, or that the signatures on the authorization cards were not genuine, shall submit evidence in the form of declarations under penalty of perjury supporting such contention to the regional director within 72 hours of the filing of the petition. The regional director shall refuse to consider any evidence not timely submitted, absent a showing of good cause for late submission. When evidence submitted to the regional director ~~gives him or her~~establishes reasonable cause to believe that the showing of interest may have been tainted by such misconduct, ~~he or she~~the regional director shall conduct an administrative investigation. If, as a result of such investigation, the regional director determines that the showing of interest is inadequate because of such misconduct, ~~he or she~~the regional director shall dismiss the petition. Nothing in this ~~subsection~~subdivision shall diminish the applicability of Labor Code §section 1151.6 to instances of forgery of authorization cards.

(B) The regional director may dismiss a petition pursuant to this subdivision when there is pending an unfair labor practice complaint against the employer named in the petition alleging the employer or the employer's representatives directly or indirectly initiated or instigated the petition or assisted in the showing of interest necessary for holding an election. If there is pending an investigation of an unfair labor practice charge for which no complaint has issued alleging the employer or the employer's representatives directly or indirectly initiated or instigated the petition or assisted in the showing of interest necessary for holding an election, the regional director may order any ballots cast in an ensuing election be impounded in accordance with section 20360(c).

(5) The regional director's determination of the adequacy of the showing of interest to warrant the conduct of an election shall not be reviewable.

Note: Authority cited: Section 1144, Labor Code. Reference: Sections 1142(b), 1156.2, 1156.3, 1156.4, 1156.5, 1156.6 and 1156.7, Labor Code.

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To amend regulation 20390 to state:

§ 20390. Decertification and Rival Union Petitions.

(a) Where the incumbent union presently has a collective bargaining agreement with the employer, the petition shall contain an allegation that the agreement will expire within the next twelve months or has been in existence for more than three years, and shall be accompanied by evidence of support by 30% or more of the employees currently employed in the bargaining unit.

(b) Where the incumbent union presently does not have a collective bargaining agreement with the employer, the petition shall contain an allegation to that effect, and shall be accompanied by evidence of support by a majority of the employees currently employed in the bargaining unit.

(c) The evidence of support for the petition may be in the form of signatures on a petition or, in the case of a rival union petition, on authorization cards or on a petition. In either case, each signature must be dated.

(d) All petitions for decertification and rival union petitions shall contain the following:

(1) The name, address, and telephone number of the petitioner and its affiliation, if any.

(2) The name, address, ~~and telephone number,~~ and email address of a representative of the petitioner authorized to make agreements with the Board and the parties and to accept service of papers.

(3) The name and address of the incumbent union.

(4) The name, location, and mailing address of the employer.

(5) The nature of the employer's agricultural commodity or commodities encompassed by the unit.

(6) A description of the existing bargaining unit.

(7) The approximate number of employees currently employed in the bargaining unit.

(8) A statement whether a strike is in progress in the unit involved and, if so, the approximate number of employees participating and the date the strike began.

(9) A statement of which languages, other than English and Spanish, the petitioner requests be included on the ballots, and the approximate number of employees requiring such ballots.

(10) An allegation that the number of agricultural employees currently employed by the employer named in the petition, as determined from ~~his~~ the employer's payroll immediately preceding the filing of the petition, is not less than 50 percent of ~~his~~ the employer's peak agricultural employment for the current calendar year.

(11) An allegation that no valid election has been conducted among the agricultural employees of the employer named in the petition within the 12 months immediately preceding the filing of the petition.

(12) An allegation that the Board did not certify the incumbent union within the 12 months immediately preceding the filing of the petition.

(e) The procedures set forth in Chapter 3 of these regulations for the service and processing of petitions for certification, election procedures, and post-election procedures shall be applicable to decertification and rival union petitions, except that service of the petition also shall be made upon an officer or director of the incumbent union, or upon an agent of the union authorized to receive service of papers. If service is made by delivering a copy of the petition to anyone other than an officer, director, or agent of the union authorized to receive service of papers of the employer, the petitioner shall immediately ~~send a telegram or facsimile transmission~~ provide notice to the officer, director, or agent of the union declaring that a certification petition is being filed and stating the name and location of the person actually served. Such notice shall be provided by email, if an email address is available, and by a courier providing overnight delivery, and the petitioner and shall file with the regional office proof that the telegram or facsimile transmission notice was sent and received.

(f)(1) The regional director may dismiss a petition pursuant to subdivision (h) of section 20300 when there is pending an unfair labor practice complaint against the agricultural employer named in the petition alleging any of the following: (A) conduct that, if proven, would interfere with employee free choice in an election were one to be held, (B) the employer or the employer's representatives directly or indirectly initiated or instigated the petition or assisted in the showing of interest necessary for holding an election, or (C) the employer has failed or refused to recognize the incumbent bargaining representative or bargain with it in good faith in violation of Labor Code section 1153(e). Alternatively, if all other conditions are satisfied to otherwise warrant an election, the regional director may order the election to proceed but that the ballots cast in the election be impounded.

(2) If there is a pending unfair labor practice charge against the agricultural employer named in the petition alleging conduct as described in subdivision (f)(1) but no complaint has issued, the regional director may not dismiss the petition, but may order any ballots cast in an ensuing election be impounded in accordance with section 20360(c).

Note: Authority cited: Section 1144, Labor Code. Reference: Sections 1156.3 and 1156.7(c) and (d), Labor Code; Montebello Rose Co. (1981) 119 Cal.App.3d 1; and Cattle Valley Farms (1982) 8 ALRB No. 24.

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To require that the list of employees an employer is required to produce in response to a petition for certification include employees' telephone numbers and email addresses, and to require employers to maintain such information:

To amend regulation 20310 to state:

§ 20310. Employer Obligations.

(a) Employer's Written Response to the Petition. Upon service and filing of a petition, as set forth above, the employer so served shall provide to the regional director or ~~his or her~~ the regional director's designated agent, within the time limits set forth in ~~subsection subdivision~~ subdivision (d), the following information accompanied by a declaration, signed under penalty of perjury, that the information provided is true and correct:

(1) The employer's full and correct legal name, a description of the nature of its legal entity, a full and correct address, and the name, address, telephone number, email address, and the location and title of a person within the employer's organization who is authorized to accept service of papers. Such person shall also be one who is authorized to make agreements with the Board and the parties regarding the petition unless the employer has notified the regional office that it has a

designated outside attorney or other outside representative who is to be contacted regarding the petition.

(2) A complete and accurate list of the complete and full names, current street addresses, landline and cellular telephone numbers, email addresses, and job classifications of all agricultural employees, including employees hired through a labor contractor, in the bargaining unit sought by the petitioner in the payroll period immediately preceding the filing of the petition. "Current street addresses" means the address where the employees reside while working for the employer. The employee list shall also include the names, current street addresses, landline and cellular telephone numbers, email addresses, and job classifications of persons working for the employer as part of a family or other group for which the name of only one group member appears on the payroll. If the employer contends that the unit sought by the petition is inappropriate, the employer shall additionally, and within the time limits set forth in ~~subsection subdivision~~ (d), provide a complete and accurate list of the names, and addresses, landline and cellular telephone numbers, and email addresses of the employees in the unit the employer contends to be appropriate, together with a written description of that unit. If an employer chooses to submit, in addition to the information required, W-4 forms, social security numbers, employee signature facsimiles, or similar information, the regional director shall use such information to confirm the validity of the union's showing of interest only to the extent ~~he or she deems~~ deemed appropriate in ~~his or her~~ the regional director's discretion. Such information may also be used by the regional director to the extent ~~he or she deems~~ deemed appropriate in ~~his or her~~ the regional director's discretion in order to resolve allegations of fraud in the showing of interest pursuant to ~~§~~ section 20300(ji)(4)(A) of these regulations.

(3) The names of employees employed each day during the payroll period immediately preceding the filing of the petition. This information may be submitted in the form of a copy of the employer's original payroll records or in some other form acceptable to the Board agent assigned to the case. The regional offices shall not disclose these records to any party.

(4) The duration and timing of payroll periods for the unit sought, for example, weekly, Sunday-Saturday payroll, or bimonthly payroll commencing on the 1st and 15th of each month. If employees in the unit sought are paid on more than one payroll period, the employer shall give the duration and timing of each payroll period and lists of which employees are covered by each payroll period.

(5) The names, addresses, ~~and telephone numbers,~~ and email addresses of all labor contractors supplying labor during the pertinent payroll period(s).

(6) A statement of the peak employment (payroll period dates and number of employees) for the current calendar year in the unit sought by the petition. If the employer contends that the petition was filed at a time when the number of employees employed constituted less than 50% of its peak agricultural employment for the current calendar year, the employer shall provide evidence sufficient to support that contention.

If it is contended that the peak employment period has already passed, such evidence shall include payroll records which show both the names and actual number of (agricultural) employees employed each day and the number of hours each employee worked during the peak payroll period. If it is contended that the peak payroll period will occur later in the calendar year, such evidence shall include payroll records which show both the names and actual number of (agricultural) employees employed each day and the number of hours each employee worked during the peak payroll period from the previous year(s), as well as any other information in the employer's possession which would be relevant to the determination of peak employment requirements.

(7) If the employer challenges the accuracy of any of the other allegations of the petition required by Labor Code ~~Section~~ 1156.3(a), in particular ~~subsections-subdivisions~~ (a)(2), (3), and (4), the employer shall provide information to support these contentions.

(8) A statement of which languages, if any, other than Spanish and English, the employer requests be included on the ballots in any election conducted pursuant to the petition, and the approximate number of employees who can effectively read the requested language and no other in which the ballot would otherwise be printed.

(b) Form of List. The list included in the employer's written response to the petition for certification should be in the following form:

(1) Typewritten or otherwise legibly prepared.

(2) Alphabetical. However, if the payroll is prepared according to crew or work group, the list should be provided alphabetically within each crew or work group.

(3) If the employer maintains an employee list in an electronic format, it shall alphabetize the list pursuant to subdivision (b)(2) and produce such alphabetized list in its electronic format to the regional director.

(c) Where Provided. The employer's written response to the petition under ~~subsection-subdivision~~ (a) above shall be presented at the regional office of the Board noted as the place of filing on the face of the petition, unless the employer is notified by an agent of the Board that the case has been transferred to another region, or unless, in any particular case, some other arrangement for making the information available at a different location is agreed to by the regional director or Board agent assigned to the case.

(d) Timing for Filing Employer's Written Response. The requirements set forth above in ~~subsections-subdivisions~~ (a) through (c) shall be satisfied by making such information available in the place specified in ~~subsection-subdivision~~ (c) above not more than 48 hours after the filing of a petition with proof of service. However, when said 48-hour period expires on a Sunday or legal holiday, the time to provide such information shall be extended to the corresponding hour on the next business day ~~following~~.

(e) Recordkeeping Requirement. Employers shall at all times maintain accurate records of the current street addresses, landline and cellular telephone numbers, and email addresses of all agricultural employees, including employees hired through a labor contractor, and of persons working for the employer as part of a family or other group for which the name of only one group member appears on the payroll.

(ef) Effect of failure to comply with ~~subsections-subdivisions~~ (a) through ~~(de)~~ above:

(1) If an employer fails to comply with the requirements of ~~subsections-subdivisions~~ (a) through ~~(de)~~ above, and such failure frustrates the determination of particular facts, the regional director may invoke any or all of the following presumptions:

(A) That there is adequate employee support for the petition and for any intervention.

(B) That the petition is timely filed with respect to the employer's peak of season.

(C) That all persons who appear to vote, who are not challenged by the board agent or by a party other than the employer, and who provide adequate identification, are eligible voters. This presumption shall be invoked only when no employee list is submitted or when the regional director determines that the list as submitted is substantially inadequate for the purpose of determining employee eligibility. Invocation of this presumption does not prevent the employer's observers from recommending challenges to the Board agent on the grounds listed in Section 20355.

(2) The determination of whether or not an employee list complies with the requirements of these regulations or is timely filed will be made by the regional director. If the regional director determines that a list is not complete or accurate, ~~he or she~~ the regional director shall state the reasons therefor in writing and serve ~~pursuant to section 20164~~ a copy of such written reasons on all parties.

(3) The failure of an employer to provide the information required by ~~subsection subdivision (a)~~ within the time period specified shall not be excused by the employer's desire to consult with its attorney or by the failure of the person served pursuant to Section 20300(ƒ) to inform it of the service of a petition for certification on it.

(4) The failure of an employer to provide a complete or accurate employee list shall not be excused by the fact that the employer based its information on information supplied to it by a labor contractor.

Note: Authority cited: Section 1144, Labor Code; Reference: Sections 1156.3, ~~and 1156.4,~~ and 1157.3, Labor Code.

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To clarify the status of ballots impounded in an election, including that a tally of ballots is not necessary to the conclusion of an election proceeding in situations where ballots have been ordered impounded:

To amend regulation 20360 to state:

§ 20360. Tally of Ballots.

(a) As soon as possible after completion of the balloting, a Board agent shall count the ballots and shall prepare both a tally of ballots and a list of the names of each person whose ballot was challenged, along with the basis for the challenge and the name of the party making the challenge, and shall furnish both the tally and the list to representatives of all parties who are present. If the ballots are not to be counted immediately after the conclusion of the election, the Board agent shall give advance notice to representatives of all parties of the time and place at which the ballots will be counted. It is the obligation of all parties who are notified of the time and place of the ballot count to have a representative present at the time ballots are counted who is authorized to receive a copy of the tally. The time for filing objections under Labor Code Section 1156.3(ee) shall begin to run as soon as the count is completed and the tally prepared, regardless of whether or not all parties are present to receive a copy of the tally.

(b) Notwithstanding any other provision of these rules, the Board shall have the authority acting pursuant to a petition under Labor Code Section 1156.3(ee), or on its own motion, without hearing, to issue an amended tally of ballots and appropriate certification in any election in which the Board has acted to resolve issues with respect to challenged voters or to correct mathematical errors in the previous tally of ballots. Except as provided in Section 20375(d), nothing in this rule shall be deemed to extend the period of time for filing a petition under Labor Code Section 1156.3(ee).

(c) Whenever it appears necessary, in order to effectuate the purposes and policies of the Act, the Board or the regional director may direct that the ballots cast in an election be impounded. When ballots are impounded based on a pending unfair labor practice complaint, they shall remain impounded until resolution of the complaint. If the impoundment order was based on an unfair labor practice charge for which a complaint had not yet issued, the ballots cast in the election shall remain impounded for no more than 60 days after the election is held unless a complaint on such charge issues first, in which case the ballots shall remain impounded pending resolution of the complaint. ~~When the ballots are so impounded, the election will not be deemed complete until a ballot count has been conducted and the Board agent has furnished representatives of the parties who are present with a tally and a list of challenged ballots in accord with subsection (a) above.~~

Note: Authority cited: Section 1144, Labor Code. Reference: Sections 1156.3 and 1157, Labor Code.

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To make technical amendments to the following sections based on the foregoing proposed amendments:

To amend regulation 20330 to state:

§ 20330. Cross-Petitions.

(a) Whenever a petition is filed which encompasses a unit for which a valid petition is currently on file, and no election has yet been directed, the Board or the regional director will determine which of the petitions seeks the appropriate unit, in the event the petitions do not seek the same unit. When the petitions seek the same unit an election will be directed in that unit if the regional director determines it to be appropriate. Both petitions shall be deemed to be cross-petitions. As soon as possible after a cross-petition is filed, the regional director or Board agent assigned to the case shall notify the employer and the original petitioner by telephone that a cross-petition has been filed.

(b) When a cross-petition is filed after the Notice and Direction of Election has been distributed but prior to the 24-hour intervention period set forth in Labor Code ~~§~~section 1156.3(b), the later petition or petitions will be treated as a motion to intervene. A cross-petition which is not accompanied by a majority showing of interest shall be treated as a petition for intervention if it is accompanied by at least a 20 percent showing of interest. Nothing contained in these rules shall preclude an intervenor or cross-petitioner from challenging the appropriateness of the unit in which an election was conducted by filing a petition pursuant to Labor Code ~~§~~section 1156.3(c).

(c) A cross-petitioner shall be subject to the same obligations with respect to service of the cross-petition as apply to service of the petition by the petitioner pursuant to Section 20300(~~fe~~). If the cross-petitioner contends that the allegations with respect to peak employment in the original petition are incorrect, it shall raise that contention in writing to the regional director within 48 hours of the filing of the cross-petition.

Note: Authority cited: Section 1144, Labor Code. Reference: Section 1156.3, Labor Code.

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To amend regulation 20377 to state:

§ 20377. Elections Under Strike Circumstances.

(a) Where a petition for certification alleges that a majority of employees are engaged in a strike at the time of the filing, the regional director shall conduct an administrative investigation to determine whether such a majority exists, and shall notify the parties of his or her the regional director's determination. Where the regional director determines that a majority of employees in the bargaining unit were on strike at the time of filing, ~~he or she~~ the regional director shall exercise all due diligence in attempting to hold an election within 48 hours of the filing; however, this shall not be construed to require that an election be held in 48 hours. The holding of elections under strike circumstances takes precedence over the holding of other elections.

(b) The procedures set forth in Chapter 3 of these ~~R~~regulations shall apply to the conduct of elections under this section insofar as is practicable under strike circumstances. The regional director shall have authority to establish reasonable procedures for the conduct of expedited elections under strike circumstances. In particular, upon notice to and consultation with the parties, ~~he or she~~ the regional director may establish procedures for expediting the receipt of information necessary to evaluate showing of interest and timeliness of the petition pursuant to Labor Code ~~S~~section 1156.4~~1~~, and may reasonably shorten deadlines specified in ~~S~~sections 20300(j)(2) and (4), 20310(d), 20325(e), and 20350(d) ~~of these Regulations~~.

(c) Any party who contends that a 48-hour election is improper shall notify the regional director of its contention and shall submit evidence in the form of written declarations under penalty of perjury supporting the contention and the manner in which the party would be prejudiced. The notification and submission of evidence must be made prior to the pre-election conference. Absent such notice, the regional director's determination shall not be reviewable in post-election objections under ~~S~~section 20365.

Note: Authority cited: Section 1144, Labor Code. Reference: ~~Part 3.5, Division II (commencing with Section 1140)~~ Section 1156.3, Labor Code.

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To allow a labor organization to file a notice of intent to organize without filing a prior notice of intent to take access:

To amend regulation 20910 to state:

§ 20910. Pre-Petition Employee Lists.

(a) Any labor organization ~~that has filed within the past 30 days a valid notice of intent to take access as provided in Section 20900(e)(1)(B) on a designated employer~~ may file with the appropriate regional office of the Board ~~two (2) copies of a written notice of intention to organize the agricultural employees of the same~~ an agricultural employer, accompanied by proof of service of the notice upon the employer in the manner set forth in ~~S~~section 20300(f). The notice must be signed by or accompanied by authorization cards signed by at least ten percent (10%) of the current employees of the designated employer. The signatures and authorization cards must comply with the requirements set forth in subdivision (i)(1) of section 20300, ~~subdivision (j)(1)~~.

(b) A notice of intention to organize shall be deemed filed upon its receipt in the appropriate regional office accompanied by proof of service of the notice upon the employer. As soon as possible upon the filing of the notice of intention to organize, the regional office in which the

petition is filed shall telephone or telegraph the employer to inform ~~him or her~~the employer of the date and time of the filing of the notice.

(c) Within five days from the date of filing of the notice of intention to organize, the employer shall submit to the regional office an employee list as defined in ~~§~~section 20310(a)(2). If the employer contends that the unit named in the notice is inappropriate, it shall submit its arguments to the regional director in writing. A contention that the unit named is inappropriate shall not excuse the timely submission of the pre-petition employee list in the unit named in the notice.

(d) Upon receipt of the list, the regional director shall determine if the ten percent showing of interest requirement has been satisfied, and, if so, shall make available a copy of the employee list to the filing labor organization. The same list shall be made available to any other labor organization which within 30 days of the original filing date files a notice of intention to organize the agricultural employees of the same employer.

~~(e) No employer shall be required to provide more than one employee list pursuant to this section within any 30-day period.~~A labor organization may not file more than one notice of intent to organize an agricultural employer under this section in any 120-day period.

Note: Authority cited: Section 1144, Labor Code. Reference: Sections 1152 and 1157.3, Labor Code.