



LEGAL ALERT

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New NLRA Posting Requirement

by Gerard Morales, John F. Lomax, Jr. and Joseph A. Kroeger

On August 30, the National Labor Relations Board (“NLRB”) will publish in the Federal Register a *final rule* requiring *all* employers covered by the National Labor Relations Act (“NLRA”), to post a notice informing employees of their rights under the NLRA. Note: this posting requirement applies to *all employers* that meet the NLRA’s minimal jurisdictional standards and *not just to those that are unionized*.

Under the final rule, employers will be required to post the notice “wherever notices to employees regarding personnel rules and policies are customarily posted.” In addition, “employers who customarily post notices to employees regarding personnel rules or policies on an internet or intranet site will be required to post the Board’s notice on those sites as well.”

The posting requirement becomes effective 75 days after the rule’s August 30 publication, which means employers would be required to post the notice by November 14, 2011. Copies of the notice will be available on the NLRB website and from NLRB

regional offices by November 1.

Under the final rule, employers who fail to post the required notice would be committing an unfair labor practice. A failure to post may also result in tolling the six-month statute of limitations for the filing of unfair labor practice charges against the employer.

This is the first time in the NLRB's 76-year history that it has created an affirmative posting obligation for all employers covered by the NLRA. While several organizations have stated their intention to challenge the NLRB's authority to issue this posting requirement, unless and until there is further guidance on the posting requirement, employers who fail to comply risk prosecution before the NLRB.

If you have any questions about the content of this legal alert, you may contact the authors or another Snell & Wilmer attorney by email or by calling 602.382.6000

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