



Legal Alert: Board Postpones Implementation Date of New Posting Requirement

10/6/2011

Executive Summary: The National Labor Relations Board (NLRB) has postponed the implementation date of its new posting requirement to January 31, 2012.

Background: As discussed in our August 30, 2011 [Legal Alert](#), the NLRB has published a final rule requiring most private employers covered by the National Labor Relations Act (NLRA) to post a Notice of Employee Rights explaining employees' rights under the Act. The posting requirement applies to employers covered by the Act, regardless of whether the workplace is unionized or union-free. The rule was published in the Federal Register on August 30, 2011, and was scheduled to take effect November 14, 2011. The notice requirement does not apply to employers who are not covered by the NLRA, including, among others, any person subject to the Railway Labor Act, as well as entities over whom the Board has been found not to have jurisdiction or over which the Board has chosen not to assert jurisdiction. For more information regarding the NLRB's final rule and posting requirement, please see our August 30, 2011 [Legal Alert](#), *NLRB to Require Posting of Notice of Employee Rights*, available at <http://www.fordharrison.com/shownews.aspx?show=7546>.

In addition, employers that are federal contractors, and who have already complied with the posting requirements contained in Executive Order 13496, are not required to post the NLRB notice. The Board deems such federal contractors to be in compliance with the Board's regulation if the contractor is posting the notice required by EO 13496. For more information on federal contractors' posting obligations under EO 13496, please see our May 21, 2010 [Legal Alert](#), *Federal Contractors to Post New Union Notice June 21, 2010*, available at: <http://www.fordharrison.com/shownews.aspx?show=6219>.

Board Extends Deadline for Posting Notice

In a statement published on the NLRB's web site on October 5, 2011, the Board announced that it is postponing the implementation date for the new rule "to allow for enhanced education and outreach to employers, particularly those who operate small and medium sized businesses." The statement is available on the Board's web site at: <http://www.nlr.gov>. According to the statement, the Board decided to postpone the rule's implementation date due to questions from businesses and trade organizations regarding which businesses fall under the Board's jurisdiction and to ensure "broad voluntary

compliance."

Employers' Bottom Line:

The Board's statement does not address the lawsuits that have been filed by business groups challenging the validity of the rule. It is possible that a court will issue a ruling in one of these suits before the new implementation date. However, absent such a ruling or further Board action, the new effective date for the posting requirement is January 31, 2012.

If you have any questions regarding the posting requirement or other labor or employment related issues, please contact the Ford & Harrison attorney with whom you usually work.