

NLRB Postpones Employee Notification Rule's Effective Date

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In August, the National Labor Relations Board (NLRB) issued a controversial Final Rule that would require most private-sector employers to notify their employees of their rights under the National Labor Relations Act with a new mandatory workplace poster. The rule's effective date originally was November 14, 2011.

Groups like the National Association of Manufacturers, the National Federation of Independent Business, and the U.S. Chamber of Commerce filed lawsuits seeking to block the implementation of the rule's notice-posting requirements. These groups challenged the rule on various grounds, including their position that the rule's notice-posting requirements exceed the NLRB's statutory authority.

On October 5, 2011, the NLRB announced that it was delaying the implementation date for the notice-posting rule until January 31, 2012. The NLRB claimed that it postponed the deadline "in the interest of ensuring broad voluntary compliance." Other reports indicate that the NLRB postponed the implementation date in response to a specific request to do so by the Judge in one of the pending cases challenging the rule.

Regardless of the NLRB's actual motivation, the decision to delay the notice-posting rule's effective date gives most private-sector employers a reprieve from posting the controversial notice. Employers should continue to monitor this issue, as courts considering the various challenges to the rule likely will issue decisions between now and January 31 that may affect the posting requirement and/or its effective date.

Please note that the NLRB's notice-posting rule and the postponement of its effective date do not affect federal contractors, who already are required to post a similar notice under Executive Order 13496 . Executive Order 13496 applies to (1) most contractors and subcontractors who hold a Federal or Federally-assisted construction contract in excess of \$10,000; (2) most non-construction contractors and subcontractors who have a government contract or subcontract, or government bills of lading, of \$10,000 or more; and (3) any entity that either serves as a depository of Federal funds in any amount or is a financial institution that is an issuing and paying agent for U.S. savings bonds or savings notes in any amount.

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