



for your information®

Volume 34 | Issue 78 | October 7, 2011

NLRB Delays Posting of Employee Rights Notice

On August 30, 2011, the National Labor Relations Board issued a final rule requiring all employers covered by the National Labor Relations Act to notify employees of their rights under the Act and how to enforce them. The new notice requirement was slated to take effect on November 14, 2011. The Board has now postponed the effective date until January 31, 2012.

Background

The National Labor Relations Act (NLRA) applies to most private-sector employers, other than airline, railroad, and agricultural employers. On August 30, 2011, the National Labor Relations Board (NLRB or Board) issued a [final rule](#) requiring employers subject to the NLRA to conspicuously post and maintain notices informing employees of their rights under the NLRA, including the right to organize, bargain collectively with their employers, and engage in other protected concerted activity. (See our September 7, 2011 [For Your Information](#).)

BUCK COMMENT. *Since the Board issued its final rule, a number of business groups, including the National Association of Manufacturers, the National Federation of Independent Business, and the U.S. Chamber of Commerce, have filed federal lawsuits to block its implementation. In addition, legislation ([H.R. 2833](#)) has been introduced in the House that would eliminate the NLRB's posting requirement.*

With certain narrow exceptions, the notice-posting requirement applies to all employers subject to the NLRA regardless of whether their workplaces are unionized. In anticipation that the new requirement would take effect on November 14, 2011, the NLRB recently made copies of the notice available for download on its [website](#).

Postponement of the Notice-Posting Requirement

On October 5, 2011, the NLRB [announced](#) that it has postponed the effective date for its new notice-posting rule until January 31, 2012. The Board's action is intended to ensure "broad voluntary compliance" by the business community, which had expressed uncertainty about which businesses were covered by the new rule. According to the Board, the more than two month delay will allow time for greater education and outreach to employers, particularly those who run small and medium sized businesses. Other than extending the posting deadline, the NLRB has made no changes in its final notice-posting rule or in the form or content of the notice that must be posted when the rule takes effect on January 31.

BUCK COMMENT. *The NLRB's extended deadline does not affect the Department of Labor's requirement for federal contractors to post a similar [notice](#) of employees' NLRA rights under Executive Order 13496.*

Conclusion

Unless one of the legal or legislative challenges to the rule succeeds or the Board takes further action before the extended compliance deadline, the posting requirement will take effect on January 31, 2012. Because the new notice-posting rule contains substantive remedies for noncompliance, employers will want to make sure that they are fully prepared to satisfy their notice obligations if the rule takes effect early next year.

Buck's consultants are prepared to assist in your compliance efforts.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.