



United States Government Accountability Office
Washington, DC 20548

B-322464

September 20, 2011

The Honorable Joseph I. Lieberman
Chairman
The Honorable Susan M. Collins
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Darrell Issa
Chairman
The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and Government Reform
House of Representatives

Subject: *National Labor Relations Board: Notification of Employee Rights Under the National Labor Relations Act*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the National Labor Relations Board (NLRB), entitled "Notification of Employee Rights Under the National Labor Relations Act" (RIN: 3142-AA07). It was published in the *Federal Register* as a final rule on August 30, 2011, with a stated effective date of November 14, 2011. 76 Fed. Reg. 54,006. The Senate received the rule on September 6, 2011. 157 Cong. Rec. S5457 (Sept. 8, 2011). We received the rule on August 30, 2011.

The final rule requires employers subject to the National Labor Relations Act (NLRA), including labor organizations in their capacity as employers, to post notices informing their employees of the employees' rights under the NLRA. The rule establishes the size, form, and content of the notice and includes provisions governing the enforcement of the rule.

Enclosed is our assessment of NLRB's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that NLRB complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Lester A. Heltzer
Executive Secretary
National Labor Relations Board

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
NATIONAL LABOR RELATIONS BOARD
ENTITLED
"NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE
NATIONAL LABOR RELATIONS ACT"
(RIN: 3142-AA07)

(i) Cost-benefit analysis

The National Labor Relations Board (NLRB) described costs and benefits associated with this final rule. NLRB believes that many employees protected by the National Labor Relations Act (NLRA) are unaware of their rights under the statute and that this rule will increase knowledge of the NLRA among employees and that such awareness will better enable employees to exercise their rights under the statute. NLRB also believes that this rule may promote statutory compliance by employers and unions. NLRB estimates that, per employer subject to the NLRA, this rule will have a cost of \$64.40 during the first year and that the cost will decrease dramatically in subsequent years.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

NLRB determined that this final rule will not have a significant impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, NLRB is not subject to title II of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On December 22, 2010, NLRB issued a proposed rule. 75 Fed. Reg. 80,411. NLRB received 6,560 comments by the February 22, 2011, due date. However, many late comments were also submitted and NLRB decided to accept all comments received on or before March 23, 2011. In all, NLRB received 7,034 comments from employers, employees, unions, employer organizations, worker assistance organizations, and other concerned organizations and individuals,

including two Members of Congress. NLRB addressed the comments in the final rule and made some changes suggested in the comments.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

NLRB determined that this final rule does not contain information collection requirements under the Act.

Statutory authorization for the rule

NLRB promulgated this rule under the authority of section 6 of the National Labor Relations Act. 29 U.S.C. § 156.

Executive Order No. 12,866 (Regulatory Planning and Review)

As the rule is promulgated by an independent regulatory agency, it is not subject to review requirements of the order.