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NLRB Extends Comment Period On Potential Union Election Rule Changes

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Earlier this year, the National Labor Relations Board (NLRB) made waves when it announced it was proposing new rules related to various [union election issues](#). On Friday Oct. 4, the NLRB announced it was [enlarging the time period](#) in which the public can submit feedback and comments on the potential new rules.

The rulemaking under consideration includes the following, according to an [NLRB press release issued in August 2019](#):

- **Blocking Charge Policy:** The [Notice of Proposed Rulemaking] proposes replacing the current blocking charge policy with a vote-and-impound procedure. Elections would no longer be blocked by pending unfair labor practice charges, but the ballots would be impounded until the charges are resolved.
- **Voluntary Recognition Bar:** The NPRM proposes returning to the rule of Dana Corp., 351 NLRB 434 (2007). For voluntary recognition under Section 9(a) of the Act to bar a subsequent representation petition—and for a post-recognition collective-bargaining agreement to have contract-bar effect—unit employees must receive notice that voluntary recognition has been granted and a 45-day open period within which to file an election petition.

- Section 9(a) Recognition in the Construction Industry: The NPRM proposes that in the construction industry, where bargaining relationships established under Section 8(f) cannot bar petitions for a Board election, proof of a Section 9(a) relationship will require positive evidence of majority employee support and cannot be based on contract language alone, overruling *Staunton Fuel*, 335 NLRB 717 (2001).

According to the news release on the deadline extension:

“The National Labor Relations Board (NLRB) is extending the time for submitting comments regarding its proposed amendments to Part 103 of its Rules and Regulations for an additional 60 days beyond the current deadline of October 11, 2019. The proposed amendments concern the Board’s blocking charge policy, voluntary recognition bar, and Section 9(a) recognition in the construction industry. **The submission window is currently open and interested parties may now file comments on or before Tuesday, December 10, 2019.** Comments replying to the comments submitted during the initial comment period must be received by the Board on or before **December 24, 2019.**”

Anyone interested in filing comments now has more time to do so. Stay tuned to see what the final rules – which likely will issue in 2020 – hold.