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January 4, 2010

**SUBMITTED ELECTRONICALLY
VIA WWW.REGULATIONS.GOV**

Ms. Mary Johnson
General Counsel
National Mediation Board
1301 K Street, NW
Suite 350E
Washington, DC 20005

**RE: RIN 3140-ZA00
Comments on Proposed Regulations on Representation Election Procedures**

Dear Ms. Johnson:

On behalf of the National Association of Manufacturers (NAM), I thank you for the opportunity to submit the following comments on the National Mediation Board's (the Board's) proposed changes to representation election procedures published in the November 3, 2009 *Federal Register*.

The NAM is the nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states. The NAM's mission is to enhance the competitiveness of the manufacturing economy by advocating policies that are conducive to U.S. economic growth. Our manufacturing economy is significantly impacted by changes in our national infrastructure, including the workforces of entities covered by the Railway Labor Act (RLA). Manufacturers rely on the stability of transportation networks to ensure the smooth flow of manufactured goods and services throughout the global economy.

The NAM is concerned that the proposed change in union representation elections lacks sufficient policy justification and that the process by which the notice of proposed rulemaking (NPRM) was issued puts the legitimate intent of these changes into question. The following comments explain our opposition to this change. These comments highlight both our substantive and procedural concerns. For the below reasons, we caution against the further promulgation of this major policy change.

Principles of Fairness and Balance

The Board is responsible for ensuring the uninterrupted functioning of interstate commerce by facilitating harmonious employee relations among entities covered by the RLA. However, the proposed rulemaking put forward by the Board would not foster positive labor relations. This change would create a system of minority union representation elections which may not necessarily reflect the bargaining interests of the majority of the workforce. Such a change would

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result in the potential for harmonious employee relations which would impact the functioning of interstate commerce.

This proposed change would allow a simple minority of employees in a given class to determine union representation for all covered employees. This goes counter to the concept of majority unions that has been the fundamental basis for the application of the RLA for decades. In order to provide effective representation in labor negotiations, labor unions covered by the RLA must be able to have the support of the majority of employees. Minority unions that fail to receive the support of a majority of employees will not be able to negotiate labor contracts as successfully as majority unions.

The failure of a union to receive this majority support for exclusive representation is disruptive to employee-employer relations and puts the stability of interstate commerce in question.

In order to promote fair and equitable labor relations that protect the rights of the majority of workers, an affirmative change -- from a non-union to union workplace -- should require an affirmative vote -- an affirmative majority vote. Employees who choose not participate in elections are in effect choosing to maintain the status quo and should not be required to directly participate in representation elections in order to maintain their status.

These proposed changes are a radical deviation from longstanding Board practices, which have upheld the majority rule in at least four previous instances. Should the Board seek a balanced approach of labor union representation under the RLA, further changes would be required to allow for a process of decertification similar to that employed under the National Labor Relations Act.

In order for the Board to best determine the unbiased choice of employees, the same methods for recognizing elections should be used for recognizing the decertification of employee representatives. If the Board proceeds with the proposed changes to the representation election process, similar methods should be employed to allow decertification. These proceedings should be handled with balloting and voting thresholds comparable to those used to recognize a labor union's exclusive representational capacity.

Process of Developing Proposed Rulemaking

We are concerned with the inadequate process in which this major rulemaking has been conducted. These proposed changes have not been developed with the input or participation of the full Board. The rushed manner in which the Board engaged in these proceedings became so flawed that the Board's own Chairman notified several members of Congress detailing the way in which she was excluded from the process.

If the Board wishes to implement a true modernization of longstanding labor laws, at a minimum all Board members should be allowed the ability to fully participate in the process of their development.

Lack of Justification for Policy Change

For decades the Board has recognized the importance of balanced labor relations in its administration of the RLA.

The proper and uninterrupted functioning of our national transportation networks, which are impacted by the decisions of the National Mediation Board, continues to be vital to the competitiveness of our nation's manufacturing economy. Manufacturers rely on the Board's mediation and representation functions under existing statute to ensure the stability of these systems.

The nature of this major proposed rule change has not allowed all interested parties the opportunity to provide comments on the initial request. In order to institute such a considerable policy change, a strong reasoning and rationale for the change much be demonstrated as required by the Administrative Procedures Act.

It should be noted that the levels of unionized workers covered by the RLA have risen in the past several years. This increase demonstrates rising interest by employees for union representation, an interest that has resulted in higher unionization rates under the current long-established rules.

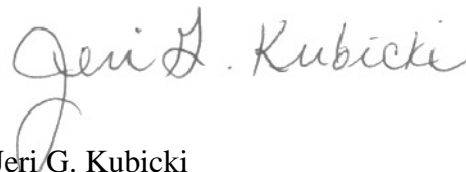
It is clear that the current rules have not hindered effective union representation among workers covered by the RLA, as they have a much higher unionization rate compared to workers who are covered by the National Labor Relations Act.

CONCLUSION

The NAM appreciates the opportunity to submit these comments and hopes our concerns with the process and substance of these proposed changes are taken into account. These radical changes to union representation under the RLA are not in the best interests of maintaining harmonious employee-employer relations. The changes that would result by implementing this proposed rule would hamper the ability of the Board to effectively administer the RLA and maintain uninterrupted functioning of interstate commerce.

We caution against further efforts to enact these representational changes without consideration of more balanced approaches that include mirrored changes to allow employees the ability to decertify their representation. If we can be of further assistance on this matter, please do not hesitate to contact us.

Respectfully submitted,



Jeri G. Kubicki
National Association of Manufacturers