

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 103

RIN 3142-AA16

Representation—Case Procedures: Election Bars; Proof of Majority Support in Construction-Industry Collective-Bargaining Relationships

AGENCY: National Labor Relations Board.

ACTION: Final rule; delay of effective date.

SUMMARY: On April 1, 2020, the National Labor Relations Board (Board) published a final rule making three amendments to its rules and regulations governing the filing and processing of petitions for a Board-conducted representation election and proof of majority support in construction-industry collective-bargaining relationships. The purpose of this document is to postpone implementation of the rule during the National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak. The Board therefore delays the effective date from June 1, 2020 to July 31, 2020.

DATES: The effective date of the final rule published on April 1, 2020, at 85 FR 18366, is delayed from June 1, 2020 to July 31, 2020.

FOR FURTHER INFORMATION CONTACT: Roxanne L. Rothschild, Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, (202) 273-1940 (this is not a toll-free number), 1-866-315-6572 (TTY/TDD).

SUPPLEMENTARY INFORMATION: On April 1, 2020, the National Labor Relations Board published a final rule making three amendments to its rules and regulations governing the filing and processing of petitions for a Board-conducted representation election and proof of majority support in construction-industry collective-bargaining relationships. The Board made the rule effective on June 1, 2020.

The Board has determined that a delayed effective date is required to allow the Board's employees and stakeholders to focus on continuity of their operations during the national emergency concerning the Coronavirus pandemic during the next several months, rather than on implementing and understanding the Board's new rule. Therefore, the Board hereby delays the effective date of the rule to July 31, 2020.

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5

U.S.C.) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for "good cause," finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking.

For the following reasons, the Board finds that notice and comment would be impracticable, unnecessary, and contrary to the public interest for this document delaying the effective date of its final rule. First, given the ongoing pandemic and national emergency, the Board believes that regulated entities should be focused on mitigating the pandemic's serious ramifications and on understanding their significant responsibilities and obligations under the pandemic relief laws enacted by Congress in the last month.¹ They should not be required to expend human capital resources reviewing the rule to ensure they understand the substantive changes, as the rule contemplates, or to adjust to the rule's new obligations. 85 FR at 18397. Given the immediate need to provide the Board's regulated entities with certainty regarding the delayed timing of their responsibilities and obligations under the new rule, submitting this short delay in the rule's effective date to notice and comment would be impractical and contrary to the public interest, per 5 U.S.C. 553(b)(3)(B).

Second, the Board concludes that proceeding directly to final rule is appropriate because notice and comment is unnecessary under the circumstances. The Board believes that this change is in the nature of a minor, technical correction. The Board issued its rule on April 1, 2020, only 5 days ago; therefore, the change in effective date is almost contemporaneous with the rule itself. It is therefore unlikely any parties will have relied on the rule to their detriment, and the minor amendment to the effective date of the rule merely extends the status quo for an additional 60 days. Moreover, the Board's initial choice of effective date, June 1, 2020, was discretionary; the Board did not propose an effective date in the NPRM, nor did it receive any comments suggesting one. Given this swift correction, the Board concludes that notice and comment is unnecessary to extend the effective date an additional 60 days, or to July 31, 2020.

¹ See Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136 (Mar. 27, 2020); Families First Coronavirus Response Act, Public Law 116-127 (Mar. 18, 2020).

Dated: April 6, 2020.

Roxanne L. Rothschild,
Executive Secretary.

[FR Doc. 2020-07537 Filed 4-8-20; 8:45 am]

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DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 826

RIN 1235-AA35

Paid Leave Under the Families First Coronavirus Response Act; Correction

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Temporary rule; correction and correcting amendment.

SUMMARY: The Department of Labor published in the **Federal Register** on April 6, 2020, a temporary rule to implement public health emergency leave under Title I of the Family and Medical Leave Act (FMLA), and emergency paid sick leave to assist working families facing public health emergencies arising out of Coronavirus Disease 2019 (COVID-19) global pandemic. The leave is created by a time-limited statutory authority established under the Families First Coronavirus Response Act (FFCRA), and is set to expire on December 31, 2020. The FFCRA and the temporary rule do not affect the FMLA after December 31, 2020. Through publication of this document, the Department corrects certain preamble and regulatory text.

DATES: This rule is effective from April 10, 2020, through December 31, 2020. This rule became operational on April 1, 2020.

FOR FURTHER INFORMATION CONTACT: Amy DeBisschop, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210, telephone: (202) 693-0406 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department of Labor published a temporary rule in the **Federal Register** on April 6, 2020 titled, Paid Leave under the Families First Coronavirus Response Act. 85 FR 19326. The temporary rule contained an incorrect calculation of hours worked in a particular scenario (page 19329), a paragraph within the preamble describing regulatory text that was erroneously included (page 19338), along with incorrect cross references in

§§ 826.20 (page 19349, in the third column), 826.22 (page 19350, second column), and 826.100(d) (page 19355, first column) of the regulatory text. Additionally, the Department is inserting omitted titles in § 826.30(d) and (e) (page 19352, first column); inserting a comma in § 826.30(b)(3) to make a citation more accurate (page 19351, second column); correcting the reference to 5102(a)(2) in § 826.30(c)(1)(iii) (page 19351, third column); and making two corrections to the text of § 826.50(d) (page 19353, second column). The Department is capitalizing a defined term for consistency with the remainder of the definition section (page 19348, third column). Finally, the Department is correcting a date in § 826.70(e) and deleting § 826.70(f) (page 19354, first and second columns) to be consistent with the remainder of the regulations. This action makes the necessary corrections in the regulatory text and preamble.

Corrections to Preamble

In rule FR Doc. 2020–07237, published on April 6, 2020 (85 FR 19326), make the following corrections:

1. On page 19329, in the first column, correct by revising “7.5 hours” to “6.5 hours.”

2. On page 19338, in the second column, under “III. Discussion” part G is corrected by deleting the final paragraph under the heading “G. Leave to Care for a Child Due to School or Place of Care Closure or Child Care Unavailability—Intersection between the EFMLEA and the FMLA”.

List of Subjects in 29 CFR Part 826

Wages.

For the reasons set out in the preamble, the Department of Labor corrects 29 CFR part 826 by making the following correcting amendments:

PART 826—PAID LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

■ 1. The authority citation for part 826 continues to read as follows:

Authority: Pub. L. 116–127 sections 3102(b) and 5111(3); Pub. L. 116–136 section 3611(7).

§ 826.10 [Amended]

■ 2. In § 826.10(a), remove “Subject to a quarantine or isolation order” and add in its place “Subject to a Quarantine or Isolation Order”.

■ 3. In § 826.20, revise paragraphs (a)(7) and (b) to read as follows:

§ 826.20 Paid leave entitlements.

(a) * * *

(7) *Caring for an individual.* An Employee may take Paid Sick Leave for the reason described in paragraph (a)(1)(iv) of this section if the Employee is unable to perform work for his or her Employer and if the individual depends on the Employee to care for him or her and is either:

(i) Subject to a Quarantine or Isolation Order as described in paragraph (a)(1)(i) of this section; or

(ii) Has been advised to self-quarantine by a health care provider as described in paragraph (a)(1)(ii) of this section, because of a belief that—

(A) The individual has COVID–19;

(B) The individual may have COVID–19 due to known exposure or symptoms; or

(C) The individual is particularly vulnerable to COVID–19.

* * * * *

(b) *Qualifying reason for Expanded Family and Medical Leave.* An Eligible Employee may take Expanded Family and Medical Leave because he or she is unable to work due to a need to care for his or her Son or Daughter whose School or Place of Care has been closed, or whose Child Care Provider is unavailable, for reasons related to COVID–19. An Eligible Employee has need to take Expanded Family and Medical Leave for the purposes of this paragraph (b) only if no suitable person is available to care for his or her Son or Daughter during the period of such leave.

* * * * *

■ 4. Revise § 826.22 to read as follows:

§ 826.22 Amount of pay for Paid Sick Leave.

(a) Subject to paragraph (c) of this section, for each hour of Paid Sick Leave taken by an Employee for qualifying reasons set forth in § 826.20(a)(1)(i) through (iii), the Employer shall pay the higher of:

(1) The Employee’s average regular rate as computed under § 826.25;

(2) The Federal minimum wage to which the Employee is entitled; or

(3) Any State or local minimum wage to which the Employee is entitled.

(b) Subject to paragraph (c) of this section, for each hour of Paid Sick Leave taken by an Employee for qualifying reasons set forth in § 826.20(a)(1)(iv) through (vi), the Employer shall pay the Employee two-thirds of the amount described in § 826.24(a).

(c) The limitations on payments are as follows:

(1) In no event shall an Employer be required to pay more than \$511 per day

and \$5,110 in the aggregate per Employee when an Employee takes Paid Sick Leave for qualifying reasons set forth in § 826.20(a)(1)(i) through (iii).

(2) In no event shall an Employer be required to pay more than \$200 per day and \$2,000 in the aggregate per Employee when an Employee takes Paid Sick Leave for qualifying reasons set forth in § 826.20(a)(1)(iv) through (vi).

■ 5. In § 826.30, revise paragraphs (b)(3) and (c)(1)(iii) and the heading for paragraph (d) and add a heading for paragraph (e) to read as follows:

§ 826.30 Employee eligibility for leave.

* * * * *

(b) * * *

(3) An Employee who has been employed by a covered Employer for at least thirty calendar days is eligible for Expanded Family and Medical Leave under the EFMLEA regardless of whether the Employee would otherwise be eligible for leave under the FMLA. Thus, for example, an Employee need not have been employed for 1,250 hours of service and twelve months of employment as otherwise required under the FMLA, see § 825.110(a)(1) and (2) of this chapter, to be eligible for leave under the EFMLEA.

(c) * * *

(1) * * *

(iii) The definition of “health care provider” contained in this section applies only for the purpose of determining whether an Employer may elect to exclude an Employee from taking leave under the EPSLA and/or the EFMLEA, and does not otherwise apply for purposes of the FMLA or section 5102(a)(2) of the EPSLA.

* * * * *

(d) *Exclusion by OMB from EFMLEA.*

* * *

(e) *Exclusion by OMB from EPSLA.*

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■ 6. Revise § 826.50(d) to read as follows:

§ 826.50 Intermittent leave.

* * * * *

(d) *Calculation of leave.* If an Employee takes Paid Sick Leave or Expanded Family and Medical Leave intermittently as the Employee and Employer have agreed, only the amount of leave actually taken may be counted toward the Employee’s leave entitlements. For example, an Employee who normally works forty hours in a workweek and only takes three hours of leave each work day (for a weekly total of fifteen hours) has only taken fifteen hours of the Employee’s Paid Sick Leave or 37.5% of a workweek of the

Employee's Expanded Family and Medical Leave entitlement.

■ 7. In § 826.70, revise the section heading and paragraph (e) and remove paragraph (f) to read as follows:

§ 826.70 Leave to care for a child due to School or Place of Care closure or child care unavailability—intersection of EFMLEA and the FMLA.

* * * * *

(e) An Eligible Employee can take a maximum of twelve workweeks of Expanded Family and Medical Leave during the period in which the leave may be taken (April 1, 2020 to December 31, 2020) even if that period spans two FMLA leave twelve-month periods. For example, if an Employer's twelve-month period begins on July 1, and an Eligible Employee took seven weeks of Expanded Family and Medical Leave in May and June, 2020, the Eligible Employee could only take up to five additional weeks of Expanded Family and Medical Leave between July 1 and December 31, 2020, even though the first seven weeks of Expanded Family and Medical Leave fell in the prior twelve-month period.

■ 8. Revise § 826.100(d) to read as follows:

§ 826.100 Documentation of need for leave.

* * * * *

(d) To take Paid Sick Leave for a qualifying COVID-19 related reason under § 826.20(a)(1)(iv) an Employee must additionally provide the Employer with either:

(1) The name of the government entity that issued the Quarantine or Isolation Order to which the individual being care for is subject; or

(2) The name of the health care provider who advised the individual being cared for to self-quarantine due to concerns related to COVID-19.

* * * * *

Signed at Washington, DC, this 8th day of April, 2020.

Cheryl M. Stanton,

Administrator, Wage and Hour Division.

[FR Doc. 2020-07711 Filed 4-8-20; 4:15 pm]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 510

North Korea Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending the North Korea Sanctions Regulations to implement the Treasury-administered provisions of the North Korea Sanctions and Policy Enhancement Act of 2016, as amended by the Countering America's Adversaries Through Sanctions Act and the National Defense Authorization Act for Fiscal Year 2020. Specifically, OFAC is incorporating blocking and correspondent account sanctions provisions, adding a new prohibition that is applicable for persons that are owned or controlled by a U.S. financial institution and established or maintained outside the United States, adding new statutory exemptions relevant to certain newly added prohibitions, making technical and conforming edits to three definitions, revising an interpretive provision, and updating the authorities and delegation sections of the regulations. OFAC is also amending the definition of luxury goods.

DATES: This rule is effective April 10, 2020.

FOR FURTHER INFORMATION CONTACT:

OFAC: Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website (www.treasury.gov/ofac).

Background

On November 4, 2010, OFAC issued the North Korea Sanctions Regulations, 31 CFR part 510 (75 FR 67912, November 4, 2010) (the "Regulations"). Since then, OFAC has amended the Regulations several times. This rule amends the Regulations to incorporate the Treasury-administered provisions of the North Korea Sanctions and Policy Enhancement Act of 2016, Public Law 114-122, 130 Stat. 93 (22 U.S.C. 9201-9255) (NKSPEA), as amended by the Countering America's Adversaries Through Sanctions Act, Public Law 115-44, 131 Stat. 886 (22 U.S.C. 9201 *et seq.*) (CAATSA) and the National Defense Authorization Act for Fiscal Year 2020, Public Law 116-92, 133 Stat. 1198 (FY 2020 NDAA).

NKSPEA

On February 18, 2016, the President signed NKSPEA into law. Among other

things, section 104 of NKSPEA provides that the President, with certain exceptions, shall block and prohibit all transactions in property and interests in property that are in the United States, that come within the United States, or that are or come within control or possession of a U.S. person of: The Government of North Korea, the Workers' Party of Korea, and other persons the President determines knowingly engage in certain North Korea-related activities.

On August 2, 2017, the President signed CAATSA into law. Title III of CAATSA, among other things, amends NKSPEA. Section 311(a) of CAATSA amends section 104(a) of NKSPEA to provide that the President shall, with certain exceptions, block and prohibit all transactions in property and interests in property that are in the United States, that come into the United States, or that are or come into the possession of U.S. persons of any person the President determines knowingly, directly or indirectly, imports, exports, or reexports to or from North Korea any defense article or defense service or engages in certain other North Korea-related activities. Section 104(b) of NKSPEA provides that the President may, with certain exceptions, block any person that knowingly engages in, contributes to, assists, sponsors, or provides financial, material, or technological support for, or goods and services in support of, any sanctioned person.

On December 20, 2019, the President signed the FY 2020 NDAA. Title LXXI of the 2020 NDAA, titled the "Otto Warmbier North Korea Sanctions and Enforcement Act of 2019," among other things, amends NKSPEA by adding new sections 104(g), 201B, and 201C. NKSPEA section 104(g) requires the President to designate any person that he determines knowingly engages in certain specified North Korea-related activities.

New section 201B of NKSPEA requires the Secretary of the Treasury to impose sanctions with respect to any foreign financial institution (FFI) that the Secretary of the Treasury determines, in consultation with the Secretary of State, knowingly on or after April 18, 2020, provides significant financial services to any person designated for the imposition of sanctions with respect to North Korea under NKSPEA subsections 104(a), 104(b), or 104(g), an applicable Executive order, or an applicable United Nations Security Council resolution. Section 201B provides that the Secretary may impose blocking sanctions on such FFIs, or may prohibit or impose strict conditions on the opening or