

**COMMENTS OF THE TRANSPORTATION
TRADES DEPARTMENT, AFL-CIO**

**BEFORE THE
NATIONAL MEDIATION BOARD
ON
DECERTIFICATION OF REPRESENTATIVES
DOCKET NO. C-7198**

April 1, 2019

The Unions that comprise the Transportation Trades Department of the AFL-CIO (“TTD”) hereby submit these comments regarding the Notice of Proposed Rulemaking (“NPRM”) issued by the National Mediation Board (“NMB” or “Board”) on January 31, 2019. 84 Fed. Reg. 612 (Jan. 31, 2019). These 32 affiliated unions represent employees in all modes of transportation, including railroad and airline employees covered by the Railway Labor Act (“RLA”).¹ TTD welcomes the opportunity to submit comments to the NMB regarding its recent proposed

¹ Specifically, TTD aviation and rail unions covered by the RLA include: Air Line Pilots Association (“ALPA”); Association of Flight Attendants-CWA (“AFA-CWA”); American Train Dispatchers Association (“ATDA”); Brotherhood of Railroad Signalmen (“BRS”); Communications Workers of America (“CWA”); International Association of Machinists and Aerospace Workers (“IAM”); International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers (“IBB”); International Brotherhood of Electrical Workers (“IBEW”); National Conference of Firemen and Oilers, District of Local 32BJ, SEIU (“NCFO”); Office and Professional Employees International Union (“OPEIU”); Sheet Metal, Air, Rail and Transportation Workers (“SMART”); SMART-Transportation Division; Transportation Communications Union/IAM (“TCU”); Transport Workers Union of America (“TWU”); and UNITE HERE.

decertification procedure rule-making. TTD strongly opposes the Board's proposed rulemaking. The NPRM is inconsistent with the RLA. The proposed rules changes exceed the scope of the Board's narrow jurisdiction under Section 2, Ninth and unreasonably restrict employees' exercise of the right to choose representation under the statute. For all the reasons discussed below, the NMB should reconsider its proposed rulemaking and rescind the NPRM.

I. THE NMB'S CURRENT PROCEDURES ARE BASED UPON THE RLA'S STATUTORY LANGUAGE, WHICH DOES NOT EXPRESSLY PROVIDE FOR A DECERTIFICATION PROCEDURE.

As the federal courts have held, the NMB has a "very circumscribed role" in representation disputes under RLA Section 2, Ninth. *RLEA v. NMB*, 29 F.3d 655, 662 (D.C. Cir. 1994). Congress has given the NMB "very limited authority to investigate representation disputes." *Id.* at 658. "[T]he Board has no freewheeling authority to act as it sees fit with respect to anything denoted a 'representation dispute.'" *Id.* at 662. "While the Board enjoys exceptional latitude when acting within its proper sphere of Section 2, Ninth power, that sphere itself is exceptionally narrow." *Id.*

The NMB's limited sphere in representation matters is defined by RLA Section 2, Ninth, which provides in part:

If any dispute shall arise among a carrier's employees as to who are the representatives of such employees designated and authorized in accordance with the requirements of this chapter, it shall be the duty of the Mediation Board, upon request of either party to the dispute, to investigate such dispute and to certify to both parties, in writing, within thirty days after the receipt of the invocation of its services, the name or names of the individuals or organizations that have been designated and authorized to represent the employees involved in the dispute, and certify the same to the carrier. Upon receipt of such certification the carrier shall treat with the representative so certified as the representative of the craft or class for the purposes of this chapter. In such an investigation, the Mediation Board shall be authorized to take a secret ballot of the employees involved, or to utilize any other appropriate method of ascertaining the names of their duly designated and authorized representatives in such manner as shall insure the choice of representatives by the employees without interference, influence, or coercion exercised by the carrier. In the conduct of any election for the purposes herein indicated the Board shall designate who may participate in the election and

establish the rules to govern the election, or may appoint a committee of three neutral persons who after hearing shall within ten days designate the employees who may participate in the election. In any such election for which there are 3 or more options (including the option of not being represented by any labor organization) on the ballot and no such option receives a majority of the valid votes cast, the Mediation Board shall arrange for a second election between the options receiving the largest and the second largest number of votes.

45 U.S.C. § 152, Ninth. As the courts have held:

In short, when read with care, it is apparent that, in enacting Section 2, Ninth, Congress was quite precise in defining what it meant by “[d]isputes as to [the] identity of representatives” – the title of Section 2, Ninth – and in codifying rules governing the resolution of such disputes.”

RLEA, 29 F.3d at 665.

Unlike the National Labor Relations Act (“NLRA”), the RLA does not expressly provide a statutory procedure for decertification of a union representative. When Congress enacted the NLRA in 1935, Section 9 set forth a process for selecting a union representative, but the Act did not contain a procedure to rescind that choice through decertification. In 1947, as part of the Taft-Hartley Act amendments, Congress added to section 9(c)(1)(A) to provide that an election petition could be filed:

. . . by an employee or group of employees or any individual or labor organization acting in their behalf alleging that a substantial number of employees . . . (ii) assert that the individual or labor organization, which has been certified or is being currently recognized by their employer as the bargaining representative, is no longer a representative as defined in subsection [9](a) . . .

29 U.S.C. 159(c)(1)(A); *see also* Janice Bellace, *Union Decertification under the NLRA*, 57 Chicago-Kent L. Rev. 643 (1981).

Congress has never taken similar action with respect to the RLA to add an express procedure for decertification, despite amending the statute several times since Section 2, Ninth was first enacted in 1934. The Board has long recognized the significance of this clear difference in the two statutory schemes. As the Board wrote in its 1981 Annual Report:

The Railway Labor Act, unlike the National Labor Relations Act, contains no statutory provision for decertification of a labor representative. The Board has always assumed that, because Congress had to amend the National Labor Relations Act in 1947 to provide for a decertification procedure under that Act, that similar legislative action would be required for creation of a similar procedure under the Railway Labor Act.

Forty-Seventh Annual Report at 21. Thus, the Court of Appeals for the Fifth Circuit correctly observed in 1983, “the Board has stated time and time again” that the direct “decertification vote [process] under the National Labor Relations Act ... is not allowed by the [Railway Labor] Act.” *Russell v. NMB*, 714 F.2d 1332, 1342 (5th Cir. 1983). More recently, in 2011, the Court of Appeals for the D.C. Circuit explained that “the Railway Labor Act spells out no procedures for ... decertification and, for that matter, makes no mention of decertification procedures, much less requires them.” *Air Transport Ass’n of America v. National Mediation Board*, 663 F.3d 476, 485 (D.C. Cir. 2011).

Congress most recently amended the RLA in 2012, following the NMB’s adoption of the yes/no ballot format. During the Board’s rule-making process leading to the adoption of the yes/no ballot, several carrier representatives requested that the Board adopt an express decertification process. The Board denied this request. 75 Fed. Reg. 26062, 26078 (May 11, 2010). Congress too chose not to amend the Act to include an express decertification process as part of the statutory amendments passed in the wake of the yes/no ballot rule-making.

Instead, Congress enacted Section 2, Twelfth of the RLA, setting forth a showing of interest requirement in representation disputes under the statute. That provision states:

The Mediation Board, upon receipt of an application requesting that an organization or individual be certified as the representative of any craft or class of employees, shall not direct an election or use any other method to determine who shall be the representative of such craft or class unless the Mediation Board determines that the application is supported by a showing of interest from not less than 50 percent of the employees in the craft or class.

45 U.S.C. § 152, Twelfth. Notably, Congress defined the scope of representation applications filed with the Board as those “requesting that an organization or individual be certified as the representative of any craft or class of employees.” This language is consistent with the Board’s long-established position that the RLA only provides for applications seeking certification as a representative.

In addition, as part of the 2012 amendments, Congress tasked the Comptroller General to review within 180 days “the processes applied by the Mediation Board to certify or decertify representation of employees by a labor organization and make recommendations to the Board and appropriate congressional committees regarding actions that may be taken by the Board or Congress to ensure that the processes are fair and reasonable for all parties.” 45 U.S.C. § 165(b). Subsequently, the General Accounting Office (“GAO”) obtained permission from Congress to have this statutorily mandated review fulfilled by a comprehensive study conducted by the Congressional Research Service regarding the NLRA, FLRA, and the RLA. *See* GAO letter, GAO-12-835R National Mediation Board (June 27, 2012). In the end, no recommendations for statutory changes were presented to Congress and there have been no further amendments to the RLA.

The NMB is now seeking to do what Congress has not done through amendment of the RLA, that is provide a separate and express procedure for decertification. As the NMB has long held, Section 2, Ninth only places within the Board’s jurisdiction representation disputes “among a carrier’s employees as to who are the representatives of such employees designated and authorized in accordance with the requirements” of the RLA. Section 2, Twelfth confirms that the scope of representation disputes under the RLA is limited to applications “requesting that an organization or individual be certified as the representative of any craft or class of employees.”

Thus, the straw-man process is not some arbitrary or needless procedure adopted by the Board, but rather the correct application of the statutory language delimiting the Board's authority. The NPRM is simply incorrect when it asserts that "[t]here is . . . no statutory basis for the additional requirement of a straw man where employees seek to become unrepresented" and that the process represents "an unjustifiable hurdle." 84 Fed. Reg. at 612, 613. Instead, the process is mandated by the language of the RLA, and fully justified on that basis.

II. THE PROPOSED CHANGE TO THE NMB'S RULES IS UNNECESSARY BECAUSE EMPLOYEES FREELY AND FREQUENTLY ALTER THEIR REPRESENTATION UNDER THE CURRENT RULES.

In the NPRM, the Board seeks to justify its new procedure by claiming that the straw man process is "unnecessarily complex and convoluted." 84 Fed. Reg. at 612. But the Board cites no factual support whatsoever for this characterization. In fact, the evidence shows that employees freely and frequently alter their representation under the current rules. Thus, the Board is seeking to address a problem which does not exist. Moreover, the proposed rule will not simplify the Board's procedures because the straw man option will still exist, as it must under the language of the RLA.

Under the NMB's current procedures employees can effectively decertify an incumbent union. The current rules require that an application be submitted by an organization or individual supported by a 50% showing of interest. Once the showing is made, the Board conducts an election with the following ballot choices: the incumbent union; the applicant organization or individual; a write-in option; and a "no representation" option. If the applicant organization or individual receives a majority of the votes cast, then the Board certifies the applicant, effectively decertifying the incumbent union. Where the applicant is an individual who has publicly indicated that he or she will disavow certification if he or she prevails, this person is commonly referred to as a "straw

man.” A named organization can also act as a “straw man,” although this is rarely done. If elected, the organization then disavows representation. Additionally, employees may become unrepresented if the “no representation” option prevails in the election.

Employees regularly invoke the NMB’s current procedures either to elect a new representative or become unrepresented. The frequency of such applications belies any claim that the Board’s current procedures are confusing or unwieldy. Some recent examples illustrate this point. In May 2018, the Board conducted an election among 551 employees at Flight Options/FlexJet in response to an application filed by an individual. In the election, the “no representation” option prevailed, resulting in one of the largest decertification votes in the Board’s history. *Flight Options/FlexJet*, 45 NMB 95 (2018). In addition, in February 2018, the NMB conducted an election among 424 employees at Kalitta Air in response to an application from an individual. As a result of the election, employees changed their representative by selecting a different organization through the use of the Board’s write-in option. *Kalitta Air*, 45 NMB 21 (2018).

A smaller matter involving the Eastern Illinois Railroad illustrates yet another way in which employees can become unrepresented under the NMB’s current processes. In that case, an individual filed a representation application with the NMB. Before the NMB had issued a notice of election, the incumbent union filed a request for the Board to revoke its certification, which was granted. *Eastern Illinois R.R.*, 45 NMB 112 (2018). It is not uncommon for unions to request revocation when faced with an application seeking to initiate an election intended to decertify, essentially acknowledging that the organization lacks majority support on the property. *See, e.g., Newburgh & South Shore R.R.*, 45 NMB 8 (2017); *Stillwater Central R.R.*, 37 NMB 201 (2010). Contrary to what some may believe, labor organizations do not seek to impose themselves on

unwilling employee groups since strength in contract negotiations and grievance administration is ultimately derived from a supportive and engaged membership.²

Overall, since 1998, a total of 43 individuals have filed representation applications with the Board, presumably for the purpose of acting in a straw man capacity. In 27 of those matters, the incumbent union representative was effectively decertified, either through certification of the individual or an election resulting in no representative. In addition, since 1998, 51 small unaffiliated organizations have filed representation actions with the Board. In 11 of these matters, the election triggered by the application resulted in no representative being certified. In another 19 such cases, the incumbent union was decertified when the small organization was certified in its place.³ Attachment A to these comments provides a complete listing of these decertification cases. Thus, the NPRM's claim that the Board's current rules somehow operate as an impediment to decertification is simply not borne out by the facts. Instead, it is common for employees to alter their representation under the Board's current procedures. To the extent that such matters constitute a smaller percentage of the Board's cases than applications seeking to obtain union representation, this is not a reflection of any defect in the Board's processes, but rather a reflection of employees' desire to have representation in the workplace.

² Attachment A to these comments provides a complete listing of NMB cases in which an incumbent union has sought to have its own certification revoked.

³ In some of those cases, the small organization may have acted in the capacity of a straw man, but in other cases the organization may have continued as a representative at least for some time. There is no way to know based on NMB records whether such an organization continues to represent employees, since the NMB's role is limited to issuing the certification, not tracking whether a representative continues to act on behalf of employees post-certification.

Employer groups have repeatedly petitioned the NMB to adopt express decertification procedures. The Board has formally considered adopting such procedures on at least two occasions – in 1987 and again in 2010. After careful consideration (including an extensive fact-finding proceeding in 1987), the NMB has rejected these past petitions explaining that its current procedures are consistent with the RLA and sufficient to ensure employee choice in representation matters. In the 1987 *Chamber of Commerce* proceeding, the Board emphasized that it “amends its rules only when required by statute or when essential for administrative purposes. Therefore, where there is a question of the Board’s statutory authority to amend its rules to include decertification procedures, the standard of persuasion on behalf of the moving party must be very high.” *Chamber of Commerce*, 14 NMB 347, 356-357 (1987). The Board concluded the high standard of persuasion was not satisfied, finding the proponents of additional decertification procedures “failed to establish that formal decertification rules are essential to the well-ordered management of the Board’s representation function” particularly in light of the fact that the Board had at the time “two procedures whereby employees may become unrepresented.” *Id.* at 358.

Again in 2010 as part of the rulemaking process leading to the Board’s adoption of the yes/no ballot, National Right to Work and several employers asserted that the Board should adopt formal decertification procedures. As in the past, the NMB explained that the RLA, unlike the NLRA, was never amended by Congress to include a specific provision for decertification. 75 Fed. Reg. at 26078. The NMB also found that “the Board’s existing election procedures allow employees to rid themselves of a representative.” *Id.* The Board further explained that the adoption of the yes/no ballot would actually allow employees to cast a vote in favor of “no union”:

Under the current election procedures, there is no opportunity to vote “no” or against representation entirely. Employees who want to vote “no” must instead abstain from voting. The proposed change will give these employees the opportunity to affirmatively cast a ballot for “no union.”

75 Fed. Reg. at 26078-26079. Thus, the Board's adoption of the yes/no ballot provided further justification for rejecting the proposal for a separate decertification procedure.

In proposing to now add decertification procedures, the Board does not claim that any new or different circumstances have arisen since 2010 which have caused the NMB to re-evaluate its most recent conclusion that its current procedures adequately allow for employees to become unrepresented if they so choose. Despite the frequency with which the current procedures are used by employees to alter their representation, the NPRM proclaims that the current process is "unnecessarily complex and convoluted" and imposes an "unjustifiable hurdle for employees." 84 Fed. Reg. at 612. But the Board fails to present any facts to support these characterizations, much less evidence that would tend to show that procedures previously deemed adequate are now no longer sufficient. Instead, the Board appears content to proceed without any empirical showing whatsoever that employees' desires are thwarted in any way by the NMB's current processes.

In the NPRM, the Board also asserts that its aim is to "provide for a straightforward" procedure for decertification. However, the "strawman" process will continue to exist even if the proposed rule is adopted. Section 1, Sixth of the RLA defines a "representative" as "any person or persons, labor union, organization, or corporation designated either by a carrier or group of carriers or by its or their employees to act for it or them." 45 U.S.C. § 151, Sixth. Individuals are entitled to act as a representative under the RLA, even if their ultimate intent is to disavow representation. Therefore, the NMB will be obligated to continue to accept representation applications submitted by individuals even if the new rule is adopted. So, instead of simplifying the Board's processes, the NPRM is simply adding an additional process, while the process which it characterizes as "complex and convoluted" will continue to exist as it must under the language of the RLA.

In fact, if the NPRM is adopted, the Board will have three avenues for employees to become unrepresented, as opposed to only one procedure for employees to obtain representation. Not only does adding an additional procedure increase the complexity of the Board's processes, it also further tilts the system by expanding the means to become unrepresented without any offsetting expansion of procedures to become represented. The NPRM does not acknowledge, much less meaningfully address, this imbalance in the Board's rules.

III. THE NPRM WOULD IMPERMISSIBLY ALLOW NON-PARTIES TO FILE REPRESENTATION APPLICATIONS WITH THE NMB.

The Board's NPRM proposes that current Rule 1203.2 relating to applications for investigation of representation disputes be revised as follows (revisions in italics):

The applications should show specifically the name or description of the craft or class of employees involved, the name of the invoking organization *or individual seeking decertification*, the name of the organization currently representing the employees, if any, and the estimated number of employees in each craft or class involved. The applications should be signed by the chief executive of the invoking organization, *some other authorized officer of the organization, or an individual seeking decertification.*

Compare 84 Fed. Reg. at 613, *with* 29 C.F.R. § 1203.2. Thus, the NPRM would allow “an individual seeking decertification” to file an application for investigation of a representation dispute. The NPRM does not further define or describe “an individual seeking decertification.” Under the plain language of the proposed rule, any individual could file an application with the Board provided that the objective is decertification.

The RLA, however, only permits a “party to the dispute” to request an investigation. 45 U.S.C. § 152, Ninth. In *Railway Labor Executives' Ass'n v. National Mediation Board*, 29 F.3d 655 (D.C. Cir. 1994), the District of Columbia Circuit addressed at length the issue of who is considered a “party” under Section 2, Ninth. The *RLEA* case resulted from the NMB's adoption of merger procedures allowing the Board to investigate a representation matters following a merger

either *sua sponte* or pursuant to a petition from a carrier. The court gave this description of the Board's merger rule-making:

For more than fifty years following its creation, the Board unvaryingly conducted representation elections only at the behest of employees or their representatives. In 1987, however, with no direction from Congress, the Board decided that existing procedures under Section 2, Ninth were "inadequate to provide for a fair and orderly resolution of representation matters put into flux by a merger." *Trans World Airlines/Ozark Airlines*, 14 N.M.B. 218, 241 (1987).

RLEA, 29 F.3d at 659. The court struck down the Board's sudden departure from its long-established practice.

The *RLEA* court ruled that the Board lacked jurisdiction to investigate representation matters except in response to an application from a party, stating that "the Board has no threshold jurisdiction to act at all in the absence of a request from the employees involved in the representation dispute." *Id.* at 662.

The Board's authority is exclusive only with respect to the precise matters delimited by Section 2, Ninth. If employees have not sought an "investigation" under Section 2, Ninth, none can be initiated because the statute limits action to cases initiated by employees.

Id.

Despite the clear holding of the court in *RLEA*, in the current NPRM, the Board proposes to allow any individual seeking decertification to invoke its jurisdiction, without regard to whether the individual is a "party" under Section 2, Ninth. This aspect of the NPRM violates the plain language of the RLA. If the Board proceeds to adopt a new rule, it should expressly provide that only employees or their representatives may submit applications under Section 1203.2.

IV. THE BOARD'S PROPOSED RULE INCREASES THE RISK OF CARRIER INTERFERENCE WITH EMPLOYEE FREE CHOICE IN REPRESENTATION MATTERS.

The NMB's proposed rule opens the door to carrier interference with employee choice in representation matters. Under current rules, an individual seeking to invoke the Board's

jurisdiction for the purpose of securing a “no representation” outcome in a straw man proceeding is required to first take responsibility among his or her co-workers and affirmatively seek to act as their representative. The new proposed rule would remove the individual accountability which currently attaches in the straw man process, where the authorization cards and application must be in the name of a specified individual and the named individual appears on the ballot. Under the proposed rule, with no identified individual who can be held accountable throughout the process, carriers will likely be emboldened to interfere in the election process by hiding behind the relative anonymity of the Board’s new proposed decertification application.

The RLA strictly forbids any carrier from “interfer[ing] in any way with the organization of its employees” or “us[ing] the funds of the carrier ... to influence ... employees in an effort to induce them ... not to join or remain members of any labor organization.” 45 U.S.C. § 152, Fourth. Under Section 2, Ninth, Congress also specifically directs the NMB to “insure the choice of representatives by the employees without interference, influence, or coercion exercised by the carrier.” 45 U.S.C. § 152, Ninth. Nevertheless, even under the Board’s current procedures, there have been instances when carriers have unlawfully supported and directed decertification campaigns, most often by tainting the card collection process.

For example, in a case involving Great Lakes Airlines, the Board investigated allegations that managers distributed authorized cards later used by a strawman applicant seeking decertification and encouraged employees to sign the cards. *Great Lakes Airlines*, 35 NMB 213 (2008). Upon finding that the incumbent union had made a *prima facie* showing of carrier interference, the NMB conducted an extensive investigation. The Board found that the straw man applicant offered inconsistent statements regarding how he obtained the cards used, first asserting that they had been provided by the Board itself, but later claiming that he obtained a sample card

from a rival union website. Ultimately, however, the Board found that the strawman applicant had solicited co-workers to sign blank authorization cards and subsequently filled in his own name only after the cards were signed. The NMB rejected the patently defective cards and dismissed the application.

Similarly, in a case involving Northern Air Cargo (“NAC”), the NMB investigated whether the carrier assisted in the formation of an in-house association and the collection of authorization cards on behalf of the association in an effort to decertify the incumbent union. *Northern Air Cargo*, 29 NMB 1 (2001). After conducting a thorough investigation, the Board found that the carrier “canvassed members of the craft or class to start an association in order to decertify” the incumbent union. *Id.* at 25. The Board also found that the carrier had given material support to the association, “including free access to NAC property, and the use of the NAC bulletin board, in-house mail system and fax machine,” as well as covering the cost of mailing the authorization cards in favor of the association to the NMB. *Id.* “[W]hen the facts tend to show that an organization’s A-cards were the product of carrier influence, the Board will not take cognizance of the cards for directing an election under 45 U.S.C. § 152, Ninth.” *Id.* at 24. Accordingly, the NMB dismissed the carrier-supported application.⁴

Plainly, the Board’s statutory mandate is to insure that employee representation matters are decided free from carrier interference. The weakened accountability for decertification applications now proposed by the Board runs counter to that statutory mission. To the extent that

⁴ See also *Virgin Atlantic Airways*, 24 NMB 575 (1997) (dismissing application where carrier required employees to attend meetings conducted by in-house association seeking to decertify the incumbent union and supported employee committees associated with applicant); *Southwest Airlines*, 21 NMB 332 (1994) (dismissing application where carrier engaged in discussion and correspondence favoring applicant over the incumbent union and tainting the collection of cards); *Mackey Int’l Airlines*, 5 NMB 220 (1975) (dismissing application because filing organization was “fostered, assisted and dominated by the carrier”).

adoption of the proposed rule-making results in increased carrier support for decertification efforts, the NMB will end up devoting more of its limited resources to investigating such matters.

V. THE PROPOSAL FOR A TWO-YEAR BAR ON ELECTION APPLICATIONS FOLLOWING A DECERTIFICATION CONSTITUTES AN UNJUSTIFIABLE RESTRICTION ON EMPLOYEES' FREEDOM OF CHOICE AS GUARANTEED UNDER THE RLA.

In the NPRM, the Board has proposed to apply its current two-year certification bar to cases in which a decertification occurs under the new rules. In this regard, the proposed rule goes well beyond any prior decertification proposals addressed by the Board. Indeed, we are not aware of any other instance in which the Board has previously sought to expand its bar rules. Thus, the NPRM is extraordinary in this regard in seeking to curtail the exercise of workplace democracy. Most significantly, this aspect of the NPRM lacks any rational basis. It is simply an unwarranted restriction on employees' "right to organize and bargain collectively through representatives of their own choosing" as guaranteed under Section 2, Fourth of the RLA. 45 U.S.C. § 152, Fourth.

The Board has long applied a two-year bar on representation applications following the issuance of a certification covering the same craft or class. The rationale for the two-year bar is to give a newly certified representative a two-year period in which to negotiate a new collective bargaining agreement free from the distraction and uncertainty of a challenge to the new representative's certification. The selection of the two-year period was informed by the Board's experience in its mediation capacity, recognizing that collective bargaining under the RLA is often a lengthy process, particularly in the case of a first contract where the parties do not start with any existing terms of agreement. The two-year bar also aids the Board's mediation function, by ensuring a period of stability in which to assist in reaching a first contract. In these circumstances,

there is a solid rationale for imposing a bar limiting employees' exercise of their rights under Section 2, Fourth.

No similar rationale exists with respect to decertification. Obviously, no contract negotiations follow once an employee representative is removed. Therefore, there is no need to provide breathing room for negotiations to occur. Instead, employees simply return to a state of at-will employment, where the employer is free to impose terms and conditions.

Unable to apply its current rationale for the two-year certification bar, the Board asserts instead that:

Successful decertification, like certification, is a challenging and significant undertaking by employees with a substantial impact on the workplace for both employees and their employer. In the Board's view, the changes in the employee-employer relationship that occur when employees become represented, change representative or become unrepresented require similar treatment.

84 Fed. Reg. at 613. The Board offers this "view" without the benefit of any factual support. Indeed, the Board has no experience in working with employee groups following decertification since its mediation function is limited to contract negotiations between employee representatives and carriers. Therefore, it is unclear how the Board could form any opinion regarding the "challenges" for employees or employers following decertification. In any event, the NPRM offers no evidence to support the finding that returning to at-will employment involves any "substantial undertaking" and we are hard-pressed to see how it does.

The Board's choice to extend the existing certification bar also cuts against the purported rationale for adopting an explicit decertification procedure in the first place. On the one hand, the Board asserts that its new rule is necessary to "fulfill the statutory purpose of 'freedom of association among employees,'" citing to RLA Section 151a(2). 84 Fed. Reg. at 612; *see also id.* at 613 ("It is the NMB's statutory mandate to protect employees' freedom to choose a

representative.”). Then, on the other hand, the Board seeks to restrict employees once they have decertified a representative from choosing another representative for a period of two years. This restriction is inconsistent with the Board’s statutory mandate and, in fact, calls into question the Board’s objectives in seeking to install an explicit decertification process.

CONCLUSION

In conclusion, TTD urges the NMB to reconsider its proposed rulemaking and rescind the NPRM. The proposed rule is contrary to plain statutory language, delimiting the Board’s narrow role in representation disputes. Even under the deferential standard applied by the federal courts in reviewing agency rulemaking, acts in contravention of an agency’s governing statute cannot survive judicial scrutiny. In addition, the NMB’s proposal for a two-year ban on representation applications following decertification under the proposed rule constitutes an egregious departure from the democratic principles underlying the RLA without any legitimate justification. Employees are able to freely alter their representation status under the Board’s current rules, and would actually be less able to do so under the NPRM. That is not a sound exercise of the Board’s rule-making authority.

Respectfully submitted,

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NMB Agency Determinations Chart – Fiscal Years 1998 – 2019

Key:

Charts lists 122 NMB Agency Determinations in reverse chronological order by fiscal year.

The NMB Agency Determinations listed are representation actions invoked:

- (1) by Individuals (likely Strawmen);
- (2) by Unaffiliated/Very Small Unions (potential Strawmen);
- (3) where an Incumbent Union of any size revoked representation (could be preemptive revocation to Strawmen or otherwise).

Chart does not include: *e.g.* new organizing by International/major Union; determinations if carriers are single system; authorization for election; election between two International/major Unions (should not occur if unions abiding Art. XX/no-raiding agreements); non-representation actions; etc.

Total Agency Determinations (122) – (actions can be in multiple categories (4)):

- Representation action invoked by Individual (43).
- Representation action invoked by Unaffiliated/Very Small Organizations (51).
Combined representation actions invoked by Individuals or Unaffiliated/Very Small Organizations (94).
- Revocation request by incumbent Unaffiliated/Very Small Organization (4).
- Revocation request by incumbent International Union (28).
Combined revocation requests by Unaffiliated/Very Small Organizations and International Unions (32). (*There are 0 revocation requests by Individuals).

ISI – “Insufficient Showing of Interest” WDI – “Withdrawn During Investigation” FUI – “Finding Upon Investigation”

#	Date	Case	NMB No.	Disposition	Union/Movant	Carrier	Craft or Class	Action
2019* (as of 03/25/19)								
1.	02/15/19	R-7527	46 NMB 10	Dismissal	Individual	Endeavor Air	Aircraft Dispatchers	Election held, incumbent PAFCA fails, Individual fails, no representation.
2.	11/13/18	R-6280	46 NMB 5	Revocation of Certification	IAM	Bemidji Aviation	Mechanics & Related	Incumbent IAM requests revocation.
3.	11/13/18	R-6279	46 NMB 4	Revocation of Certification	IAM	Bemidji Aviation	Stock & Stores Employees	Incumbent IAM requests revocation.
4.	10/16/18	R-7522	46 NMB 2	Dismissal – ISI	Individual	Kalitta Charters	Flight Deck Crew Employees	Insufficient showing of interest, incumbent IBT remains.
5.	10/02/18	R-7524	46 NMB 1	Dismissal – WDI	Individual	Travel Mgmt.	Pilots	Individual withdraws.
2018								
6.	09/28/18	R-7417/ R-7524	45 NMB 37	Revocation of Certification	IBT	Travel Mgmt.	Pilots	Incumbent IBT requests revocation.
7.	08/15/18	R-7521	45 NMB 30	Dismissal – WDI	Individual	Eastern Illinois RR	Operating/ Non-Operating Employees	Individual withdraws request upon incumbent SMART’s revocation, no representation.
8.	08/09/18	R-7437	45 NMB 29	Revocation of Certification	SMART	Eastern Illinois RR	Operating/ Non-Operating Employees	Incumbent SMART requests revocation.
9.	07/30/18	R-7520	45 NMB 28	Dismissal – WDI	Individual	BNSF	Senior Special Agent & Agent	Incumbent TCU/IAM remains, Individual withdraws.
10.	07/27/18	R-7448	45 NMB 27	Revocation of Certification	XTRA Airline Pilots Assoc. (XAPA)	XTRA Airways	Pilots	Incumbent XAPA requests revocation.

11.	05/31/18	R-7517	45 NMB 24	Dismissal	Individual	Flight Options/FlexJet	Pilots	Election held, incumbent IBT fails, Individual fails, no representation.
12.	05/04/18	R-7518	45 NMB 21	Certification	Prof. Airline Flight Control Assoc. (PAFCA)	American Airlines	Flight Dispatchers	Election held, incumbent TWU fails, PAFCA certified.
13.	02/21/18	R-7506	45 NMB 11	Certification	Prof. Airline Flight Control Assoc. (PAFCA)	Spirit Airlines	Dispatchers	Election held, incumbent TWU fails, PAFCA certified.
14.	02/16/18	R-7509	45 NMB 9	Certification	Individual	Kalitta Air	Flight Deck Crew Members	Election held, incumbent IBT, Individual fails, write-in ALPA certified.
15.	02/09/18	R-7502	45 NMB 7	Dismissal	MOW of TPW	Toledo, Peoria & Western Rwy.	Maintenance of Way	Runoff election held, incumbent BMW fails, no representation.
16.	12/21/17	R-7502	45 NMB 4	Dismissal	MOW of TPW	Toledo, Peoria & Western Rwy.	Maintenance of Way	Election held, incumbent BMW, MOW of TPW fails, BMW goes to runoff.
17.	12/15/17	R-7503	45 NMB 3	Revocation of Certification – Dismissal – WDI	Individual	Newburgh & South Shore RR	Conductors/Engineers	Individual withdraws request upon incumbent SMART's revocation, no representation.
18.	11/14/17	R-7501	45 NMB 2	Dismissal – ISI	Federation of Independent Transportation Employees (FITE)	ExpressJet	Flight Attendants	Insufficient showing of interest, incumbent IAM remains.
2017								
19.	09/07/17	R-6120/ R-6584/ R-6592	44 NMB 40	Revocation of Certifications	IAM	Great Lakes Airlines	Mechanics & Related, Store Employees, Maintenance Records Clerks	Incumbent IAM requests revocation.
20.	06/02/17	R-7486	44 NMB 27	Certification	Aviation Instructors Association (AIA)	Envoy Air	Ground School Instructors	Election held, AIA fails, incumbent TWU remains.
21.	04/21/17	R-7481	44 NMB 15	Dismissal	Individual	Apache Rwy.	Trainmen	Election held, incumbent SMART fails, Individual fails, no representation.
22.	03/02/17	R-7476	44 NMB 8	Dismissal	Individual	Bauxite & Northern Rwy.	Operating/ Non-Operating Employees	Election held, incumbent USW fails, Individual fails, no representation.
23.	11/16/16	R-7470	44 NMB 2	Certification	Professional Airline Flight Control Assoc. (PAFCA)	Endeavor Air	Flight Dispatchers	Election held, incumbent TWU fails, PAFCA certified.
2016								
24.	09/09/16	R-7469	43 NMB 40	Dismissal – FUI	Ryan Walter & McClymont, Professional Corp.	Kyle RR	Mechanical Shop – Phillipsburg, Kansas	Ryan Walter & McClymont did not exist as professional corporation, incumbent SMART remains.

25.	04/22/16	R-7454	43 NMB 23	Dismissal	SKOL MOW	South Kansas and Oklahoma RR	Maintenance of Way	Election held, incumbent BMW fails, SKOL MOW fails, no representation.
26.	03/09/16	R-7447	43 NMB 18	Certification	Individual	Texas-Pacifico Transportation	Train & Engine Service Employees	Election held, incumbent BLET fails, Individual certified.
27.	02/26/16	R-7438	43 NMB 17	Certification	Individual	Allegiant Air	Flight Attendants	Election held, incumbent TWU, intervenors AFA, CWA, Allegiant 4 Me, and other fails, Individual fails, TWU remains.
28.	10/15/15	R-7441	43 NMB 2	Dismissal	Individual	LIRR	Road Foreman/ Lead Road Foreman	Election held, incumbent IRSA fails, Individual failed, no representation.
2015								
29.	09/11/15	R-7439	42 NMB 30	Certification	Individual	Georgia & Florida Rwy.	Maintenance of Way	Election held, incumbent SMART fails, Individual certified.
30.	08/13/15	R-7435	42 NMB 27	Certification	U.S. Aircrew Officers Assoc. (USAOA)	Cathay Pacific	Pilots	Election held, intervenor/incumbent IAM fails, USAOA certified.
31.	08/04/15	R-7331	42 NMB 26	Revocation of Certification	TCU-IAM	Birmingham Terminal Rwy.	Carmen	Incumbent TCU-IAM requests revocation.
32.	05/06/15	R-7421	42 NMB 19	Dismissal	Individual	Allegiant Air	Flight Dispatchers	Election held, incumbent IBT fails, Individual fails, no representation.
33.	04/03/15	R-7420	42 NMB 13	Dismissal	Individual	Texas & Northern Rwy.	Non-Operating Employees	Election held, incumbent SMART fails, Individual fails, no representation.
34.	04/02/15	R-7419	42 NMB 12	Dismissal	Individual	Texas & Northern Rwy.	Operating Employees	Election held, incumbent SMART fails, Individual fails, no representation.
35.	12/18/14	R-7408	42 NMB 7	Certification	Prof. Airline Flight Control Assoc. (PAFCA) and TWU	United Airlines	Flight Dispatchers	Election held, intervenor TWU fails, PAFCA certified.
36.	11/21/14	R-7413	42 NMB 6	Dismissal	Individual	Horizon Airlines	Stock & Stores Employees	Election held, incumbent IAM fails, Individual fails, no representation.
2014								
37.	09/22/14	R-7410	41 NMB 59	Dismissal – WDI	Individual	Horizon Airlines	Stock & Stores Employees	Individual withdraws.
38.	09/22/14	R-7288	41 NMB 58	Revocation of Certification	IBT	Citation Air	Pilots	Incumbent IBT requests revocation.
39.	08/22/14	R-7398	41 NMB 46	Certification	Individual	Florida West Int'l Airways	Pilots	Election held, no incumbent, Individual fails, intervenor Florida West Pilots Assoc. certified.
40.	08/20/14	R-7396	41 NMB 43	Dismissal	First Coast Railroaders (FCR)	First Coast RR	Train & Engine Service	Election held, incumbent UTU fails, FCR fails, no representation.

41.	07/15/14	R-7343	41 NMB 32	Revocation of Certification	Bhd. of Hoggers and Pin-Pullers (BHPP)	Progressive Rail	Train & Engine Service	Incumbent BHPP requests revocation.
42.	07/07/14	R-7388	41 NMB 27	Dismissal – WDI	North American Airlines – Flight Attendants Union (NAA-FAU)	North American Airlines	Flight Attendants	Incumbent IBT, NAA-FAU withdraws.
2013								
43.	08/23/13	R-7366	40 NMB 73	Dismissal	Railroaders for a Future (RRFF)	Ohio Central RR	Train and Engine Service	Election held, incumbent BLET fails, RRFF fails, no representation.
44.	04/19/13	R-7355	40 NMB 48	Dismissal	Union Free	Austin Western RR	Train & Engine Service	Election held, incumbent BLET fails, Union Free fails, no representation.
45.	04/18/13	R-7358	40 NMB 47	Dismissal	Switch Cat's	Eastern Idaho RR	Train & Engine Service	Election held, incumbent BLET fails, Switch Cat's fails, no representation.
46.	02/21/13	R-7343	40 NMB 40	Certification	Bhd. of Hoggers & Pin-Pullers (BHPP)	Progressive Rail	Train & Engine Service	Election held, incumbent SMART fails, BHPP certified (requests revocation in 41 NMB 32).
47.	11/26/12	R-7162	40 NMB 15	Revocation of Certification	American Train Dispatchers Association (ATDA)	DeQueen & Eastern RR	Maintenance of Way	Incumbent ATDA requests revocation.
48.	10/26/12	R-7335	40 NMB 8	Dismissal	Individual	Sand Springs Rwy.	Maintenance of Way	Election held, incumbent BMWF fails, Individual fails, no representation.
2012								
49.	05/17/12	R-7321	39 NMB 42	Dismissal – WDI	Individual	Liberty Helicopters	Mechanics & Related	Incumbent IAM, Individual withdraws.
50.	05/16/12	R-7220	39 NMB 41	Revocation of Certification	IAM	Liberty Helicopters	Mechanics & Related	Incumbent IAM requests revocation.
51.	03/15/12	R-4831	39 NMB 31	Revocation of Certification	Illinois Central Train Dispatchers Assoc. (ICTDA)	Illinois Central RR	Train Dispatchers	Incumbent ICTDA requests revocation.
52.	02/10/12	R-7312	39 NMB 26	Dismissal	Individual	PATH	Operations Examiners	Election held, incumbent IBEW fails, Individual fails, no representation.
53.	02/09/12	R-7309	39 NMB 25	Certification	Hobos	Stillwater Central RR	Train & Engine Service	Election held, incumbent UTU fails, Hobos certified.
2011								
54.	04/13/11	R-7277	38 NMB 40	Dismissal	Individual	Meridian and Bigbee RR	Maintenance of Way	Election held, incumbent BMWF fails, no representation.
2010								

55.	08/24/10	R-7255	37 NMB 60	Dismissal – WDI	Individual	Illinois & Midland Rwy.	Transportation Coordinators/ Yard Coordinators, Clerks & Carmen	Incumbent TCU, Individual withdraws.
56.	08/18/10	R-6555/ R-6556	37 NMB 56	Revocation of Certifications	TCU	Illinois & Midland RR	Carmen, Clerical Office Station, & Storehouse	Incumbent TCU requests revocation.
57.	06/09/10	R-7235	37 NMB 44	Dismissal – WDI	Oklahoma Railroad Maintenance Assoc. (ORMA)	Stillwater Central RR	Maintenance of Way	ORMA withdraws request upon incumbent BMW's revocation, no representation.
58.	06/04/10	R-7132	37 NMB 42	Revocation of Certification	BMW	Stillwater Central RR	Maintenance of Way	Incumbent BMW requests revocation.
2009								
59.	05/13/09	R-7202	36 NMB 41	Certification	Timber Rock Represented Union (TRRU)	Timber Rock RR	Train & Engine Service Employees	Election held, incumbent UTU fails, TRRU certified.
60.	03/30/09	R-4193/ R-6289	36 NMB 31	Revocation of Certifications	Aircraft Technical Support Assoc. (ATSA)	Northwest Airlines	Technicians	Incumbent ATSA requests revocation.
61.	02/26/09	R-6621	36 NMB 27	Revocation of Certification	Aircraft Mechanics Fraternal Assoc. (AMFA)	Northwest Airlines	Mechanics & Related	Incumbent AMFA requests revocation.
62.	01/21/09	R-7190	36 NMB 20	Dismissal	Mechanic's Committee (MC)	Aloha Air Cargo	Mechanics & Related	Election held, incumbent IAM fails, MC fails, no representation.
2008								
63.	08/26/08	R-7171	35 NMB 65	Certification – FUI	NetJets Assoc. of Shared Aircraft Pilots (NJASAP)	NetJets Aviation	Pilots	Incumbent IBT disclaims, Carrier recognizes, NJASAP certified.
64.	07/10/08	R-7170	35 NMB 59	Dismissal – FUI	Individual	Great Lakes Airlines	Aircraft Mechanics, Inspectors, Maintenance Control, Utility, & Repairman	Incumbent IAM, petition dismissed tainted cards, IAM remains.
65.	04/25/08	R-7165	35 NMB 39	Dismissal – FUI	Southwest Airlines Employee Assoc. (SAEA)	Southwest Airlines	Aircraft Maintenance Controllers & Field Technician Supervisors	Accretion/expansion denied, improper class or craft.
66.	04/16/08	R-7150	35 NMB 36	Dismissal – ISI	Amerijet Pilot Group (APG)	Amerijet Int'l	Flight Engineers	Incumbent IBT remains, insufficient showing of interest, dismissed
67.	10/18/07	R-7127	35 NMB 1	Certification	Pinnacle Dispatcher & Sector Supervisor Assoc. (PDSSA)	Pinnacle Airlines	Flight Dispatchers	Election held, incumbent TWU, PDSSA fails, TWU remains.
2007								
68.	05/04/07	R-7110	34 NMB 27	Certification	Wisconsin Division Yardmasters Assoc. (WDYA)	CN-Wisconsin Transportation Corp.	Yardmasters	Election held, incumbent UTU, WDYA fails, UTU remains.

69.	02/28/07	R-6421	34 NMB 16	Revocation of Certification	IBT	PSA Airlines	Stock Clerks	Incumbent IBT requests revocation.
2006								
70.	05/15/06	R-6566	33 NMB 39	Revocation of Certification	IBEW	Northern Air Cargo	Flight Deck Crew	Incumbent IBEW requests revocation.
71.	02/23/06	R-7081	33 NMB 20	Dismissal – ISI	Shuttle America Pilots Assoc. (SAPA)	Shuttle America Corp.	Flight Deck Crew Members	Incumbent IBT remains, insufficient showing of interest, dismissed.
72.	02/16/06	R-7068	33 NMB 18	Dismissal	Individual	Jet Linx Aviation Corp.	Pilots	Election held, incumbent Jet Linx Pilots Group (JLPG) fails, Individual fails, no representation.
73.	01/05/06	R-7062	33 NMB 10	Dismissal	Individual	Sand Springs Rwy.	Clerks	Election held, incumbent UTU fails, Individual fails, no representation.
74.	10/07/05	R-7055	33 NMB 1	Certification	Individual	Ft. Worth & Western RR	Train and Engine Services	Election held, incumbent UTU fails, Individual certified.
2005								
75.	04/21/05	R-7042	32 NMB 30	Revocation of Certification	IBT	GoJet Airlines	Pilots	Incumbent IBT requests revocation.
76.	01/19/05	R-7034	32 NMB 22	Certification	Individual	Executive Air Terminal	Mechanics and Related	Election held, incumbent IAM fails, Individual certified.
77.	01/07/05	R-6973	32 NMB 21	Revocation of Certification	IBT	Astar Air Cargo	Ground Instructors	Incumbent IBT requests revocation.
78.	11/23/04	R-7030	32 NMB 13	Certification	Train Operations, Performance and Service EEs of the Columbus & Greenville Rwy. (TOPS)	Columbus & Greenville Rwy.	Train and Engine Services	Election held, incumbent UTU fails, TOPS certified.
2004								
79.	08/11/04	R-7013	31 NMB 100	Certification	Individual	Wheeling & Lake Erie RR	Clerks	Election held, incumbent UTU fails, Individual certified.
80.	01/29/04	R-6988	31 NMB 48	Dismissal – FUI	Midwest Train Dispatchers (MTD)	Amtrak (NRPC)	Train Directors	MTD petitions for Train Director, incumbent TCU as part of larger unit, held Train Directors not separate unit.
81.	01/13/14	R-6437	31 NMB 30	Revocation of Certification	ATDD-BLE	Kiamichi RR	Mechanics	Incumbent ATDD-BLE requests revocation.
82.	01/13/14	R-6436	31 NMB 29	Revocation of Certification	ATDD-BLE	Kiamichi RR	Carmen	Incumbent ATDD-BLE requests revocation.
83.	01/12/04	R-6985	31 NMB 27	Dismissal – WDI	Individual	Kiamichi RR	Mechanics	Incumbent ATDA-BLE, Individual withdraws, ATDA-BLE remains.
84.	12/24/03	R-6975	31 NMB 23	Dismissal	Soo Line Engineering	Canadian Pacific Rwy. – Soo Line	Technical Engineers, Architects, Draftsmen, and Allied Workers	Election held, incumbent TCU withdraws/revokes, SETA fails, no representation.

					Technicians Assoc. (SETA)			
85.	12/18/03	R-6972	31 NMB 21	Certification	Individual	Wheeling & Lake Erie Rwy.	Yardmasters	Election held, incumbent UTU fails, Individual certified.
2003								
86.	05/29/03	R-6935	30 NMB 52	Dismissal – ISI	Individual	Dalfort Aerospace	Mechanics and Related	Incumbent IBT remains, insufficient showing of interest, dismissed.
87.	03/19/03	R-6925	30 NMB 35	Dismissal	Individual	Air Logistics of Alaska	Mechanics and Related	Election held, incumbent IUOE fails, Individual fails, no representation.
88.	10/31/02	R-6917	30 NMB 9	Dismissal – FUI	Individual	Northwest Airlines	Quality Service Assistants	Individual petitions for QSAs, incumbent IAM as part of larger unit, held QSAs are not separate unit.
89.	10/31/02	R-6916	30 NMB 8	Dismissal – FUI	Individual	Dalfort Aerospace	Janitor-Porters	Individual petitions for Janitor- Porters, incumbent IBT as part of larger unit, held Janitor-Porters not separate unit.
90.	10/31/02	R-6893	30 NMB 6	Certification	Assoc. of Commuter Rail Employees (ACRE)	Metro North	Signalmen	Election held, incumbent BRS fails, ACRE certified.
2002								
91.	08/12/02	R-6854	29 NMB 80	Dismissal	Individual	Delta Air Lines	Pilot Ground Training Instructors	Election held, incumbent TWU fails, individual fails, no representation.
92.	03/25/02	R-6855	29 NMB 42	Dismissal – WDI	CCAir Pilots Assoc. (CCPA)	CCAir	Flight Deck Crew Members	Incumbent ALPA, CCPA withdraws, ALPA remains.
93.	12/26/01	R-6849	29 NMB 21	Certification	Alabama & Gulf Coast Transportation Employees (AGCTE)	Alabama & Gulf Coast Rwy.	Train & Engine Service Employees	Election held, incumbent UTU fails, AGCTE certified.
94.	10/25/01	R-6836	29 NMB 6	Dismissal	Soo Line Signals & Communications Supervisors Assoc. (SLSCSA)	Canadian Pacific Rwy. (CN-Soo Line)	Signal & Communications Supervisors	Election held, incumbent TCU- ARASA fails, SLSCSA fails, no representation.
95.	10/11/01	R-6834	29 NMB 1	Dismissal – FUI	Northern Air Cargo Flight Deck Crew Assoc. (Assoc.)	Northern Air Cargo	Flight Deck Crew Members	Petition filed, incumbent IBEW, Assoc. showing tainted, petition dismissed.
2001								
96.	08/15/01	R-6837	28 NMB 91	Dismissal – ISI	Individual	CSX	Trainmen/ Conductors/ Engineers	Incumbents UTU and BLE, insufficient showing of interest, dismissed.

97.	04/23/01	R-6804	28 NMB 67	Dismissal – FUI	Express One Crewmembers Assoc. (EOCA)	Express One International	Flight Deck Crew Members	Incumbent IBT, certification bar, petition dismissed.
98.	03/30/01	R-6553	28 NMB 63	Revocation of Certification	IBT	Challenge Air Cargo	Stock Clerks	Incumbent IBT requests revocation.
99.	03/30/01	R-6552	28 NMB 62	Revocation of Certification	IBT	Challenge Air Cargo	Mechanics & Related	Incumbent IBT requests revocation.
100.	03/23/01	R-6807	28 NMB 60	Certification	Customer Service/Crew Dispatcher Steering Committee (CSCDSC)	Wheeling & Lake Erie Rwy.	Clerks	Election held, CSCDSC fails, incumbent UTU remains.
101.	11/17/00	R-6779	28 NMB 20	Dismissal	Individual	Terminal RR Assoc. of St. Louis	Bridge and Building Foremen	Election held, incumbent TCU fails, Individual fails, no representation.
102.	11/17/00	R-6778	28 NMB 19	Certification	Individual	Terminal RR Assoc. of St. Louis	Mechanical Foremen	Election held, incumbent TCU fails, Individual certified.
103.	11/17/00	R-6777	28 NMB 18	Certification	Individual	Terminal RR Assoc. of St. Louis	Car Dept. Foremen	Election held, incumbent TCU fails, Individual certified.
104.	11/07/00	R-6773	28 NMB 14	Certification	Railway Independent Transit Union (RITU)	PATH	Machinists	Election held, incumbent TCU fails, RITU certified.
105.	11/07/00	R-6771	28 NMB 13	Certification	Railway Independent Transit Union (RITU)	PATH	Electricians	Election held, incumbent TCU fails, RITU certified.
106.	11/07/00	R-6771	28 NMB 12	Certification	Railway Independent Transit Union (RITU)	PATH	Carmen	Election held, incumbent TCU fails, RITU certified.
2000								
107.	07/31/00	R-6755	27 NMB 94	Dismissal – FUI	Individual	Northern Indiana Commuter District	Linemen-Signalmen Working Foremen	Incumbent IBEW, not a proper class or craft, petition dismissed.
108.	06/01/00	R-6738	27 NMB 77	Certification and Revocation	Kittyhawk Pilots Assoc. (KPA)	Kitty Hawk AirCargo	Pilots	Election held, no incumbent, KPA fails, intervenor ALPA certified, ALPA requests revocation (Barred by Art. XXI to IBT).
109.	03/03/00	R-6725	27 NMB 50	Certification	Assoc. of Commuter Rail Employees (ACRE)	Metro North	Dispatchers	Election held, incumbent ATDD-BLE fails, ACRE certified.
110.	03/01/00	R-6726	27 NMB 47	Certification	Assoc. of Commuter Rail Employees (ACRE)	Metro North	Conductors	Election held, incumbent UTU fails, ACRE certified.
111.	11/24/99	R-6623	27 NMB 21	Revocation of Certification	TWU	Atlantic Southeast Airlines	Dispatchers	Incumbent TWU requests revocation.
1999								

112.	07/19/99	R-6771	26 NMB 67	Dismissal	Virgin Cargo Workers Committee (VCWC)	Virgin Atlantic Airways	Fleet Service Employees	Election held, incumbent IBT fails, VCWC fails, no representation.
113.	06/29/99	R-6685	26 NMB 64	Dismissal – WDI	Railway Communications Workers Union (RCWU)	Norfolk Southern	Telephone Maintainers	Incumbent IBEW, RCWU withdraws.
114.	06/10/99	R-6668	26 NMB 62	Certification	Soo Line Signals & Communication Supervisors Assoc. (SLSCSA)	Canadian Pacific Rwy. (CN-Soo Line)	Signal & Communications Supervisors	Election held, SLSCSA fails, incumbent TCU remains.
115.	03/22/99	R-6653	26 NMB 42	Certification	Independent Supervisors Union (ISU)	CSX	Supervisors of Coal Load Operations	Election held, incumbent Int'l Longshoremen's Assoc. (ILA) fails, ISU certified.
116.	01/25/99	R-6652	26 NMB 29	Dismissal	Independent Assoc. of Continental Pilots (IACP)	Continental Airlines	Instructor Pilots	Accretion/expansion denied, improper craft or class.
117.	10/15/98	R-6424	26 NMB 6	Revocation of Certification	BLE-ATDD	Kyle RR Co.	Train Dispatchers	Incumbent BLE-ATDD requests revocation.
1998								
118.	06/12/98	R-6601	25 NMB 92	Certification	Combined Counties Police Assoc. (CCPA)	NE Illinois Regional Commuter RR Corp.	Police Officers below rank of Captain	Election held, incumbent TCU fails, CCPA certified.
119.	03/18/98	R-6580	25 NMB 68	Certification	Columbus Carman's Assoc. (CCA)	Columbus & Greenville Rwy.	Carmen	Election held, incumbent TCU fails, CCA certified.
120.	03/05/98	R-6577	25 NMB 64	Certification	Aviation Maintenance Technician's Union (AMTU)	Atlantic Coast Airlines	Mechanics & Related	Election held, AMTU fails, incumbent AMFA remains.
121.	03/04/98	R-6290	25 NMB 63	Revocation of Certification	BLE-ATDD	Fort Smith RR Co.	Engineers, Conductors/Brakemen, and Carmen	Incumbent BLE-ATDD requests revocation.
122.	11/12/97	R-6539	25 NMB 16	Dismissal – WDI	Air South Pilots Association (ASPA)	Air South Airlines	Pilots	ASPA withdraws.