



[6570-01-P]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities; Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of information collection – emergency reinstatement without change: ADEA waivers.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Equal Employment Opportunity Commission (EEOC or Commission) announces that it has submitted to the Office of Management and Budget (OMB) a request for an emergency reinstatement without change of the information collection described below. On March 31, 2020, OMB approved the request for a period of six months, expiring on September 30, 2020.

FOR FURTHER INFORMATION CONTACT: Kathleen Oram, Assistant Legal Counsel, (202) 663-4668 and kathleen.oram@eeoc.gov, or Savannah Marion Felton, Senior Attorney, (202) 663-4909 and savannah.felton@eeoc.gov, Office of Legal Counsel, 131 M Street NE, Washington, DC 20507. Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663-4191 (voice) or (202) 663-4494 (TTY).

SUPPLEMENTARY INFORMATION: The EEOC enforces the ADEA of 1967, as amended, 29 U.S.C. 621 *et seq.*, which prohibits discrimination against employees and applicants for employment who are age 40 or older. Congress amended the ADEA by enacting the Older Workers Benefit Protection Act of 1990 (OWBPA), Public Law 101-433, 104 Stat. 983 (1990), to clarify the prohibitions against discrimination on the basis of age. In Title II of OWBPA, Congress addressed waivers of rights and claims under the ADEA, amending section 7 of the ADEA by adding a new subsection (f), 29 U.S.C. 626(f). The provisions of Title II of OWBPA require employers to provide certain information to employees (but not to EEOC) in writing. The regulation at 29 CFR 1625.22 reiterates those requirements. The disclosure of information required by the OWBPA and EEOC's regulation falls within the PRA and the EEOC must receive OMB's approval pursuant to the PRA to enforce the disclosure requirements. Prior to this emergency approval, the EEOC last received approval from OMB for this collection on February 28, 2017, which expired on February 29, 2020. The EEOC then sought emergency approval for the collection on March 30, 2020, which OMB approved the next day.

OVERVIEW OF THIS INFORMATION COLLECTION:

Collection Title: Waivers of Rights and Claims Under the ADEA; Informational Requirements.

OMB Number: 3046-0042.

Type of Respondent: Business, State or local governments, not for profit institutions.

Description of Affected Public: Any employer with 20 or more employees that seeks waiver agreements in connection with an exit incentive or other employment termination program.

Number of Respondents: 127

Burden Hours: 2090.42

Number of Forms: None.

Abstract: The EEOC enforces the Age Discrimination in Employment Act (ADEA) which prohibits discrimination against employees and applicants for employment who are age 40 or older. The Older Workers Benefit Protection Act (OWBPA), enacted in 1990, amended the ADEA to require employers to disclose certain information to employees (but not to the EEOC) in writing when they ask employees to waive their rights under the ADEA in connection with an exit incentive program or other employment termination program. The regulation at 29 CFR § 1625.22 reiterates those disclosure requirements.

Burden Statement: Based on EEOC's review of 2015 EEO-1 data, approximately 303 firms reported a reduction in force during the one-year reporting period in the comment field of the EEO-1 form. An estimated 127 or 42% of firms who reported a reduction in force requested waivers of ADEA rights from the employees affected by the reduction in force.

Based on data collected from participating employers, EEOC learned that the senior human resource managers and legal counsel bear the most significant brunt of the paperwork and human capital burden in drafting and distributing the waivers to employees. The burden hours for the creation of the ADEA waiver are estimated to be 8.25 per employer. Burden hours for the distribution of the ADEA waiver are estimated to be 8.21 per employer, for a total of 16.46 hours per employer. These figures were applied to 127 firms estimated to request waivers. The total hour burden for these 127 employers would therefore be 2,090.42 hours. For the Commission.

Janet L. Dhillon,
Chair.

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