



BILLING CODE: 4510-27-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Paid Leave Under the Families First Coronavirus Response Act.

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Wage and Hour Division (WHD)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions

used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Anthony May by telephone at 202-693-4129 (this is not a toll-free number), or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: On March 18, 2020, President Trump signed into law the Families First Coronavirus Response Act (FFCRA), which creates two new emergency paid leave requirements in response to the COVID-19 global pandemic.

Division E of the FFCRA, “The Emergency Paid Sick Leave Act” (EPSLA), entitles certain employees to take up to two weeks of paid sick leave. Division C of the FFCRA,

“The Emergency Family and Medical Leave Expansion Act” (EFMLEA), which

amends Title I of the Family and Medical Leave Act, 29 U.S.C. 2601 et seq. (FMLA),

permits certain employees to take up to twelve weeks of expanded family and medical

leave, ten of which are paid, for specified reasons related to COVID-19. On March 27,

2020, President Trump signed into law the Coronavirus Aid, Relief, and Economic

Security Act, Public Law 116-136 (CARES Act), which amends certain provisions of the

EPSLA and the provisions of the FMLA added by the EFMLEA. In general, the FFCRA

requires covered employers to provide eligible employees up to two weeks of paid sick

leave at full pay, up to a specified cap, when the employee is unable to work because the

employee is subject to a federal, state, or local quarantine or isolation order related to

COVID-19, has been advised by a health care provider to self-quarantine due to concerns

related to COVID-19, or is experiencing COVID-19 symptoms and seeking a medical

diagnosis. The FFCRA also provides up to two weeks of paid sick leave at partial pay, up to a specified cap, when an employee is unable to work because of a need to care for an individual subject to a federal, state, or local quarantine or isolation order related to COVID-19 or who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; because of a need to care for the employee's son or daughter whose school or place of care is closed, or whose child care provider is unavailable, due to COVID-19 related reasons; or because the employee is experiencing a substantially similar condition, as specified by the Secretary of Health and Human Services. The FFCRA also requires covered employers to provide up to twelve weeks of expanded family and medical leave, up to ten weeks of which must be paid at partial pay, up to a specified cap, when an eligible employee is unable to work because of a need to care for the employee's son or daughter whose school or place of care is closed, or whose child care provider is unavailable, due to COVID-19 related reasons. The FFCRA covers private employers with fewer than 500 employees and certain public employers. Small employers with fewer than 50 employees may qualify for an exemption from the requirement to provide paid leave due to school, place of care, or child care provider closings or unavailability, if the leave payments would jeopardize the viability of their business as a going concern. Under the FFCRA, covered private employers qualify for reimbursement through refundable tax credits, as administered by the Department of the Treasury, for all qualifying paid sick leave wages and qualifying family and medical leave wages paid to an employee who takes leave under the FFCRA, up to per diem and aggregate caps, and for allocable costs related to the maintenance of health care coverage under any group health plan while the employee is on the leave provided under the

FFCRA. The CARES Act amended the FFCRA by providing certain technical corrections, as well as clarifying the caps for payment of leave; expanded family and medical leave to certain employees who were laid off or terminated after March 1, 2020, but are reemployed by the same employer prior to December 31, 2020; and provided authority to the Director of the Office of Management and Budget (OMB) to exclude certain federal employees from paid sick leave and expanded family and medical leave. The FFCRA grants authority to the Secretary to issue regulations for certain purposes. In particular, sections 3102(b), as amended by section 3611(7) of the CARES Act, and 5111(3) of the FFCRA grant the Secretary authority to issue regulations “as necessary, to carry out the purposes of this Act, including to ensure consistency” between the EPSLA and the EFMLEA. The Department issued the temporary rule to carry out the purposes of the FFCRA. For additional substantive information about this ICR, see the related notice published in the *Federal Register* on April 14, 2020 (85 FR 20723).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal.

The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL-WHD.

Title of Collection: Paid Leave Under the Families First Coronavirus Response Act.

OMB Control Number: 1235-0031.

Affected Public: Private Sector: Businesses or other for-profits, farms, not-for-profit institutions.

Total Estimated Number of Respondents: 11,931,108.

Total Estimated Number of Responses: 11,931,108.

Total Estimated Annual Time Burden: 870,193 hours.

Total Estimated Annual Other Costs Burden: \$0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: September 15, 2020.

Anthony May,

Management and Program Analyst.

[FR Doc. 2020-20770 Filed: 9/18/2020 8:45 am; Publication Date: 9/21/2020]