

Average Time per Response: Varies from 2 (.03 hour) to 35 minutes (.58 hour).

Total Annual Hours Requested: 131,708.

Total Annual Costs (O&M): \$11,941,480.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), and Secretary of Labor's Order No. 3-2000 (65 FR 50017).

Signed at Washington, DC on June 21, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR-1218-0229(2002)]

Standard on Mechanical Power Presses; Extension of the Office of Management and Budget's Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comment.

SUMMARY: OSHA request comment concerning its proposed extension of the information-collection requirements contained in the Standard on Mechanical Power Presses (29 CFR 1910.217). The paperwork provisions of the Standard specify requirements for developing and maintaining records to certify that employers are inspecting presses as required by the Standard. The purpose of these requirements is to reduce employees' risk of death or serious injury by ensuring that employers maintain the mechanical power presses used by the employees in safe operating condition.

DATES: Submit written comments on or before August 26, 2002.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR-1218-0229(2002), OSHA, U.S. Department of Labor, Room N-2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693-1648.

FOR FURTHER INFORMATION CONTACT:

Theda Kenney, Directorate of Safety Standards Programs, OSHA, U.S. Department of Labor, Room N-3609-200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2222. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified in the Standard on Mechanical Power Presses is available for inspection and copying in the Docket Office, or by requesting a copy from Theda Kenney at (202) 693-2222 or Todd Owen at (202) 693-2444. For electronic copies of the ICR, contact OSHA on the Internet at <http://www.osha.gov> and select "Information Collection Requests."

SUPPLEMENTARY INFORMATION:

1. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA-95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understandable, and OSHA's estimate of the information-collection burden is correct.

The Mechanical Power Presses Standard specifies two paperwork requirements. The following paragraphs describe who uses the information collected under each requirement, as well as how they use it. The purpose of these requirements is to reduce employees' risk of death or serious injury by ensuring that employers maintain the mechanical power presses used by the employees in safe operating condition. (Based on previous ICR approvals by OMB, OSHA determined that the training requirement in paragraph (f)(2) of the Standard is not a collection of information under the Paperwork Reduction Act of 1995.)

- Paragraph (e)(1)(i) requires employers to establish and follow a program of periodic and regular inspections of power presses to ensure that all their parts, auxiliary equipment, and safeguards are in safe operating condition and adjustment. Employers must maintain a certification record of inspections that includes the date of inspection, the signature of the person who performed the inspection, and the serial number, or other identifier, of the power press that was inspected.

- Paragraph (e)(1)(ii) requires employers to inspect and test each press no less than weekly to determine the condition of the clutch/brake mechanism, antirepeat feature, and single-stroke mechanism. Employers must perform and complete necessary maintenance or repair or both before the press is operated. In addition, employers must maintain a record of inspections, tests, and maintenance work. The record must include the date of the date of the inspection, test, or maintenance; the signature of the person who performed the inspection; and the serial number, or other identifier, of the press that was inspected, tested, or maintained.

The certification records required in 29 CFR 1910.217(e)(1)(i) and (e)(1)(ii) are necessary to ensure compliance with the requirement to inspect mechanical power presses. The inspection of mechanical power presses is critical to ensuring that employers maintain the presses in safe operating condition for employees. These records also provide the most efficient means for the compliance officers to determine that an employer is complying with the Standard.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

III. Proposed Actions

OSHA proposes to extend the Office of Management and Budget's (OMB) approval of the collection-of-information requirements specified in the Standard on Mechanical Power Presses (29 CFR 1910.217). OSHA will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information-collection requirements.

Type of Review: Extension of a currently approved information-collection requirement.

Title: Mechanical Power Presses (29 CFR 1910.217).

OMB Number: 1218-0229.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local, or tribal governments.

Number of Respondents: 191,750 (assuming one mechanical power press per employer).

Frequency of Recordkeeping: On occasion.

Average Time per Response: Varies from 5 minutes (.08 hour) to 20 minutes (.33 hour).

Total Annual Hours Requested: 1,372,930.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3-2000 (65 FR 50017).

Signed at Washington, DC, on June 21st, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

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MERIT SYSTEMS PROTECTION BOARD

[MSPB Docket No. DA-3443-00-0217-I-1]

Opportunity to File Amicus Briefs in *Kevdin D. Abrahamsen v. Department of Veterans Affairs*

AGENCY: Merit Systems Protection Board.

ACTION: The Merit Systems Protection Board is providing interested parties with an opportunity to submit *amicus* briefs in the above referenced appeal. The issues to be addressed in such briefs are set forth in the Board's June 18, 2002, Order, which is reprinted in its entirety in the Summary below.

SUMMARY:

Order

The agency issued a vacancy announcement in which it solicited applications to fill several positions as a Veterans Service Representative, GS-0996-07 with promotion potential to the GS-10 grade, in various agency offices, including four positions to be filled in the agency's Muskogee, Oklahoma office, IAF, Tab 4, Subtab 4a. The vacancy announcement stated that applicants would be evaluated on the

basis of the application package submitted, rated on the quality and extent of their total accomplishments, experience, and/or education, and ranked on the basis of the degree to which each candidate's background matched the skills and ability requirements identified for the position. *Id.* The vacancy announcement further provided that individuals could apply for these positions if they met the criteria for one of the following recruitment categories: (1) Outstanding Scholars; (2) Veterans Readjustment Act (VRA) eligibles; (3) 30% or more disabled veterans; (4) Preference eligibles and veterans separated after 3 or more years of continuous active service; (5) Chapter 31 veterans; (6) Handicapped eligibles; and (7) VA CTAP or Interagency CTAP eligibles. *Id.*

The appellant submitted an application for the vacancies in the Muskogee office and attached a letter from the agency certifying his status as a 30% or more disabled veteran. *Id.*, Subtab 4b. After the vacancy announcement closed, the agency's Human Resources Center provided the selecting official with several memoranda, each of which related to a specific recruitment category listed in the vacancy announcement, listing the candidates who were eligible for consideration under the corresponding recruitment category. *Id.* Subtab 4c. The memoranda listed the candidates in alphabetical order by last name, and there is no indication that the candidates were rated or ranked. The agency included the appellant's name on a memorandum of VRA eligibles. On June 1, 1999, the selecting official noted his selections on the memoranda and returned them to the Human Resources Center. Each of the selected candidates had been included on the memorandum corresponding to the Outstanding Scholar program, although one of the selectees also had been included on the memorandum of VRA eligibles. By letter dated June 4, 1999, the agency notified the appellant that he had not been selected. IAF, Tab 4, Subtab 4d.

On November 12, 1999, the appellant wrote the agency requesting further information regarding his nonselection.¹ In its response, the agency asserted that applications were accepted from special categories of applicants, as authorized by the Office of Personnel Management (OPM), and that veterans' preference was applied within each of these special groups as required by law. IAF, Tab 1. The appellant filed a complaint with the Department of Labor's Veterans' Employment and Training Service (VETS) concerning his non-selection,² and, by letter dated January 7, 2000,

VETS notified the appellant that it was closing his case, "indicating no merit." *Id.*

On January 25, 2000, the appellant filed an appeal under the Veterans Employment Opportunities Act (VEOA), 5 U.S.C. 3330a, in which he claimed that the agency violated his veterans' preference rights. IAF, Tab 1. Specifically, the appellant claimed that the agency misapplied the Outstanding Scholar program when it selected the four candidates that appeared on the Outstanding Scholar program memorandum because the agency's use of this program "as a primary tool and not as a supplement did not allow the full entitlement of veterans preference when the selections were made." *Id.* The administrative judge issued an acknowledgement order requiring the appellant to submit evidence and argument to show that the agency violated his rights under a specific statute or regulation relating to veterans' preference. IAF, Tab 2. In his response to this order, the appellant alleged that the agency violated 5 U.S.C. 2302(b)(1), (b)(11)(A) and (B), and (b)(12), as well as 38 U.S.C. 4214(a)(1). IAF, Tab 3. In its response to the appeal, the agency argued that veterans' preference does not apply to appointment made under the Outstanding Scholar program and that the Board lacks jurisdiction over any allegation that the agency abused or misused the program. IAF, Tab 4.

On March 22, 2000, the administrative judge issued an initial decision dismissing the appeal for lack of jurisdiction, finding that the appellant failed to meet his burden of proof on the issue of jurisdiction. Initial Decision (ID) at 4-5; see 5 CFR 1201.56(a)(2)(1). The administrative judge found that the Outstanding Scholar program hiring authority permitted the agency to hire individuals without regard to veterans' preference and stated that the appellant failed to identify a specific statute or regulation relating to his veterans' preference rights which the agency violate when it used the Outstanding Scholar hiring authority as a basis for its selections. ID at 4-5. The appellant has filed a timely petition for review in which he states that the Outstanding Scholar program is outside the Board's jurisdiction but argues that the administrative judge erred in concluding that the agency did not violate his veterans' preference rights under 38 U.S.C. 4214(a)(1). Petition for Review File (PFRF), Tab 1. The agency has filed a response in which it argues that 38 U.S.C. 4214(a)(1) is not a statute relating to veterans' preference. PFRF, Tab 3.