



DEPARTMENT OF LABOR

Wage and Hour Division

Agency Information Collection Activities; Comment Request; Information Collections
Application of the Employee Polygraph Protection Act

AGENCY: Wage and Hour Division, Department of Labor

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension to the information collection request (ICR) titled, “Application of the Employee Polygraph Protection Act.” This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. A copy of the proposed information request can be obtained by contacting the office listed below in the FOR FURTHER INFORMATION CONTACT section of this Notice.

DATES: Written comments must be submitted to the office listed in the ADDRESSES section below on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Control Number 1235-0005, by either one of the following methods: E-mail: WHDPRAComments@dol.gov; Mail,

Hand Delivery, Courier: Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210. Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via e-mail or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for Office of Management and Budget (OMB) approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Robert Waterman, Compliance Specialist, 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).

Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693-0023 (not a toll-free number).

TTY/TTD callers may dial toll-free (877) 889-5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Background:. The Wage and Hour Division (WHD) of the Department of Labor (DOL) administers the Employee Polygraph Protection Act of 1988 (EPPA), 29 U.S.C. 2001 et seq. The EPPA prohibits most private employers from using any lie detector tests either for pre-employment screening or during the course of employment. The Act

contains an exemption applicable to Federal, State and local government employers. The EPPA also contains several limited exemptions authorizing polygraph tests under certain conditions, including testing: (1) by the Federal Government of experts, consultants, or employees of Federal contractors engaged in national security intelligence or counterintelligence functions; (2) of employees the employer reasonably suspects of involvement in a workplace incident resulting in economic loss or injury to the employer's business; (3) of some prospective employees of private armored cars, security alarm and security guard firms; and (4) of some current and prospective employees of certain firms authorized to manufacture, distribute, or dispense controlled substances. The WHD may assess civil money penalties of up to \$19,787 against employers who violate any EPPA provision. This amount increases annually due to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. On November 2, 2015, President Obama signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 to advance the effectiveness of civil money penalties and to strengthen their deterrent effect. Outdated penalties are a problem because civil penalties are less effective when they do not keep pace with the cost of living. The new law directs agencies across the federal government to adjust their penalties for inflation each year in January.

II. Review Focus: The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Enhance the quality, utility, and clarity of the information to be collected;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions: The Department of Labor seeks an approval for the extension of this information collection in order to ensure effective administration of the Employee Polygraph Protection Act.

Type of Review: Extension.

Agency: Wage and Hour Division.

Title: Application of the Employee Polygraph Protection Act

OMB Number: 1235-0005

Affected Public: Business or other for-profit, Not-for-profit institutions, Farms, State, Local, or Tribal Government.

Total Respondents: 593,400

Total Annual Responses: 593,400

Estimated Total Burden Hours: 68,739

Estimated Time per Response: 30-45 minutes

Frequency: On occasion.

Total Burden Cost (capital/startup): \$0

Total Burden Cost (operation/maintenance): \$0

DATED: December 12, 2016

Melissa Smith,

Director

Division of Regulations, Legislation and Interpretation

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