

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507



Office of the Chair

March 30, 2020

Mr. Joseph Nye
Policy Analyst
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Mr. Nye:

The Equal Employment Opportunity Commission (EEOC) requests emergency processing of a Paperwork Reduction Act (PRA) clearance request for reinstatement without change of the informational requirements for the EEOC's rule, Waivers of Rights and Claims Under the ADEA (OMB Control Number 3046-0042). The approval of this information collection expired on February 29, 2020. Emergency processing is requested pursuant to the standards of 5 C.F.R. § 1320.13(a)(2)(i) and (ii). For the reasons set forth below, the coronavirus and COVID-19 pandemic with its business consequences are "unanticipated events" within the meaning of the PRA rule. A delay in PRA clearance until the end of the normal PRA process could create confusion for employers and harm to older workers in group layoff situations at a time when clarity is especially critical.

This information collection applies to group layoff situations in which employers ask workers to waive, as part of their separation agreements, their rights to challenge the layoff under the Age Discrimination in Employment Act (ADEA). Employers have a statutory obligation to comply with specific notice requirements, and the EEOC rule covered by this information collection helps explain the particulars of those requirements. Among other things, the EEOC's regulations explain to whom employers must provide information and exactly what to provide for an employee's waiver of ADEA rights to be valid. In February of this year, the EEOC began preparing a 60-day Federal Register Notice to announce the intent to seek a reinstatement without change of the PRA clearance for this ADEA notice rule. Since that time, the COVID-19 pandemic has led to layoffs in the country's workforce and, as more businesses are impacted, we anticipate layoffs to continue. Because the situation is evolving rapidly, delaying approval until the end of the normal PRA clearance process, which at a minimum would take more than three months, would create uncertainty both for employers and for older workers subject to group layoffs at a time when legal clarity is especially important.

This collection of information is critical to the EEOC's mission as it relates to the protection of older workers covered by the ADEA. To ensure that employers are clear on their ADEA notice obligations and that workers receive the mandated protections, the EEOC is requesting a 90-day

emergency approval of this information collection, during which time the agency will prepare a clearance request under the normal clearance process.

In compliance with the requirements of 5 C.F.R. §1320.13, this letter requests emergency processing of this information collection. The EEOC asks OMB for a decision on this request within seven (7) days of submission of the request in ROCIS. Emergency approval is essential to ensure that the EEOC continues to be able to carry out its statutory mission of enforcement of federal employment discrimination laws.

Thank you for your consideration of this matter.

Sincerely,

Janet Dhillon by C. Miashoff

Janet Dhillon
Chair