

and 4 p.m., Monday through Friday, and will be posted to the docket at <http://www.regulations.gov>.

Dated: November 15, 2013.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1910

[Docket No. OSHA-2013-0010]

RIN 1218-AC80

#### Record Requirements in the Mechanical Power Presses Standard

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** OSHA is proposing to make two main revisions to its Mechanical Power Presses Standard. First, OSHA is proposing to revise a provision that requires employers to develop and maintain certification records of periodic inspections performed on the presses by adding a requirement that they develop and maintain certification records of any maintenance and repairs they perform on the presses during the periodic inspections. Second, OSHA is proposing to remove the requirement from another provision that employers develop and maintain certification records of weekly inspections and tests performed on the presses.

This rulemaking is part of the Department of Labor's initiative to reduce paperwork burden; it will remove 613,600 hours of unnecessary paperwork burden for employers, while maintaining employee protection. OSHA is publishing a companion direct final rule elsewhere in this issue of the **Federal Register** taking this same action.

**DATES:** Submit comments on this proposed rule (including comments to the information-collection (paperwork) determination (described under the section titled "Procedural Determinations"), hearing requests, and other information by December 20, 2013. All submissions must bear a postmark or provide other evidence of the submission date. The following section describes the available methods for making submissions.

**ADDRESSES:** Submit comments, hearing requests, and other material, identified by Docket No. OSHA-2013-0010, by any of the following methods:

*Electronically:* Submit comments and attachments, as well as hearing requests and other information, electronically to <http://www.regulations.gov>, which is the Federal e-Rulemaking Portal. Follow the online instructions for submitting comments.<sup>1</sup>

*Facsimile:* OSHA allows facsimile transmission of comments and hearing requests that are 10 pages or fewer in length (including attachments). Send these documents to the OSHA Docket Office at (202) 693-1648. OSHA does not require hard copies of these documents. Instead of transmitting facsimile copies of attachments that supplement these documents (for example, studies, journal articles), commenters must submit these attachments to the OSHA Docket Office, Technical Data Center, Room N-2625, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. These attachments must identify clearly the sender's name, the date, subject, and docket number (OSHA-2013-0010) so that the Docket Office can attach them to the appropriate document.

*Regular mail, express mail, hand delivery, and messenger (courier) service:* Submit comments, hearing requests, and any additional material (for example, studies, journal articles) to the OSHA Docket Office, Docket No. OSHA-2013-0010 or RIN 1218-AC80, Technical Data Center, Room N-2625, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-2350. (OSHA's TTY number is (877) 889-5627.) Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, and messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m. to 4:45 p.m., e.t.

*Instructions:* All submissions must include the Agency's name and the docket number (that is, OSHA-2013-0010). OSHA will place comments and other material, including any personal information, in the public docket without revision, and these materials will be available online at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting statements they do not want made available to the public and submitting

<sup>1</sup> The Web site <http://www.regulations.gov> refers to the docket as a "docket folder." Access the electronic docket for this rulemaking by searching with the docket number (OSHA-2013-0010) or RIN (1218-AC80).

comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

OSHA requests comment on all issues related to this proposed rule. The Agency also welcomes comments on its findings that this proposed rule would have no negative economic, paperwork, or other regulatory impacts on the regulated community. This proposed rule is the companion document to a direct final rule published in the "Rules" section of this issue of the **Federal Register**. If OSHA receives no significant adverse comment on the proposal or direct final rule, the Agency will publish a **Federal Register** notice confirming the effective date of the final rule and withdrawing this companion proposed rule. The final rule may include minor editorial or technical corrections of the direct final rule. For the purpose of judicial review, OSHA considers the date that the Agency confirms the effective date of the final rule to be the date of issuance. If, however, OSHA receives significant adverse comment on the direct final rule or proposal, the Agency will publish a timely withdrawal of the direct final rule and proceed with the proposed rule, which addresses the same revisions to its Mechanical Power Presses Standard.

*Docket:* The electronic docket for this proposed rule established at <http://www.regulations.gov> lists most of the documents in the docket. However, some information (for example, copyrighted material) is not available publicly to read or download through this Web site. All submissions, including copyrighted material, are accessible at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

#### FOR FURTHER INFORMATION CONTACT:

*General information and press inquiries:* Mr. Frank Meilinger, OSHA Office of Communications, Room N-3609, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-1999.

*Technical inquiries:* Mr. Todd Owen, Directorate of Standards and Guidance, Room N-3718, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-1941; fax: (202) 693-1663.

#### SUPPLEMENTARY INFORMATION:

*Copies of this Federal Register notice and news releases:* Electronic copies of these documents are available at OSHA's Web page at <http://www.osha.gov>. Copies of this **Federal**

Register notice also are available at <http://www.regulations.gov>.

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### I. Direct Final Rulemaking

In direct final rulemaking, an agency publishes a direct final rule in the **Federal Register** with a statement that the rule will become effective unless the agency receives a significant adverse comment within a specified period. The agency publishes concurrently with the direct final rule a companion proposed rule. If the agency receives no significant adverse comment, the direct final rule will become effective. However, should the agency receive a timely significant adverse comment, it will withdraw the direct final rule and treat the comment as a submission to the proposed rule.

OSHA uses direct final rulemaking because it expects the rulemaking to: Be noncontroversial; provide protection to employees that is at least equivalent to the protection afforded to them by the previous standard; and impose no significant new compliance costs on employers (69 FR 68283, 68285 (Nov. 24, 2004)). OSHA used direct final rules previously to update and revise other OSHA rules (*see, for example, 69 FR 68283 (Nov. 24, 2004); 70 FR 76979 (Dec. 29, 2005); 76 FR 75782 (Dec. 5, 2011); and 77 FR 37587 (June 22, 2012)*).

For purposes of this rulemaking, a significant adverse comment is one that “explains why the rule would be inappropriate, including challenges to the rule’s underlying premise or approach, or why it would be ineffective or unacceptable without a change” (*see 60 FR 43108, 43111 (Aug. 18, 1995)*). In determining whether a comment necessitates withdrawal of the direct final rule, OSHA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. OSHA will not consider a comment recommending additional revisions to a rule to be a significant adverse comment unless the comment

provides a reasonable explanation of why the direct final rule would be ineffective without the revisions. If OSHA receives a timely significant adverse comment, it will publish a **Federal Register** notice withdrawing the direct final rule no later than 90 days after the publication date of this current notice.

This notice of proposed rulemaking furthers the objectives of Executive Order 13563, which requires that the regulatory process “promote predictability and reduce uncertainty” and “identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends.” As described later in this **Federal Register** notice, the proposed revisions will reduce paperwork burden, by removing 613,600 hours of unnecessary paperwork burden for employers, while maintaining employee protection. Therefore, the Agency believes this proposed rule is consistent with, and promotes the objectives of, Executive Order 13563.

### II. Background

This proposed rule would revise paragraph (e)(1)(i) of OSHA’s Mechanical Power Presses Standard at 29 CFR 1910.217 to require employers to perform and complete necessary maintenance and repair on the presses, and to develop and maintain certification records of these tasks. The rulemaking also removes requirements from paragraph (e)(1)(ii) of this standard to develop and maintain certification records for weekly inspections and tests performed on mechanical power presses. OSHA believes that these proposed revisions will maintain the safety afforded to employees by the existing provisions, while substantially reducing paperwork burden hours and cost to employers.

This rulemaking is part of the Department of Labor’s initiative to reduce paperwork burden hours and cost, consistent with the Paperwork Reduction Act of 1995 (PRA–95) at 44 U.S.C. 3501 *et seq.* The purpose of PRA–95 is to minimize the Federal paperwork burden and to maximize the efficiency and usefulness of Federal information-gathering activities. OSHA also determined that the subject of this rulemaking furthers the objectives of Executive Order (EO) 13563 (76 FR 3821, Jan. 21, 2011). In this regard, EO 13563 requires that the regulatory process “promote predictability and reduce uncertainty” and “identify and use the best, most innovative and least burdensome tools for achieving regulatory ends.” To accomplish this objective, EO 13563 states, “To facilitate

the periodic review of existing significant regulations, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.”

OSHA determined that the revisions made by this proposed rule are consistent with, and promote the objectives of, both PRA–95 and EO 13563. Accordingly, the revisions made by this proposed rule will result in reducing the paperwork burden for employers covered by the Mechanical Power Presses Standard. Removing the requirement to develop and maintain weekly certification records for inspections and tests will not affect an employer’s obligation to inspect and ensure that mechanical power presses used in the workplace are in a safe operating condition. Revisions to paragraph (e)(1)(i) to complete necessary maintenance and repair before operating a press after a periodic inspection, and certifying this action, will ensure the safety of workers while imposing minimal paperwork burden on employers. OSHA estimates that these proposed revisions will result in a paperwork burden reduction of 613,600 hours. Accordingly, the Agency believes the regulated community will support this effort to reduce unnecessary paperwork burden and to remove outdated certification requirements, while maintaining employee safety.

### III. Summary and Explanation of Proposed Revisions to the Mechanical Power Presses Standard

This proposed rule revises paragraphs (e)(1)(i) and (e)(1)(ii) of OSHA’s Mechanical Power Presses Standard at 29 CFR 1910.217. This rulemaking also reorganizes these paragraphs by dividing the requirements into discrete provisions, and redrafted the provisions in plain language to make them easier to understand than the existing provisions. The first two provisions, paragraphs (e)(1)(i) and (e)(1)(ii), cover periodic and weekly tasks associated with the mechanical power-press inspection program. To further delineate the tasks covered by these two provisions, OSHA refers to the requirements of paragraph (e)(1)(i) as the “general component of the inspection program,” and to the requirements of paragraph (e)(1)(ii) as the “directed component of the inspection program.” In this regard, the requirements of paragraph (e)(1)(i), the general component of the inspection program, cover all parts of the

equipment and stipulate a nonspecific interval (“periodic”) for meeting these requirements. However, the requirements of paragraph (e)(1)(ii), the directed component of the inspection program, address specific parts of the equipment and define the frequency employers would have to follow when inspecting and testing these parts (“at least once a week”). OSHA believes these revisions would assist the regulated community in differentiating the requirements of these provisions.

*Proposed revisions to paragraph (e)(1)(i).* Paragraph (e)(1)(i) currently requires employers to inspect all parts, auxiliary equipment, and safeguards of mechanical power presses on a periodic and regular basis and to maintain certification records of these inspections. The main revision OSHA is proposing to make to this paragraph is to require that employers perform necessary maintenance or repair, or both, on presses before operating them, and maintain certification records of any maintenance and repairs performed.<sup>2</sup> Therefore, employers would be required to perform, following the periodic and regular inspections but before operating the equipment, any necessary maintenance and repair found during the inspections, and maintain certification records of the maintenance and repairs performed (in addition to the inspection certification records already required).

A national consensus standard, American National Standards Institute (ANSI) B11.1–2009 (“American National Standard for Safety Requirements for Mechanical Power Presses”), has requirements that are similar to paragraph (e)(1)(i). In this regard, paragraph 9.4.1 (“Program”) of this ANSI standard requires employers to “establish a systematic program of periodic and regular inspection of press production systems to ensure that all their parts, auxiliary equipment, and safeguarding are in safe operating condition and adjustment.” In addition, paragraph 9.4.2 (“Documentation”) of ANSI B11.1–2009 states that the “user shall document the press inspections are made as scheduled and that any necessary follow-up repair work has been performed.” A nonmandatory appendix to the ANSI standard, Annex K (“Press Inspection Report, Checklist,

<sup>2</sup>The requirement for employers to perform maintenance and repair necessary for the safe operation of the entire press is implicit in the requirement in existing paragraph (e)(1)(i), which specifies that the employer’s inspection program ensure that presses “are in a safe operating condition and adjustment.” An inspection program that found, but did not correct, unsafe conditions would not meet this existing requirement.

& Maintenance Record (Informative)),” supplements these requirements by providing a checklist detailing the parts, components, and equipment subject to inspection and maintenance.

The revisions and reorganization of proposed paragraph (e)(1)(i), therefore, are consistent with the requirements of ANSI’s B11.1 “Safety Requirements for Mechanical Power Presses.” Specifically, the proposed revision to paragraph (e)(1)(i) to certify maintenance and repairs performed on mechanical power presses are similar to the requirement in the ANSI standard to “document that press inspections are made as scheduled, and that any necessary follow-up repair work has been performed.” Not only does this proposed revision represent the usual and customary practice of general industry, but OSHA believes that adding an explicit requirement to perform necessary maintenance and repair will ensure that employers perform such maintenance and repair on all of the parts, auxiliary equipment, and safeguards of each press, and not just the clutch/brake mechanism, antirepeat feature, and single-stroke mechanism delineated in existing paragraph (e)(1)(ii). In addition, the proposed revision will provide OSHA with information that replaces information removed from proposed paragraph (e)(1)(ii) (see the following discussion of that paragraph), notably the name of the individuals who perform maintenance and repair work on the presses. This information will not only verify that the employer performed the requisite maintenance and repair on presses, but will enable the Agency, during compliance inspections, to identify and interview the individuals responsible for maintaining and repairing the presses so that it can determine whether employees are operating safe equipment. Further, if employers maintain these certification records at or near the equipment or in a nearby office, employees would be able to examine those records and determine whether mechanical power presses are safe before they operate them, which will increase employee safety. These records also will provide employers with information they can use to determine when more substantial maintenance or repairs, instead of minor maintenance and adjustment, would provide better, and more cost-effective, safety. For example, making too frequent adjustments of the pullout devices, as shown by maintenance records, can indicate the need to replace parts, such as bearings, that are causing the out-of-adjustment condition.

*Proposed revisions to paragraph (e)(1)(ii).* Existing paragraph (e)(1)(ii) requires employers to conduct weekly inspections and tests on the clutch/brake mechanism, antirepeat feature, and single-stroke mechanism of each mechanical power press, and to perform any necessary maintenance and repair on the equipment before operating it. Employers also must maintain a certification record of the inspection, testing, and maintenance tasks. OSHA is proposing to make two main revisions to paragraph (e)(1)(ii). First, OSHA is proposing to revise the requirement that “[e]ach press shall be inspected and tested no less than weekly” to require explicitly that employees conduct these weekly inspections and tests on a “regular basis at least once a week.” Second, OSHA is proposing to revise this paragraph to remove the requirement that employers prepare certification records for the weekly inspections and tests;<sup>3</sup> however, the Agency would retain the requirement that employers maintain certification records for the maintenance work.<sup>4</sup>

The certification records for the weekly inspections and tests required by existing paragraph (e)(1)(ii) serve the following functions: (i) Remind employers to inspect and test

<sup>3</sup>OSHA believes that the burden to maintain certification records of maintenance tasks resulting from either the general component or the directed component will be a small fraction of the overall recordkeeping burden. First, the information-collection burden resulting from the inspections performed under the general component include not only the certification record but the time it takes to perform the inspection. Thus, the time employers take to maintain a certification record of the maintenance tasks (which does not include the time taken for the maintenance operations themselves) should be only a small fraction of the time taken for inspection records. Second, for well-maintained presses, which should result when employers follow the standard, the inspections should uncover the need to perform maintenance relatively infrequently. Accordingly, in most instances, inspections should determine that presses are operating safely and are, therefore, not in need of maintenance.

The Agency also believes that retaining the proposed requirement that employers maintain certification records of maintenance tasks performed as a result of inspections performed under the directed component would ensure that employers do not postpone performing maintenance needs uncovered when performing inspections under the general component. In this regard, if the directed component did not specify that employers would have to maintain certification records of maintenance tasks uncovered during inspections, employers uncovering the need for maintenance during an inspection under the general component could postpone the maintenance task until the next weekly inspection when the standard would not require them to maintain a certification record.

<sup>4</sup>OSHA believes that employers will perform most maintenance tasks associated with mechanical power presses under proposed paragraph (e)(1)(i), and that maintenance performed as a result of weekly inspections and tests will be infrequent.

mechanical power presses; (ii) inform employees that the employer performed these tasks and that the equipment is safe to operate; and (iii) provide a record of compliance, which OSHA representatives can use to verify that the employer meets the inspection and testing requirements set forth in the standard. However, OSHA determined that certifications records for weekly inspections and tests of mechanical power presses are not necessary to achieve these functions. In making this determination, the Agency noted that the proposed revisions to § 1910.217(e)(1)(ii) do not remove or lessen the requirement to inspect, test, maintain, and repair presses—tasks that are essential to ensuring that the equipment is functioning properly and that working conditions are safe for employees. In addition, OSHA believes that employers do not need certification records to remind them to perform weekly inspections and tests. The Agency believes that employers generally perform inspections and tests on a regular basis, for example, at the start of the first shift each Monday, and, therefore, do not need certification records to remind them to complete these tasks. In this regard, under the existing standard, employers may refer to the required records directly, use computer-generated prompts, or simply perform the tasks the same time every week.

To ensure that these tasks are part of the employer's usual and customary practice, proposed paragraph (e)(1)(ii) specifies that employers perform the inspections and tests “on a regular basis at least once a week” to emphasize the importance of establishing a consistent, systematic schedule for completing the tasks. OSHA believes as well that requiring completion of the tasks weekly, on a regular basis approximately the same time each week, will ensure that employers remember to inspect and test mechanical power presses.

Under the proposed rule, OSHA believes that employees would confirm weekly inspections and tests by observing the performance of these tasks, since employees will know when the tasks occur, or by speaking with the individual who performed the tasks. Additionally, employees will still have the certification records for maintenance to obtain information that the employer completed this task and that the equipment is in safe operating condition.

For compliance purposes, OSHA compliance officers can use the information provided by proposed paragraph (e)(1)(i) and the certification

records for maintenance specified by proposed paragraph (e)(1)(ii) to identify the individuals responsible for conducting the inspections and tests, and then interview those individuals regarding these tasks. Compliance officers also can interview employees who operate the presses and who should have firsthand knowledge regarding whether the employer is meeting the inspection and testing requirements. In addition, an examination of the equipment involved can frequently reveal whether employers are performing the weekly inspections and tests. For example, if the clutch/brake mechanism is not working properly, OSHA can ask the press operator how long that condition existed and can check with individuals responsible for maintaining the press to determine the last time the mechanism was checked and repaired.

Finally, OSHA added a note to proposed paragraph (e)(1)(ii) explicitly stating that inspections and tests of the three parts: (1) Conducted under the directed component of the inspection program are exempt from the certification requirements specified by paragraph (e)(1)(i)(C); and (2) conducted under the general component of the inspection program must comply with these certification requirements. The question may arise, however, regarding which component of the inspection program applies if an employer combines the inspections required by both the general and directed components of the inspection program (that is, if the employer performs a weekly inspection of the three parts specified by the directed component of the inspection program as part of the periodic inspection specified by the general component of the inspection program). In such cases, OSHA would treat the weekly inspection as part of the periodic inspection specified by the general component of the inspection program, and the employer would have to comply with the certification requirements specified by paragraph (e)(1)(i)(C) (that is, the employer would have to maintain a certification record of the inspection, as well as each maintenance and repair task performed on the three parts).

OSHA concludes that the requirement in existing § 1910.217(e)(1)(ii) for employers to certify the weekly inspections and tests is unnecessary because other means exist to determine whether employers perform these tasks on a weekly basis, including the record requirements in proposed § 1910.217(e)(1)(i). OSHA determined that mandating that weekly inspections and tests be systematic and part of an

employer's regular routine, reinforced by the new language in proposed § 1910.217(e)(1)(ii), will effectuate the purpose of these certification records.

*Summary.* This proposed rule would revise the existing requirements of paragraph (e)(1)(i) by expressly requiring employers to perform necessary maintenance or repair, or both, on presses before operating them, and to maintain certification records of any maintenance and repairs they perform. The proposed rule also would revise paragraph (e)(1)(ii) by requiring explicitly that employers conduct inspections and tests “on a regular basis at least once a week,” and by removing the requirements to maintain certification records of any inspections and tests they perform under this paragraph. OSHA believes that these revisions, combined with the available means that employers, employees, and the Agency can use to ensure that employers perform these tasks at the specified frequency, will fulfill the functions for certification records required by existing paragraph (e)(1)(ii). OSHA further believes that removing the certification records for weekly inspections and tests, along with the proposed revisions to paragraph (e)(1)(i), will maintain employee safety while reducing the paperwork burden hours and cost to employers. Regarding the paperwork burden, OSHA estimates that the proposed revisions to § 1910.217(e)(1)(i) and (e)(1)(ii) will result in a net paperwork burden reduction of 613,600 hours.

#### IV. Procedural Determinations

##### A. Legal Considerations

The purpose of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*) is “to assure so far as possible every working man and woman in the nation safe and healthful working conditions and to preserve our human resources.” 29 U.S.C. 651(b). To achieve this goal, Congress authorized the Secretary of Labor to promulgate and enforce occupational safety and health standards (29 U.S.C. 654(b), 655(b)). A safety or health standard is a standard that “requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment or places of employment” (29 U.S.C. 652(8)). A standard is reasonably necessary or appropriate within the meaning of Section 652(8) when a significant risk of material harm exists in the workplace and the standard would substantially reduce or eliminate that workplace risk. (*See Industrial*

*Union Department, AFL-CIO v. American Petroleum Institute*, 448 U.S. 607 (1980).) OSHA already determined that requirements for inspecting, testing, maintaining, and repairing mechanical power presses, and certifying completion of these tasks, are reasonably necessary or appropriate within the meaning of Section 652(8). (See, for example, 39 FR 41841, 41845 (Dec. 3, 1974); 51 FR 34552, 34553–34558 (Sep. 29, 1986).)

As explained earlier in this **Federal Register** notice, this proposed rule will not reduce the employee protections put in place by the Mechanical Power Presses Standard OSHA is revising under this rulemaking. Therefore, it is unnecessary for OSHA to determine significant risk, or the extent to which this rulemaking would reduce that risk, as typically required by *Industrial Union Department, AFL-CIO v. American Petroleum Institute* (448 U.S. 607 (1980)).

#### B. Preliminary Economic Analysis and Regulatory Flexibility Analysis

This proposed rule is not economically significant within the context of EO 12866, or a major rule under the Unfunded Mandates Reform Act or Section 801 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801). In addition, this proposed rule complies with EO 13563. The rulemaking imposes no additional costs on any private-sector or public-sector entities, and does not meet any of the criteria for an economically significant or major rule specified by the EO 12866 or relevant statutes.

While this proposed rule revises (e)(1)(i) of OSHA's Mechanical Power Presses Standard at 29 CFR 1910.217 to complete necessary maintenance and repair before operating a press after a periodic inspection, and certify this action, it also removes the requirement in paragraph (e)(1)(ii) that employers maintain weekly certification records for inspections and tests (on average, for about 40 records per year for each press). Based on the resulting reduction in paperwork burden and cost to employers, OSHA preliminarily determined that this rulemaking is not significant and is economically feasible to employers.

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (as amended), OSHA examined the regulatory requirements of the proposed rule to determine whether these requirements would have a significant economic impact on a substantial number of small entities. Since no employer of any size will have additional costs, the Agency

preliminarily certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.

#### C. The Paperwork Reduction Act of 1995

This proposed rule revises information-collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA-95), 44 U.S.C. *et seq.*, and OMB's regulations at 5 CFR part 1320. OMB approved the information-collection requirements (paperwork) currently contained in OSHA's Mechanical Power Presses Standard (29 CFR part 1910.217(e)(1)) under OMB Control Number 1218-0229.<sup>5</sup> The current Information Collection Request (ICR) expires March 30, 2014.

OSHA requests OMB to extend and revise the information-collection requirements contained in the Mechanical Power Press standard. Accordingly, OSHA is seeking an extension for employers to disclose certification records to OSHA during an inspection and requesting a revision to 29 CFR 1910.217(e)(1). The proposal would revise paragraph (e)(1)(i) to require employers to perform and complete necessary maintenance and repair on the presses, and to develop and maintain certification records of these tasks. The proposal also removes requirements from paragraph (e)(1)(ii) of this standard to develop and maintain certification records for weekly inspections and tests performed on mechanical power presses.

OSHA seeks comments on the proposed extension and revision of the paperwork requirements contained in the Mechanical Power Presses Standard (29 CFR 1910.217). OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements 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,

<sup>5</sup> OSHA notes that a Federal agency cannot conduct or sponsor a collection of information unless OMB approves the collection of information under PRA-95 and the agency displays a currently valid OMB control number. The public need not respond to a collection of information requirement unless the agency displays a currently valid OMB control number. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information requirement if the requirement does not display a currently valid OMB control number.

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 information-transmission techniques.

Pursuant to 5 CFR part 1320.5(a)(iv), OSHA provides the following summary of the Mechanical Power Press Information Collection Request ICR:

1. *Title:* Standard on Mechanical Power Presses (29 CFR 1910.217(e)(1)).
2. *OMB Control Number:* 1218-0229.
3. *Description of collection of information requirements:* Proposed paragraph (e)(1)(i)(C) would require employers to maintain a certification record of each inspection (other than inspections and tests required by paragraph (e)(1)(ii)), and each maintenance and repair task performed, which includes the date of the inspection, maintenance, or repair work, the signature of the person who performed the inspection, maintenance, or repair work, and the serial number, or other identifier, of the power press inspected, maintained, and repaired.

Proposed paragraph (e)(1)(ii) would require 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 also would have to perform and complete necessary maintenance or repair, or both, before operating the press. This proposed rule would remove the requirement for employers to develop and maintain a certification record of the weekly inspections and tests, but retain the requirement to develop and maintain a certification record for maintenance work.

Employers must still disclose inspection, maintenance and, or repair records to OSHA during an inspection.

4. *Affected Public:* Business or other for profit.
5. *Number of Respondents:* 191,750 mechanical power presses.
6. *Frequency:* On occasion.
7. *Time per Response:* OSHA estimates a press operator takes 20 minutes to inspect and maintain a mechanical power press and to prepare the necessary certification(s).

8. *Estimated Total Burden Hours:* Removing weekly inspection and test records would reduce the burden to employers by 613,600 hours, from 1,373,054 to 759,454 hours.<sup>6</sup>

<sup>6</sup> OSHA also is reducing the estimated total burden hours by an additional 721,363 hours to

9. *Estimated Cost (Operation and Maintenance)*: There are no capital costs for this collection of information requirement.

To obtain an electronic copy of the ICR requesting OMB to extend and revise the information-collection requirements contained in the Mechanical Power Presses Standard go to [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=201309-1218-001](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201309-1218-001). If you need assistance, or to make inquiries or request other information, contact Theda Kenney, Directorate of Standards and Guidance, OSHA, Room N-3609, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-2222.

In accordance with 5 CFR 1320.11(a), members of the public who wish to comment on the estimated reduction in burden hours and costs described in this proposed rule must send their written comments to the Office of Information and Regulatory Affairs, Attn: OSHA Desk Officer (RIN 1218-AC80), Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503. OSHA also encourages commenters to submit their comments on this paperwork determination to the rulemaking docket (Docket No. OSHA-2013-0010). For instructions on submitting comments to the rulemaking docket, see the sections of this **Federal Register** notice titled **DATES** and **ADDRESSES**.

#### D. Federalism

OSHA reviewed this proposed rule in accordance with the Executive Order on Federalism (EO 13132, 64 FR 43255, Aug. 10, 1999), which requires that Federal agencies, to the extent possible, refrain from limiting State policy options, consult with States prior to taking any actions that would restrict State policy options, and take such actions only when clear constitutional authority exists and the problem is national in scope. EO 13132 provides for preemption of State law only with the expressed consent of Congress. Federal agencies must limit any such preemption to the extent possible.

38,091 hours. The Agency determined that it is usual and customary for employers to conduct and document periodic inspections of power presses. PRA-95 excludes usual and customary activities from the definition of the term "burden" (5 CFR 1320.3(b)(2)). OSHA based this determination on discussions with its field staff and a thorough review of ANSI's B11.1 "Safety Requirements for Mechanical Power Presses." While OSHA identified this reduction during the rulemaking, it is not a result of the rulemaking. Therefore, the Agency did not include this reduction in determining the reporting burden associated with the revisions to the information-collection requirements specified by this proposed rulemaking.

Under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*), Congress expressly provides that States may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards. States that obtain Federal approval for such a plan are referred to as "State-Plan States." Occupational safety and health standards developed by State-Plan States must be at least as effective in providing safe and healthful employment and places of employment as the Federal standards (29 U.S.C. 667). Subject to these requirements, State-Plan States are free to develop and enforce under State law their own requirements for safety and health standards.

In summary, OSHA concluded that this proposed rule complies with EO 13132. In States without an OSHA-approved State Plan, any standard developed from this proposed rule would limit State policy options in the same manner as every standard promulgated by OSHA. In States with OSHA-approved State Plans, this rulemaking does not significantly limit State policy options.

#### E. State-Plan States

When Federal OSHA promulgates a new standard or more stringent amendment to an existing standard, the 27 States and U.S. Territories with their own OSHA-approved occupational safety and health plans must amend their standards to reflect the new standard or amendment, or show OSHA why such action is unnecessary, for example, because an existing State standard covering this area is "at least as effective" as the new Federal standard or amendment (29 CFR 1953.5(a)). The State standard must be at least as effective as the final Federal rule, and must be completed within 6 months of the promulgation date of the final Federal rule. When OSHA promulgates a new standard or amendment that does not impose additional or more stringent requirements than an existing standard, State-Plan States are not required to amend their standards, although the Agency may encourage them to do so.

The 21 States and 1 U.S. Territory with OSHA-approved occupational safety and health plans covering private-sector employers and State and local government employees are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. In

addition, four States and one U.S. Territory have OSHA-approved State Plans that apply to State and local government employees only: Connecticut, Illinois, New Jersey, New York, and the Virgin Islands.

OSHA believes that while the proposed revisions to the Mechanical Power Presses Standard, taken as a whole, would not impose any more stringent requirements on employers than the existing standard, these proposed revisions would provide employers with critical, updated information that would reduce unnecessary burden while maintaining employee protections. Nevertheless, this proposed rule would not require action under 29 CFR 1953.5(a), and State-Plan States would not need to adopt this proposed rule or show OSHA why such action is unnecessary. However, to the extent these State-Plan States have the same standards as the OSHA standards affected by this proposed rule, OSHA encourages them to adopt the amendments.

#### F. Unfunded Mandates Reform Act

OSHA reviewed this proposed rule in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA; 2 U.S.C. 1501 *et seq.* and Executive Order 12875 (75 FR 48130; Aug. 10, 1999)). As discussed above in Section IV.B (Preliminary Economic Analysis and Regulatory Flexibility Analysis), OSHA determined that this proposed rule would not impose additional costs on any private-sector or public-sector entity. Accordingly, this proposed rule would require no additional expenditures by either private or public employers.

As noted earlier under Section IV.E (State-Plan States) of this notice, this proposed rule would not apply to State and local governments except in States that elected voluntarily to adopt a State Plan approved by the Agency. Consequently, this proposed rule does not meet the definition of a "Federal intergovernmental mandate" (see Section 421(5) of the UMRA (2 U.S.C. 658(5))). Therefore, for the purposes of the UMRA, OSHA preliminarily certifies that this proposed rule does not mandate that State, local, or tribal governments adopt new, unfunded regulatory obligations, or increase expenditures by the private sector of more than \$100 million in any year.

#### G. Consultation and Coordination With Indian Tribal Governments

OSHA reviewed this proposed rule in accordance with Executive Order 13175 (65 FR 67249 (Nov. 9, 2000)) and preliminarily determined that it does

not have “tribal implications” as defined in that order. This proposed rule would not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

**V. Authority and Signature**

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. OSHA is issuing this proposed rule under the following authorities: 29 U.S.C. 653, 655, 657; 40 U.S.C. 3701 *et seq.*; 5 U.S.C. 553; Secretary of Labor’s Order No. 1–2012 (77 FR 3912; Jan. 25, 2012); and 29 CFR part 1911.

**List of Subjects in 29 CFR Part 1910**

Mechanical power presses, Occupational safety and health, Safety.

Signed at Washington, DC, on November 8, 2013.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

**Proposed Amendments to Standards**

For the reasons stated earlier in this preamble, the Occupational Safety and Health Administration is proposing to amend 29 CFR part 1910 as set forth below:

**PART 1910—[AMENDED]**

**Subpart O—[Amended]**

■ 1. Revise the authority citation for subpart O of part 1910 to read as follows:

**Authority:** 29 U.S.C. 653, 655, 657; Secretary of Labor’s Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 5–2002 (67 FR 65008), or 1–2012 (77 FR 3912), as applicable; 20 CFR part 1911. Sections 1910.217 and 1910.219 also issued under 5 U.S.C. 553.

■ 2. Amend § 1910.217 by revising paragraph (e)(1) to read as follows:

**§ 1910.217 Mechanical power presses.**

\* \* \* \* \*

(e) \* \* \*

(1) *Inspection and maintenance records.* The employer shall establish and follow an inspection program having a general component and a directed component.

(i) Under the general component of the inspection program, the employer shall:

(A) Conduct periodic and regular inspections of each power press to ensure that all of its parts, auxiliary equipment, and safeguards, including the clutch/brake mechanism, antirepeat feature, and single-stroke mechanism, are in a safe operating condition and adjustment;

(B) Perform and complete necessary maintenance or repair, or both, before operating the press; and

(C) Maintain a certification record of each inspection, and each maintenance and repair task performed, under this general component of the inspection program, that includes the date of the inspection, maintenance, or repair work, the signature of the person who performed the inspection, maintenance, or repair work, and the serial number, or other identifier, of the power press inspected, maintained, and repaired.

(ii) Under the directed component of the inspection program, the employer shall:

(A) Inspect and test each press on a regular basis at least once a week to determine the condition of the clutch/brake mechanism, antirepeat feature, and single-stroke mechanism;

(B) Perform and complete necessary maintenance or repair, or both, on the clutch/brake mechanism, antirepeat feature, and single-stroke mechanism before operating the press; and

(C) Maintain a certification record of each maintenance task performed under the directed component of the inspection program that includes the date of the maintenance task, the signature of the person who performed the maintenance task, and the serial number, or other identifier, of the power press maintained.

**Note to paragraph (e)(1)(ii):** Inspections of the clutch/brake mechanism, antirepeat feature, and single-stroke mechanism conducted under the directed component of the inspection program are exempt from the requirement to maintain certification records specified by paragraph (e)(1)(i)(C) of this section, but inspections of the clutch/brake mechanism, antirepeat feature, and single-stroke mechanism conducted under the general component of the inspection program are not exempt from this requirement.

(iii) Paragraph (e)(1)(ii) of this section does not apply to presses that comply with paragraphs (b)(13) and (14) of this section.

\* \* \* \* \*

[FR Doc. 2013–27694 Filed 11–19–13; 8:45 am]

**BILLING CODE 4510–26–P**

**DEPARTMENT OF EDUCATION**

**34 CFR Chapter VI**

[Docket ID ED–2013–OPE–0130]

**Negotiated Rulemaking Committee, Negotiator Nominations and Schedule of Committee Meetings—Title IV Federal Student Aid Programs, Program Integrity and Improvement**

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Notice of intention to establish.

**SUMMARY:** We announce our intention to establish a negotiated rulemaking committee to prepare proposed regulations to address program integrity and improvement issues for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA) (title IV Federal Student Aid programs). The committee will include representatives of organizations or groups with interests that are significantly affected by the subject matter of the proposed regulations. We request nominations for individual negotiators who represent key stakeholder constituencies for the issues to be negotiated to serve on the committee, and we set a schedule for committee meetings.

**DATES:** We must receive your nominations for negotiators to serve on the committee on or before December 20, 2013. The dates, times, and locations of the committee meetings are set out in the *Schedule for Negotiations* section in the **SUPPLEMENTARY INFORMATION** section.

**ADDRESSES:** Please send your nominations for negotiators to Wendy Macias, U.S. Department of Education, 1990 K Street NW., Room 8017, Washington, DC 20006. Telephone: (202) 502–7526 or by email: [wendy.macias@ed.gov](mailto:wendy.macias@ed.gov).

**FOR FURTHER INFORMATION CONTACT:** For information about the content of this notice, including information about the negotiated rulemaking process or the nomination submission process, contact: Wendy Macias, U.S. Department of Education, 1990 K Street NW., Room 8017, Washington, DC 20006. Telephone: (202) 502–7526 or by email: [wendy.macias@ed.gov](mailto:wendy.macias@ed.gov).

For general information about the negotiated rulemaking process, see *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* at <http://www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html>.

If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay