

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1910

[Docket No. OSHA–2007–0003]

RIN 1218–AC22

#### Power Presses

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

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** Mechanical power press safety is regulated under OSHA's mechanical power presses standard. OSHA adopted the standard in 1971, basing it upon the 1971 edition of American National Standards Institute (ANSI) B11.1, the industry consensus standard for mechanical power presses. This ANSI standard has been updated a number of times since OSHA adopted the 1971 version. The most recent edition was issued in 2001. Hydraulic and pneumatic power presses are not covered by OSHA's current standard. The original standard also did not address the use of presence-sensing-device initiation (PSDI) systems. When a press is equipped with PSDI, the press cycle will not initiate until the PSDI system senses that the danger zone is clear. OSHA updated the mechanical power presses standard on March 14, 1988, (53 FR 8353), to permit the use of PSDI systems. However, it requires an OSHA-approved third party to validate the PSDI system at installation and annually thereafter. Since the adoption of this provision, no third party has sought OSHA's approval. Consequently, PSDI systems are not being used with mechanical power presses. OSHA is seeking comments on whether and how the mechanical power presses standard should be amended, including whether the requirements pertaining to the use of PSDI systems should be revised and whether the scope of the standard

should be expanded to cover other types of presses.

**DATES:** Comments must be submitted by the following dates:

- Hard copy: Submit (postmark or send) comments by regular mail, express delivery, hand delivery, and courier service by August 3, 2007.
- Electronic transmission and facsimile: Submit comments by August 3, 2007.

**ADDRESSES:** You may submit comments by any of the following methods:

*Electronically:* You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions on-line for submitting comments.

*Fax:* If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

*Mail, hand delivery, express mail, messenger or courier service:* You must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2007–0003, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., e.t.

*Instructions:* All submissions must include the Agency name and the OSHA docket number for this rulemaking (OSHA Docket No. OSHA–2007–0003). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at <http://www.regulations.gov>. For further information on submitting comments, plus additional information on the rulemaking process, see the "Public Participation" heading in the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the address above. All documents in the docket are listed in the <http://www.regulations.gov> index, however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site.

All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

**FOR FURTHER INFORMATION CONTACT:**

*Press Inquiries:* Kevin Ropp, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–1999.

*General and Technical Information:* David M. Wallis, OSHA Directorate of Standards and Guidance, Office of Engineering Safety, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2277.

**SUPPLEMENTARY INFORMATION:**

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**I. Background**

*A. OSHA's Existing Mechanical Power Presses Standard*

OSHA promulgated § 1910.217, the standard for mechanical power presses, in 1971. The standard was based on the 1971 edition of American National Standards Institute (ANSI) B11.1, the industry consensus standard on mechanical power presses. See 39 FR 23732 (June 27, 1974). Hydraulic and pneumatic power presses are not covered by the standard. See § 1910.217(a)(5).

A mechanical power press is a two-part system, with a stationary bed or anvil and a movable upper part, the ram. A die or punch is placed on the ram and the ram descends into a die block, which is attached to the anvil. The punch and die block are known as the die set. A mechanical power press can be either full revolution or part revolution. A full-revolution press cannot be stopped once the cycle begins. A part-revolution press has a brake that can stop the press in mid

cycle. Mechanical power presses are used in a number of industries, including fabricated metal, industrial machinery, and transportation vehicle parts. These industries all require metal parts, which are formed in presses, to create finished products.

If employees are not clear of power presses when their cycles are initiated, serious injuries can occur. The mechanical power presses standard contains numerous provisions for protecting employees who work with and around the presses. In particular, the standard contains requirements for safeguarding the "point of operation" of the press, the area of the press between the punches and the die block. These requirements help ensure that employees are clear of this "danger zone" when the press is in operation. The standard requires employers to ensure "the usage of 'point of operation guards' or properly applied and adjusted point of operation devices on every operation performed on a mechanical power press." See § 1910.217(c)(1)(i).

Point of operation guards on mechanical power presses prevent entry of hands or fingers into the point of operation. Under the standard, employers can utilize a number of different types of guard systems: die enclosure guards, fixed barrier guards, interlock press barrier guards, and adjustable barrier guards. See § 1910.217(c)(2). Point of operation devices, on the other hand, are systems that protect employees by preventing or stopping the press cycle when hands or other objects are inadvertently placed in the point of operation. Examples of point of operation devices are Type A gates<sup>1</sup> or movable barrier devices, or Type B gates<sup>2</sup> or movable barrier devices, and presence-sensing devices. See § 1910.217(c)(3). A presence-sensing device is basically a light curtain or other sensing device that prevents or stops the slide motion of the press if the operator's hand or other part of the body is within the sensing field of the device during the downstroke of the press slide.

Point of operation devices also include certain systems that limit how a press cycle may be initiated. For

<sup>1</sup> A Type A gate is a movable barrier device designed to be held in position during the entire press cycle (stroke) so that the operator cannot easily open the movable barrier during the cycle. It is designed to prevent reentry into the point of operation in the event of a failure of the press or its related control equipment when there may be a repeat cycle of the press.

<sup>2</sup> A Type B gate is a movable barrier device designed for use on part-revolution presses so that it is held closed during the closing portion of the cycle (stroke).

example, the standard allows for two-hand initiation devices. See § 1910.217(c)(3)(e). The two-hand devices require the operator to press two buttons simultaneously in order to initiate the press cycle; the buttons must be far enough apart that they cannot be pressed with one hand. In addition, the controls must be a certain distance from the point of operation so that the controller cannot enter the danger zone after activating the press. While the two-hand controls help protect the employees operating the presses, they can be uncomfortable, may increase worker fatigue, and can increase the time between press cycles.

The existing standard also includes requirements for inspecting, maintaining, and modifying mechanical power presses to ensure that they are operating safely. See § 1910.217(e). It requires operators and maintenance personnel to be trained in how to use or inspect power presses safely. See § 1910.217(e)(3) and (f)(2). And, it includes provisions for power press operation to ensure that there is sufficient clearance around the machines for them to operate safely, among other things. See § 1910.217(f)(4). These provisions, along with the point of operation protections above, work to protect employees working with and around mechanical power presses.

In 1988, OSHA added paragraph (h) to § 1910.217 to allow the use of presence-sensing-device initiation on part-revolution mechanical power presses. PSDI systems initiate press cycles when the systems indicate that no objects are within the danger zone. These systems differ from presence sensing point of operation devices in that these systems initiate the press cycles; presence sensing point of operation devices, as stated above, stop or prevent the cycles from occurring if an operator's hand or other body parts are in the danger zone. PSDI systems had been used on mechanical power presses in Europe for decades and on an experimental basis for a 1-year period beginning on August 31, 1976, at one United States facility under a temporary variance (Interlake Stamping Corporation (41 FR 36702)). PSDI systems were also used on non-mechanical power presses and other types of equipment.

When paragraph (h) was added in 1988, OSHA imposed a number of requirements for the use of PSDI systems based upon its analysis of the rulemaking record, which included comments from industry, union, and academic experts. See 53 FR 8322 (March 14, 1988). OSHA required that every PSDI system be initially validated by an OSHA-certified third party and re-

validated by a certified third party annually. See § 1910.217(h)(11). The third-party validation was based on existing systems in Sweden and Germany, where the government certified this type of equipment. OSHA believed that national testing laboratories and industry organizations would conduct the third-party validation.

In its 1988 rulemaking, OSHA analyzed the impact of paragraph (h) on employers as part of its economic impact analysis. At that time, OSHA estimated that approximately 73,000 employees would be affected by the requirements. These employees are primarily punch and stamping press operators and job and die setters. OSHA estimated that 40 percent of the former group and 20 percent of the latter were operating mechanical power presses. OSHA estimated that PSDI would increase productivity an average of 24.3 percent per press, resulting in industry savings of about \$162 million a year. See 53 FR 8351 (March 14, 1988). OSHA also believed, and continues to believe, that mechanical power presses equipped with PSDI, if properly designed, installed, and used, could reduce the likelihood of accidents.

#### *B. OSHA's Section 610 Review of the PSDI Requirements*

OSHA is required by Section 610 of the Regulatory Flexibility Act (5 U.S.C. 610) and Executive Order 12866 to conduct periodic reviews of rules ("Section 610 Reviews"). The purpose of these reviews is to determine whether such rules should be continued without change, amended, or rescinded, consistent with the objectives of applicable statutes, to minimize any significant economic impact of the rules on a substantial number of small entities. In doing so, the agency takes into consideration the continued need for the rule, comments and complaints received regarding the rule, the complexity of the rule, whether the rule is duplicative, and changes in technology and economic conditions since the issuance of the rule. The reviews also examine whether the rules are compatible with other regulations, duplicative or inappropriately burdensome in the aggregate, and whether and how they could be made more effective.

OSHA conducted a Section 610 review to determine why PSDI has not been implemented, and to identify how the standard could be changed to facilitate PSDI use in a manner that protects worker safety. In its August 28, 2002, **Federal Register** notice (67 FR 55181) informing the public about the

review and soliciting comments, OSHA presented four options for revising the standard:

Option 1—Update all of § 1910.217 to be consistent with ANSI B11.1–2001 or something similar.

Option 2—Revise the third-party validation requirements.

Option 3—Eliminate all requirements for third-party validation and possibly replace them with a self-certification requirement; leave the other PSDI requirements intact.

Option 4—Replace OSHA's current PSDI requirements with the PSDI requirements in the new ANSI B11.1.

The Agency published its final report on the review in May 2004 and notified the public of its availability on June 8, 2004 (69 FR 31927). The review includes information on the main industry categories using mechanical power presses and estimates of injury trends. The review states that there were 194,891 presses of all types in use in 1996. Mechanical power presses are used mainly in the following manufacturing industry categories: fabricated metal, industrial machinery, electrical machinery, transportation vehicle parts, and precision instruments. The review also included information about injuries caused by mechanical power presses. It found that there were 774 mechanical power press accidents reported to OSHA from 1995–2000 under 29 CFR 1910.217(g), which requires employers to report to OSHA all point of operation injuries. It also cited BLS data that approximately 6,000 injuries per year occurred on nonprinting presses (including mechanical power presses and other types of presses) from 1992 to 1999.

Based on analyses and information obtained during the Section 610 review, OSHA committed to pursuing Option 1, to update all of § 1910.217 to be consistent with ANSI B11.1–2001 or something similar [Ex. OSHA–2007–0003–0002]. Option 1 addressed concerns that the mechanical power presses standard as a whole is out-of-date and could be made safer. While PSDI system technology has not changed since paragraph (h) was adopted in 1988, the technology used to control and guard mechanical power presses has changed considerably since § 1910.217 was adopted. For instance, some mechanical power presses now use operational modes not addressed in § 1910.217 (such as computer controls), which introduce hazards also not addressed by the standard. Five of the nine commenters who responded to OSHA's August 28, 2002, **Federal Register** notice recommended that OSHA replace the entire mechanical

power press standard with ANSI B11.1–2001. They argued that PSDI is an integral part of that ANSI standard, which has no validation requirement. Furthermore, they argued that an update is overdue, would create a range of benefits, and would lead to implementation of PSDI [Ex. OSHA–2007–0003–0002]. OSHA agrees with these commenters and believes that such an update would result in improved safety and health protections for operators of mechanical power presses as well as for other employees in the machine area.

## II. Request for Data, Information, and Comments

The Agency is considering a broad range of issues in its development of a proposed update to the mechanical power presses standard. The issues to be considered go beyond those of the current mechanical power presses standard and include broadening the scope of the standard to include other types of presses, equipment, and processes not previously addressed.

OSHA invites comments on the questions below. The questions are grouped into six broad categories: The scope of the standard; industry consensus standards related to mechanical power presses; technical issues; training requirements; reporting requirements; and employer responsibilities. However, commenters are encouraged to address any aspect of power presses, including pneumatic, hydraulic, and other presses, which would assist the Agency in its consideration of what action is appropriate. The Agency is particularly interested in ways to incorporate flexibility into its standard to make it more protective as well as easier to comply with. Please provide a detailed response to the questions, as well as any supporting information or data, to better assist the Agency in its consideration of these matters.

### A. The Scope of the Power Press Standard

1. As stated above, the current OSHA standard covers only mechanical power presses. OSHA is considering changing the scope of the standard to include other types of power presses, such as hydraulic presses and pneumatic presses. Do the existing general machine guarding requirements in § 1910.212 adequately protect employees operating non-mechanical power presses, and do they provide adequate flexibility to employers who use such presses? Should OSHA regulate all power presses under one standard or under multiple standards? Should OSHA

address non-mechanical power presses in this rulemaking action to update § 1910.217? Are there general requirements that should apply broadly to all types of power presses?

2. If OSHA does broaden the scope of the standard to include other types of presses, what other types of power presses should OSHA specifically include? Why?

3. The current OSHA standard specifically excludes press brakes, hydraulic and pneumatic power presses, bulldozers, hot bending and hot metal presses, forging presses and hammers, riveting machines, and similar types of fastener applicators. The ANSI B11.1–2001 standard excludes these as well; however, it also excludes cold headers and formers, eyelet machines, high-energy-rate presses, iron workers and detail punches, metal shears, powdered metal presses, press welders, turret and plate-punching machines, wire termination machines, and welding machines. If OSHA updates the standard to be consistent with the provisions of ANSI B11.1–2001 or its equivalent, should OSHA exclude all of the machines that are excluded in ANSI B11.1–2001? Why? Should OSHA exclude any other machines that are not specifically excluded in ANSI B11.1–2001? Why?

4. Since it has been more than 30 years since OSHA's adoption of its mechanical power press standard, OSHA realizes that changes in technology may have affected the way industry sectors operate. Are there mechanical power presses in use today that—due to their unique characteristics—are not covered by OSHA's current standard? Please supply OSHA with information about these presses. Does the current standard cover any equipment that is no longer in use? Would adoption of ANSI B11.1–2001 or something similar render equipment currently in use obsolete? Is there equipment that is currently in use that should be grandfathered into a revised OSHA standard that would otherwise restrict the use of such equipment? Why?

### B. Consensus Standards Related to Mechanical Power Presses

5. As stated above, OSHA intends to update the mechanical power press standard to be consistent with ANSI B11.1–2001 or something similar. Are there any obstacles to complying with a new standard that is based on ANSI B11.1–2001 or its equivalent?

6. Are there provisions in the current ANSI standard that should not be the basis for provisions in the revised OSHA standard? Should OSHA include

any provisions that are not covered by the ANSI standard? If so, what are the provisions?

7. Should the Agency include information from the appendices or the explanatory information columns contained in the ANSI B11.1 standard in the revised OSHA standard? If so, what information in particular should OSHA consider?

8. Are there other consensus standards, international standards, or other references OSHA should consider in updating its mechanical power presses standard? If so, which ones should OSHA consider in drafting a proposed rule?

9. Some of the technical definitions and requirements in the ANSI standard, including those for the reliability and classes of control systems, are not contained within the standard itself but are instead found in technical reports to the ANSI B11.1 committee. Should these reports serve as one of the bases for a revised OSHA standard? If so, what specific information from these reports should OSHA consider?

#### C. Technical Issues

10. During the Section 610 review, OSHA found that there has been some decline in mechanical power press use in the United States in the last 20 years. Please provide any information you have on current mechanical power press use.

11. Are there other developments in the use of mechanical power presses that are relevant for OSHA's development of a proposal? For example, the Section 610 review indicated that computer-controlled presses are increasingly common. How has the increased use of computer-controlled presses—as well as other technological developments—affected safety and productivity in the workplace?

12. The current OSHA standard permits any person to reconstruct or modify a mechanical power press as long as the reconstruction or modification is performed in accordance with § 1910.217(b). The ANSI B11.1–2001 standard permits only suppliers to reconstruct or modify a mechanical power press, as in ANSI B11.1–2001 paragraphs 4.1 through 4.1.3 [Ex. OSHA–2007–0003–0003]. Should OSHA similarly limit press reconstruction and modification to the supplier of the equipment? Why? Should a revised OSHA standard address the qualifications of persons who reconstruct or modify mechanical power press equipment?

13. OSHA's current standard requires third-party validation for PSDI such that

a single failure or single operating error may not cause injury to personnel from a point-of-operation hazard. Appendix A, Certification/Validation Requirements. Should OSHA retain some form of third-party validation, but remove this aspect of the validation criteria?

14. If the Agency does not require third-party validation, would the certification requirements found in the following paragraphs be necessary: § 1910.217(h)(5)(i) (adjusting brake monitoring during installation certification); (h)(9)(ii)(B) (certification of alternatives to photo-electric light curtains); and (h)(11)(i)(B), (h)(11)(ii), (h)(11)(iii), (h)(11)(v) (safety system certification/validation)? Why or why not?

15. OSHA's current PSDI provisions include requirements for brakes and clutches that are not found in the ANSI B11.1–2001 standard. See § 1910.217(h)(2). Should OSHA retain these or similar requirements in a revised standard? Why? Should OSHA remove the provisions entirely? Why? Would removing these provisions adversely impact employee safety or are these provisions unnecessary given the PSDI systems currently available?

16. OSHA's current PSDI standard includes provisions for flywheels and bearings that are not included in the ANSI B11.1–2001 standard. See § 1910.217(h)(4). Should OSHA retain these requirements or something similar? Why? Would removing these provisions adversely impact employee safety or are these provisions unnecessary given the PSDI systems currently available?

17. OSHA currently limits PSDI systems to normal production operations (and not die-setting or maintenance procedures). See § 1910.217(h)(1)(v). Should OSHA continue this limitation? Why? 18. Are there any guarding methods or safety equipment in use today not covered by OSHA's current standard? Please supply OSHA with information about them. Does the current standard cover any guarding method or safety equipment no longer in use?

19. Are there any guarding methods or safety equipment in use today that the current ANSI standard does not address? Does the current ANSI standard cover any guarding method or safety equipment no longer in use?

20. OSHA's current standard has no specific provisions covering computer-controlled mechanical power presses. To what extent are employers using computer-controlled mechanical power presses? Are these types of presses becoming more common? What

procedures, guarding methods, and safety considerations are used when using these types of presses? Are there any special hazards or concerns when using computer-controlled mechanical power presses of which the Agency should be aware?

21. OSHA's current mechanical power press standard has no specific provisions covering servo-actuated presses. To what extent are employers using servo-actuated presses? Are these types of presses becoming more common? What procedures, guarding methods, and safety considerations are used when using these types of presses? Are there any special hazards or concerns when using servo-actuated presses of which the Agency should be aware?

#### D. Cost Issues

22. What has been the experience of PSDI systems on mechanical power presses and other machines internationally, particularly in Europe? What additional costs have been involved in integrating them into manufacturing operations? What have been the benefits in terms of safety and productivity?

23. What has been the experience of PSDI systems with regard to other types of machines in the United States (i.e., those not covered by the mechanical power press rule)?

24. Are there estimates of the cost savings of using PSDI systems more widely? Are there mechanical power presses where PSDI would provide few or no cost savings?

25. OSHA's Section 610 review of the mechanical power press rule indicated that in many cases mechanical power presses are being replaced with hydraulic presses. How widespread is this trend and what are the reasons for it? How much of this is related to underlying technological and economic trends?

#### E. Training Requirements

26. OSHA's current standard at § 1910.217(f) requires employers to train employees on safe methods of work. However, the standard does not spell out specific training or retraining requirements. Should OSHA change its existing performance-oriented approach with specific training and retraining provisions? Why?

27. The ANSI B11.1–2001 standard includes more detailed training requirements than the OSHA standard [Ex. OSHA–2007–0003–0003]. Should OSHA adopt ANSI's approach to training? Why?

28. Are there any training or retraining requirements that are not

found in the OSHA or ANSI standards that OSHA should include in the updated standard? If so, what are they and why should OSHA include them? Are there any training or retraining requirements that are found in the ANSI standard that OSHA should not include in the updated standard? If so, what are they and why should OSHA not include them in the updated standard?

29. OSHA's current standard does not specify how often training should occur. Should OSHA specifically require annual or semiannual training? Should retraining only be required when employees are observed improperly operating equipment, or are there other times when employees should be retrained?

30. When OSHA adopted the PSDI provisions, it also added specific training requirements for employers using PSDI systems. See § 1910.217(h)(13). Are those requirements sufficient to ensure operators are effectively trained in PSDI operation? Should OSHA expand or reduce the training requirements for PSDI systems?

31. The current standard requires at § 1910.217(h)(13)(ii) that employers certify employee training for PSDI. Should OSHA retain this requirement, or require other training documentation? Why or why not?

#### *F. Reporting and Recordkeeping Requirements*

32. The current standard requires at § 1910.217(h)(9)(ii)(B) that employers notify OSHA 3 months before the operation of any alternative system to photo-electric light curtains. The notification must include "the name of the system to be installed, the manufacturer and the OSHA-recognized third-party validation organization immediately." Should OSHA retain this requirement or a similar requirement in a revised standard?

33. Paragraph § 1910.217(g) requires employers to report to OSHA within 30 days any point of operation injury to operators or other employees. Do employers also use this information for their own purposes? If so, how? Should OSHA eliminate this requirement? Why or why not?

34. Under paragraph (e)(1)(i), employers must maintain a certification record of periodic and regular inspections of power presses. This certification must contain: The date of the inspection; the signature of the person who performed the inspection; and the serial number or other identifier of the power press inspected. Similarly, paragraph (e)(2)(ii) requires employers to maintain a record of required

inspections, tests, and maintenance on the clutch/brake mechanism, antirepeat feature and single stroke mechanism; these inspections and tests must occur at least once a week. As with the certification required by paragraph (e)(1)(i), the record must contain: The date of the inspection, test or maintenance; the signature of the person performing the inspection, test, or maintenance; and the serial number or other identifier of the press. Should OSHA include these requirements in a revised standard? Why? Should OSHA require employers to maintain any additional information in the records, such as the types of repairs made, or is there information that should not be specifically required? Is a signature of the person performing the inspection, test, or maintenance necessary or would the name suffice for the record?

35. Currently, ANSI B11.1-2001 specifies that an inspection program be established with "regular" inspection of presses, but does not specify the time frames for such inspections [Ex. OSHA-2007-0003-0003]. Also, ANSI B11.1-2001 does not specify what information employers should maintain in inspection records [Ex. OSHA-2007-0003-0003]. Should OSHA adopt ANSI's performance-oriented approach in a revised standard? Why? If OSHA were to adopt provisions similar to the ANSI provisions, how could the Agency determine whether an employer's inspections were conducted at a reasonable frequency?

36. OSHA's current standard specifies that each employer inspect and test each press at least once a week to determine the condition of the clutch/brake mechanism, antirepeat feature and single stroke mechanism. Should OSHA expand or reduce the time interval between these inspections and tests? Should any other elements be inspected or tested this frequently? Do any of these elements need less frequent inspection or testing?

37. ANSI B11.1-2001 permits users to determine the content of inspections and testing [Ex. OSHA-2007-0003-0003]. Should OSHA adopt this type of performance-based approach in the revised standard? How would OSHA enforce such a requirement? Would adopting ANSI's approach lead to more press failures? Why?

### **III. Public Participation**

#### *Submission of Comments and Access to Docket*

You may submit comments in response to this document (1) electronically at <http://www.regulations.gov>, which is the

Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments and other material must identify the Agency name and the OSHA docket number for this rulemaking (OSHA Docket No. OSHA-2007-0003). You may supplement electronic submissions by uploading document files electronically. If, instead, you wish to mail additional materials in reference to an electronic or fax submission, you must submit three copies to the OSHA Docket Office (see **ADDRESSES** section). The additional materials must clearly identify your electronic comments by name, date, and docket number so OSHA can attach them to your comments.

Because of security-related procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693-2350 (TTY (877) 889-5627).

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download through <http://www.regulations.gov>. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> Web site to submit comments and access the docket is available at the Web site's User Tips link. Contact the OSHA Docket Office for information about materials not available through the Web site and for assistance in using the internet to locate docket submissions.

Electronic copies of this **Federal Register** document are available at <http://www.regulations.gov>. This document, as well as news releases and other relevant information, also are available at OSHA's Web page at <http://www.osha.gov>.

### **IV. Authority and Signature**

This document was prepared under the direction of Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210. This action is taken pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary

of Labor's Order No. 5-2002 (67 FR 65008), and 29 CFR part 1911.

Signed at Washington, DC, this 29th day of May 2007.

**Edwin G. Foulke, Jr.,**

*Assistant Secretary of Labor.*

[FR Doc. E7-10655 Filed 6-1-07; 8:45 am]

BILLING CODE 4510-26-P

## OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

### 32 CFR Chapter XVII

#### Freedom of Information Act Regulations

**AGENCY:** Office of the Director of National Intelligence.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed regulation will provide the public the guidelines under which the Office of the Director of National Intelligence will implement the Freedom of Information Act, 5 U.S.C. 552.

**DATES:** Submit comments on or before July 5, 2007.

**ADDRESSES:** You may submit comments by any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Mail:* Chief FOIA Officer c/o Director of Intelligence Staff, Office of the Director of National Intelligence, Washington, DC 20511.

**FOR FURTHER INFORMATION CONTACT:** Mr. John F. Hackett, (703) 482-1707.

**SUPPLEMENTARY INFORMATION:** The Office of the Director of National Intelligence (ODNI) was created by the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108-458, 118 Stat. 3638. The first Director of National Intelligence, Ambassador John D. Negroponte, was sworn into Office on April 21, 2005, and the ODNI began operations on April 22, 2005. Because the majority of documents held by the ODNI at its inception were previously maintained by the Central Intelligence Agency (CIA), and because the ODNI did not have a FOIA staff upon stand-up, the CIA agreed to handle the administrative aspects of the ODNI's FOIA processing. Through this arrangement, the ODNI makes all legal decisions regarding the handling of FOIA requests for ODNI records and the CIA assists with the administrative tasks associated with processing FOIA requests, including the intake and tracking of requests, as well as drafting correspondence to requesters. The ODNI has gradually built up its FOIA program

and is now proposing its own FOIA regulations. The proposed regulations address all aspects of FOIA processing, including how and where to submit FOIA requests, fees for record services, procedures for handling business information, requests for expedited processing and the right to appeal denials of information.

Therefore, as discussed in the preamble, and under the authority of the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, 118 Stat. 3638, the ODNI proposes to establish 32 CFR Chapter XVII and add part 1700 to read as follows:

#### CHAPTER XVII—OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

#### PART 1700—PROCEDURES FOR DISCLOSURE OF RECORDS UNDER THE FREEDOM OF INFORMATION ACT

Sec.

- 1700.1 Authority and purpose.
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**Authority:** 5 U.S.C. 552, 50 U.S.C. 401-442; Pub L. 108-458, 188 Stat. 3638.

##### § 1700.1 Authority and purpose.

(a) *Authority:* This part is issued under the authority of and in order to implement the Freedom of Information Act, as amended, 5 U.S.C. 552; the National Security Act of 1947, as amended, 50 U.S.C. 401-442; and the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, 118 Stat. 3638.

(b) *Purpose in general.* This part prescribes procedures for:

- (1) ODNI administration of the FOIA;
- (2) Requesting records pursuant to the FOIA; and
- (3) Filing an administrative appeal of an initial adverse decision under the FOIA.

##### § 1700.2 Definitions.

For purposes of this part, the following terms have the meanings indicated:

(a) *Days* means calendar days when ODNI is operating and specifically excludes Saturdays, Sundays, and legal public holidays;

(b) *Control* means actual possession and ownership or the authority of ODNI pursuant to federal statute or privilege to regulate official or public access to a particular record or records. It does not establish an obligation to create any record or data compilation, although ODNI reserves the right to offer production of a compilation as an alternative to production of records;

(c) *Direct costs* means those expenditures which ODNI actually incurs in the processing of a FOIA request; it does not include overhead factors such as space;

(d) *Pages* means paper copies of standard office size or the dollar value equivalent in other media;

(e) *Reproduction* means generation of a copy of a requested record in a form appropriate for release;

(f) *Review* means all time expended in examining a record to determine whether any portion must be withheld pursuant to law and in effecting any required deletions but excludes personnel hours expended in resolving general legal or policy issues; it also means personnel hours of professional time;

(g) *Search* means all time expended in looking for and retrieving material that may be responsive to a request utilizing available paper and electronic indices and finding aids; it also means personnel hours of professional time or the dollar value equivalent in computer searches;

(h) *Employee or staff member* means any employee, detailee, assignee, employee of a contracting organization or independent contractor of the ODNI or any of its component organizations, unless otherwise excepted;

(i) *Expression of interest* means a written or electronic communication submitted by any person requesting information on or concerning the FOIA program, the availability of documents from ODNI, or both;

(j) *Fees* means those direct costs which may be assessed a requester considering the categories established by the FOIA; requesters should submit information to assist the ODNI in determining the proper fee category and the ODNI may draw reasonable inferences from the identity and activities of the requester in making such determinations; the fee categories include:

(1) *Commercial:* A request in which the disclosure sought is primarily in the commercial interest of the requester and