

**Proposed Extension of Collection of Information for:
Alternative Compliance for Certain SEPs Pursuant to 29 CFR § 2520.104-49.
OMB Number 1210-0034
December 2014**

SEPs are SAR-SEPs, all SEPs and SEP participants are referred to as non-model SEPs for purposes of this ICR.

2. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

The alternative disclosure arrangement provided through this regulation relieves sponsors of non-model SEPs of most of the reporting and disclosure requirements under Title I of ERISA. Also, the disclosure requirements set forth in the regulation ensure that administrators of non-model SEPs provide participants with specific written information concerning SEPs. This information collection requirement generally requires timely written disclosure to employees eligible to participate in non-model SEPs, including specific information concerning: participation requirements; allocation formulas for employer contributions; designated contact persons for further information; and, for employer recommended IRAs, specific terms of the IRAs such as rates of return and any restrictions on withdrawals. Moreover, general information is required that provides a clear explanation of: the operation of the non-model SEP; participation requirements and any withdrawal restrictions; and the tax treatment of the SEP-related IRA. Furthermore, statements must be provided that inform participants of: any other IRAs under the non-model SEP other than that to which employer contributions are made; any options regarding rollovers and contributions to other IRAs; descriptions of IRS disclosure requirements to participants and information regarding social security integration (if applicable); and timely notification of any amendments to the terms of the non-model SEP.

3. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration for using information technology to reduce burden.*

Under 29 C.F.R. § 2520.104b-1(b) of ERISA, “where certain material, including reports, statements, and documents, is required under Part I of the Act and this part to be furnished either by direct operation of law or an individual request, the plan administrator shall use measures reasonably calculated to ensure actual receipt of the material by plan participants and beneficiaries.” Section 2520.104b-1(c) establishes the manner in which disclosures under Title I of ERISA made through electronic media will be deemed to satisfy the requirement of § 2520.104b-1(b). Section 2520-107-1 establishes standards concerning the use of electronic media for maintenance and retention of records. Under these rules, all pension and welfare plans covered under Title I of ERISA may use electronic media to

**Proposed Extension of Collection of Information for:
Alternative Compliance for Certain SEPs Pursuant to 29 CFR § 2520.104-49.
OMB Number 1210-0034
December 2014**

satisfy disclosure and recordkeeping obligations, subject to specific safeguards. The Department estimates that 38 percent of the disclosures will be done electronically.

4. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

The disclosure requirement set forth in this regulation is not duplicated in any other Federal statute or regulation. Also, this disclosure requirement is the only method of insuring that administrators of non-model SEPs provide participating employees with specific written information concerning SEPs.

5. *If the collection of information impacts small businesses or other small entities describe any methods used to minimize burden.*

The alternative disclosure arrangement provided through this regulation is an effort on the part of the Department to assure that small businesses receive the most extensive relief consistent with ERISA. This regulation will minimize the impact of existing reporting and disclosure requirements on these businesses.

6. *Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

This is not applicable because this information is not collected by the Federal government.

7. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*

- *requiring respondents to report information to the agency more often than quarterly;*
- *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
- *requiring respondents to submit more than an original and two copies of any document;*
- *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;*

**Proposed Extension of Collection of Information for:
Alternative Compliance for Certain SEPs Pursuant to 29 CFR § 2520.104-49.
OMB Number 1210-0034
December 2014**

- *in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
- *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
- *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
- *requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

There are no special circumstances that require the collection to be conducted in a manner inconsistent with the above.

8. *If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The Department's Federal Register notice, as required by 5 CFR 1320.8(d), soliciting comments on the information collection was published in the Federal Register on May 21, 2014, (79 FR 29208), providing the public 60 days to comment on the submission. No comments were received.

**Proposed Extension of Collection of Information for:
Alternative Compliance for Certain SEPs Pursuant to 29 CFR § 2520.104-49.
OMB Number 1210-0034
December 2014**

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

No payments or gifts are provided to respondents.

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

The information collection is a third-party disclosure and as such is not intended to be confidential.

11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

There are no questions of a sensitive nature pertaining to sexual behavior and attitudes, religious beliefs, or other matters that are commonly considered private.

12. *Provide estimates of the hour burden of the collection of information. The statement should:*

- *Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.*
- *If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.*
- *Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.*

**Proposed Extension of Collection of Information for:
Alternative Compliance for Certain SEPs Pursuant to 29 CFR § 2520.104-49.
OMB Number 1210-0034
December 2014**

The Department estimates the total annual hour burden required to complete this disclosure is 21,227. Every SEP must prepare a disclosure and distribute copies of the disclosure to its participants. The Department assumes that the employer will perform these services themselves, so this work will be measured in burden hours. The cost of materials, copying, and postage is presented in Item 13.

For the paper work renewal in 2005, the Securities Industry Association (SIA), provided the Department with the results of an informal survey of a number of their members, regarding the number of SEP accounts, and the number of participants in those accounts.¹ The data provided by SIA (now called SIFMA) indicates that in 2004, there were approximately 356,600 employers sponsoring non-model SEPs, and approximately 679,300 participants in those SEPs. No update of this information is available.

Since the alternate method of compliance, which is the subject of this ICR, has been in effect for over 30 years, the Department believes that the most SEP sponsors have already compiled the disclosures that they are required to distribute to plan participants. The Department estimates that each disclosure statement takes 30 minutes to prepare, and will only be prepared by administrators of new SEPs. The Department does not collect information regarding the number of new SEPs, and has estimated that about 36,000 new SEP plans are created each year. The total preparation burden is estimated to be 18,000 hours (35,660 x 1/2 hour = 17,830).

The Department estimates that each year, there are approximately 68,000 new SEP participants who must receive a disclosure statement.² The Department estimates that it takes 3 minutes per participant to distribute the disclosure statements. The distribution burden is estimated to be 3,400 hours (67,930 participants x 1/20 hour = 3,397).

The total hour burden to prepare and distribute the disclosures is estimated to be approximately about 21,000 hours.

¹SIA is now part of the Securities Industry and Financial Markets Association (SIFMA)

²The Department estimates that approximately 10 percent of SEP participants began investing in their SEP within the last year 679,300*.1=67,930 .

**Proposed Extension of Collection of Information for:
Alternative Compliance for Certain SEPs Pursuant to 29 CFR § 2520.104-49.
OMB Number 1210-0034
December 2014**

The equivalent cost of the hour burden would be approximately \$ 1.9 million.³ The Department assumes that the preparation would be done by a benefits manager at \$102.41/hour,⁴ for a total of \$1,826,000 (17,830 hours x \$102.41/hour = 1,825,970). The Department assumes that the distribution would be done by a clerical staff member at \$29.60/hour,⁵ for a total of about \$101,000 (3,397 hours x \$29.60/hour = \$100,551).

13. *Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 or 14).*

The total cost burden results from paper, copying and mailing costs. The Department estimates that 38 percent of the disclosures will be done electronically at no cost. The Department estimates that the remaining 62 percent of disclosures cost \$0.10 for copying and paper and \$0.49 to mail for an annual total of approximately \$25,000 (67,930 disclosures x 0.62 x (\$0.49 + \$0.10)=\$24,849).

14. *Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.*

There is no reporting to the Federal government and consequently no cost to the government.

15. *Explain the reasons for any program changes or adjustments reported in Items 12 or 13.*

³The Department's estimated 2014 hourly labor rates include wages, other benefits, and overhead are calculated as follows: mean wage from the 2012 National Occupational Employment Survey (March 2013, Bureau of Labor Statistics http://www.bls.gov/oes/2012/may/oes_nat.htm); wages as a percent of total compensation from the Employer Cost for Employee Compensation (June 2013, Bureau of Labor Statistics http://www.bls.gov/news.release/archives/ecec_09112013.pdf); overhead as a multiple of compensation is assumed to be 25 percent of total compensation for paraprofessionals, 20 percent of compensation for clerical, and 35 percent of compensation for professional; annual inflation assumed to be 1.9 percent annual growth of total labor cost since 2012 (Employment Costs Index data for private industry, September 2013 http://www.bls.gov/news.release/archives/eci_11192013.pdf).

⁴Compensation and Benefits Manager (11-3041): $\$50.92(2012 \text{ BLS Wage rate}) / 0.697(\text{ECEC ratio}) * 1.35(\text{Overhead Load Factor}) * 1.019(\text{Inflation rate}) ^2(\text{Inflated 2 years from base year}) = \$102.41.$

⁵Secretaries, Except Legal, Medical, and Executive (43-6014): $\$16.13(2012 \text{ BLS Wage rate}) / 0.679(\text{ECEC ratio}) * 1.2(\text{Overhead Load Factor}) * 1.019(\text{Inflation rate}) ^2(\text{Inflated 2 years from base year}) = \$29.60.$

**Proposed Extension of Collection of Information for:
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OMB Number 1210-0034
December 2014**

The changes in the estimated hourly cost burden are due to increases in hourly wage rates as well as adjustments to the estimated cost of benefits and overhead. Changes in the costs reflect the changes in the postage.

16. *For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

This is not a collection of information for statistical use.

17. *If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

The collection of information will display a currently valid OMB control number.

18. *Explain each exception to the certification statement identified in the "Certification for Paperwork Reduction Act Submission."*

Not applicable; no exceptions to the certification statement.

AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA. Collections of Information Employing Statistical Methods

Statistical methods are not used in these collections of information.