

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT OF 1995 SUBMISSIONS

The Department of Labor, Employee Benefits Security Administration requests an revision to the information collections currently approved under OMB Control Number 1210-0090. The revisions reflect an increase in the number of notices sent electronically due to the Department's new safe harbor for the use of electronic media by administrators of retirement plans covered by ERISA. This amendment enables plan administrators to furnish documents to plan participants and beneficiaries by means of electronic delivery if they have electronic addresses and if they do not opt out of electronic delivery.

1. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

Currently, a large percentage of American's workers are covered by participant-directed 401(k)-type plans. Workers in these plans are responsible for making their own investment decisions; therefore, they need information about the individual and comparable performance of the designated investment alternatives available to them under their employers' plans furnished in a format useful to workers, particularly information on investment choices including associated fees and expenses.

The Department became concerned that participants and beneficiaries might not have adequate access to or might not be considering information critical to making informed decisions about the management of their retirement accounts. To address this issue, the Department published a final regulation under ERISA section 404(a), with conforming amendments to the regulations under ERISA section 404(c)¹, that requires plan fiduciaries to disclose plan- and investment-related fee and expense information to participants and beneficiaries in all participant directed individual account plans (e.g., 401(k)-type plans) for plan years that began on or after January 1, 2010² and at least annually thereafter (defined by regulation as at least once in any 14-month period, without regard to whether the plan operates on a calendar or fiscal year basis).

The final rule contains the following information collections, which are third party disclosures from plan fiduciaries to participants and beneficiaries in participant-directed individual account plans:

¹ Under ERISA §404(c) fiduciaries of pension plans that allow participants to exercise control of their individual accounts are not responsible for losses resulting from a participant's exercise of such control. In 1992, DOL issued a regulation describing requirements that plans must meet in order for this section to apply. Among other things, this regulation details the disclosures that §404(c) plans must make to participants in order to afford them a reasonable opportunity to control their accounts. However, the fiduciary relief provided by §404(c) is elective and about 40% of participant directed plans chose not to comply with §404(c).

² 29 CFR 2550.404a-5.

Plan-related Information—29 CFR 2550.404a-5(c). The final rule requires three sub-categories of Plan-related information to be provided to participants and beneficiaries. The first sub-category is General Plan Information, which includes how participants may give investment instructions or exercise proxy voting or tendering rights, restrictions on transferring account assets among investment alternatives, and identification of the plan's designated investment alternatives and designated investment managers. (29 CFR 2550.404a-5(c)(1)). This information must be provided by the time a participant becomes eligible to participate in the plan, and afterwards at least annually. Material changes to this information must be disclosed at least 30 days but no more than 90 days before the effective date of the change except for unforeseen events or circumstances beyond the plan administrator's control. Plans may make these disclosures in the summary plan description (SPD).

The second sub-category of Plan-related information is Administrative Expense Information, which refers to explanations of any fees and expenses for general plan administrative services (e.g., legal, accounting, recordkeeping) charged to individual accounts and the basis for allocating such charges among the accounts (e.g., pro-rata, per capita). (29 CFR 2550.404a-5(c)(2)). This information must be provided by the time a participant becomes eligible to participate in the plan, and afterwards at least annually. At least quarterly, plans must furnish statements of the aggregate dollar amount charged to each participant's account for these expenses during the previous quarter. Plans may make the initial and annual disclosures in the summary plan description (SPD) and the quarterly information may be included in the plan's quarterly benefit statements.

The third sub-category of Plan-related information is Individual Expense Information, which describes expenses assessed against accounts based on the actions taken by individual participants or beneficiaries. This would include charges for processing participant loans and qualified domestic relations orders. (29 CFR 2550.404a-5(c)(3)). Information describing these charges must be furnished before or upon a participant's eligibility and annually thereafter. Plans must provide quarterly statements identifying and showing the dollar amounts of each expense actually charged to an account. Plans may make the initial and annual disclosures in the summary plan description (SPD) and the quarterly information may be included in the plan's quarterly benefit statements.

Investment-related Information—29 CFR 2550.404a-5(d). The rule also requires plan administrators to disclose three sub-categories of investment-related information to participants and beneficiaries on or before their date of eligibility, which relates to the plans designated investment alternatives.³ The first sub-category of information is information required to be provided automatically. (29

³ The requirement to disclose the information on or before the date of plan eligibility may be satisfied by furnishing the most recent annual disclosure (and any material modifications) furnished to participants and beneficiaries.

CFR 2550.404a-5(d)(1)). For each designated investment alternative, the plan must disclose specified identifying information, past performance data, comparable benchmark returns, fee and expense information, and an Internet website address that is sufficiently specific to lead participants and beneficiaries to specified supplemental information for each investment alternative.

The latest information available to the plan must be furnished annually. Material changes to this information must be disclosed at least 30 days but no more than 90 days before the effective date of the change except for unforeseen events or circumstances beyond the plan administrator's control.

Investment-related information must be furnished in a chart or similar format designed to help participants compare the plan's investment alternatives across each category of information. (29 CFR 2550.404a-5(d)(2)). To facilitate compliance, the rule includes a model chart that may be used by plan fiduciaries to satisfy this requirement.

The second sub-category of investment-related information is Post-Investment Information. Following a participant's investment in an alternative, the plan administrator must provide any materials it receives regarding voting, tender or similar rights in the alternative ("pass-through materials") to the extent such rights are passed through to the participant or beneficiary. (29 CFR 2550.404a-5(d)(3)).

The third sub-category of investment-related information is Information to be provided upon Request(29 CFR 2550.404a-5(d)(4)). Participants may request the plan to provide prospectuses, financial reports, as well as statements of valuation and a list of assets held by an investment alternative.

The rule describes the timeframes and acceptable format for providing the disclosures.

2019 Electronic Disclosure Regulation

In response to Executive Order 13847, entitled "Strengthening Retirement Security in America," which was issued by President Trump on August 31, 2018, the Department is issuing a final rule with a new safe harbor for retirement plan administrators to use electronic media to furnish required pension disclosures to plan participants and beneficiaries. Specifically, the proposal, would allow plan administrators who satisfy specified conditions to provide participants and beneficiaries with a notice that the pension disclosures will be made available on a website. The 404(a)(5)/404(c) disclosures are among the disclosures plan administrations could furnish under the safe harbor. The framework of the proposal is similar to the approach the Securities and Exchange Commission takes

for certain investor disclosures and also aligns with Internal Revenue Service rules about delivering retirement plan disclosures electronically.

In order to use the safe harbor, retirement plan administrators must:

- Furnish covered individuals with a notice of internet availability delivered to their electronic addresses, for example to the covered individual's email address. The notice must include, among other things, a brief description of the document being posted online, a website address where the document is posted, and instructions for requesting a free paper copy or electing paper delivery in the future. It must be sent each time a retirement plan disclosure is posted to the internet website. To prevent "email overload," the proposal allows a notice of internet availability to incorporate or combine other notices of internet availability in limited circumstances .
 - Furnish covered individuals, free of charge, with a paper copy of a covered document, as soon as possible after receiving the covered individual's request (2520.104b-31(f)(1)).
 - Provide covered individuals with the ability to opt out of electronic delivery and receive only paper versions of some or all covered documents (2520.104b-31(f)(2)). In the event that a plan administrator becomes aware of an invalid or inoperable electronic address, such as if an email is returned as undeliverable, the administrator must treat the covered individual as if he or she had elected to opt out of electronic delivery if the problem is not promptly cured (2520.104b-31(f)(4)). This provision is intended to ensure that covered individuals actually receive their pension documents by guarding against invalid or inoperable electronic addresses.
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 information collections under this ICR are not for the use of the Department or any other federal agency; they are mandated third-party disclosures. The information will be used by participant and beneficiaries in ERISA-covered participant directed individual account plans to make informed decisions regarding the investment of assets held in their individual accounts. The Department will not collect the information required to be disclosed.

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.

The Department's separate regulation at 29 CFR 2520.104b-1(c) permits plan administrators to use electronic media to make disclosures required under Title I of ERISA, provided certain conditions are met. Plan administrators may rely on that rule to use electronic communications methods for any required disclosures, including the information collection requirements of this ICR. Moreover, in response to comments regarding the final regulation, the Department amended the final rule to provide a more flexible electronic disclosure standard by allowing plan administrators to satisfy the notice requirement by relying on the Department's electronic media disclosure rule or the guidance issued by the Department of the Treasury and Internal Revenue Service at 26 CFR § 1.401(a)-21 relating to the use of electronic media.

In estimating the burden of this ICR, the Department has assumed, as further described below, that 56.4 percent of plans will make the required information disclosures through electronic means.⁴ Where any of the requisite disclosures cannot be prepared in electronic form, they will have to be distributed as hard copies. Moreover, plan fiduciaries may have to supply paper copies of the information to participants whom they cannot reach electronically or to those who do not affirmatively consent to receiving documents 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 information collections associated with the rule do not duplicate information available from any other source. In principal part, this information collection merely insures that existing relevant information is furnished appropriately to plan participants and beneficiaries. In fashioning the regulation, the Department took account of other similar federal and state requirements in order to reduce or eliminate duplication of effort.

⁴ According to data from the National Telecommunications and Information Agency (NTIA), 37.7 percent of individuals age 25 and over have access to the Internet at work. According to a Greenwald & Associates survey, 84 percent of plan participants find it acceptable to make electronic delivery the default option, which is used as the proxy for the number of participants who will not opt-out of electronic disclosure that are automatically enrolled (for a total of 31.7 percent receiving electronic disclosure at work). Additionally, the NTIA reports that 40.5 percent of individuals age 25 and over have access to the internet outside of work. According to a Pew Research Center survey, 61 percent of internet users use online banking, which is used as the proxy for the number of internet users who will affirmatively consent to receiving electronic disclosures (for a total of 24.7 percent receiving electronic disclosure outside of work). Combining the 31.7 percent who receive electronic disclosure at work with the 24.7 percent who receive electronic disclosure outside of work produces a total of 56.4 percent who will receive electronic disclosure overall.

The Department consulted with the Securities and Exchange Commission (the SEC) to avoid including duplicative, overlapping, or conflicting requirements in the proposal. In general, the rule follows the SEC's disclosure regime for most investments. The Department knows of no other relevant federal rules that duplicate, overlap, or conflict with the final regulations.

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

The regulation does not provide special reduced requirements for small plans or small employers, because the information collections are designed specifically to protect the rights of participants and beneficiaries covered by participant-directed individual account plans. The Department believes that the information collections contained in the rule are as important to participants and beneficiaries in small plans (or associated with small employers) as they are to participants and beneficiaries in large plans (or associated with large employers), because participants and beneficiaries in small plans need the same amount and quality of information regarding their investments and investment alternatives as participants and beneficiaries in large plans in order to make informed decisions about the management of the retirement assets in their accounts.

Small business owners who offer their employees pension plans with participant-directed individual accounts may not have the resources to analyze plan fees themselves or to hire an analyst for that purpose. However, in the likely case that small business owners use service providers for plan administration purposes, some of the costs of complying with the new requirements will be borne by the service provider who might be able to distribute them to a large number of clients. While the rule could conceivably discourage some employers from offering plans, the Department notes that the rule builds on longstanding disclosure requirements for section 404(c) plans.

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.*

Conducting these information collections less frequently or not at all would deprive participants and beneficiaries in participant-directed individual account plans of easy access to information needed to make investment decisions that the participant or beneficiary believes will maximize the value of retirement savings. Moreover, in the aggregate, participants and beneficiaries would spend a considerable amount of time searching for this information.

The disclosures help a large number of plan participants by displaying investment-related information in a format that facilitates comparison of investment alternatives. This simplified format makes it easier and less time consuming for participants to find and compare information they need to

effectively manage their retirement accounts. The Department believes that these disclosures benefit plan participants and beneficiaries directly by helping them to pick the lowest cost comparable investment alternatives offered under their plans. Wiser selections, in turn, increase accounts' investment returns and strengthening retirement savings. As participants and beneficiaries become more sophisticated investors, their behavior will create more competition among the providers of the investment alternatives, which could drive down fund fees. In addition, plan fiduciaries may use the increased disclosures to scrutinize fees in order to select less expensive comparable investment alternatives under the plans. All these benefits depend on the timeliness and frequency of the information collection; the less frequent the disclosures, the less ability participants will have to determine how best to allocate their investments.

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;*
 - *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.*

None.

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 record keeping, 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 required by 5 CFR 1320.8(d) soliciting comments on the information collection was published on October 23, 2019, 84 FR 56894. No comments were received by the Department on the ICR. Comments on the broader issue of changes to electronic disclosure requirements are addressed under OMB control number 1210-0121.

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

Not applicable.

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

Not applicable.

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.*

None.

1. *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 in Item 13.*
- *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. Instead, this cost should be included in Item 13.*

The Department has made the following assumptions in order to establish a reasonable estimate of the paperwork burden associated with this ICR:

- Based upon Form 5500 data from the 2017 Plan Year,⁵ 565,969 participant-directed individual account plans with 75,475,000 participants will produce and distribute the required disclosures;
- On an annual basis, 14 percent of plans will be new and the remaining 86 percent of plans will be existing plans;
- Plans will distribute 56.4 percent of disclosures electronically using existing systems in accordance with the Department's standards for electronic communication of required information under 29 CFR 2520.104b-1(c). Therefore, no cost has been attributed to the electronic distribution of information;
- Plans will use existing in-house resources to conduct compliance review, create and distribute disclosures, create the website, and adjust the IT systems necessary to fulfill the requirements of this rule;
- The tasks associated with the ICR will be performed by clerical personnel at an hourly rate of \$64.11, legal professionals at an hourly rate of \$138.41, accountants at an hourly rate of \$100.74, and IT professionals at an hourly rate of \$138.41.⁶

Plan-Related Information

The rule requires all plans to provide General Plan Information annually and Administrative and Individual Expense Information quarterly.

The Department assumes that every year, new plans will have in-house legal staff spend 30 minutes conducting compliance review and developing the General Plan Information disclosure for a total of 39,618 hours at an equivalent cost of \$5.5 million, while clerical staff will spend 30 minutes gathering documents and

⁵ The most recent year available.

⁶ For more information on how the Department estimates labor costs see: <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/rules-and-regulations/technical-appendices/labor-cost-inputs-used-in-ebbsa-opr-ria-and-pra-burden-calculations-june-2019.pdf>

providing administrative support for the legal staff for a total of 39,618 hours at an equivalent cost of \$2.5 million. Existing plans will have in-house legal staff spend 15 minutes conducting compliance review and updating the General Plan Information disclosure for a total of 121,683 hours at an equivalent cost of \$16.8 million, while clerical staff will spend 15 minutes gathering documents and providing administrative support for the legal staff for a total of 121,683 hours at an equivalent cost of \$7.8 million. The General Plan Information disclosure will be sent to all participants (75.5 million participants) and 43.6 percent of the disclosures (32.9 million disclosures) will be sent by mail. Clerical staff is assumed to spend, on average, two minutes per disclosure to copy and mail this information for a total of 1,096,903 hours at an equivalent cost of \$70.3 million.

The Department assumes that Administrative and Individual Expense Information will be included as part of required quarterly statements. Calculating the Expense Information will be performed by outside service providers, and as such, has been included in the cost section in question 13. All other costs associated with this required disclosure are included in the hour and cost burden calculations for producing and distributing quarterly statements, which fall under another ICR.

Investment-Related Information

The rule requires all plans to provide, annually, a comparative chart containing specified identifying information, past performance data, comparable benchmark returns, fee and expense information, and a link to a website regarding investment options. The rule also requires all plans to create and maintain a website with investment disclosures. Further, the rule requires plans to provide post-investment “pass through” disclosure materials to participants’ investments in an alternative investment. Finally, the rule requires plans to provide a variety of disclosure materials upon request.

The Department assumes that in-house accountants will spend 5 hours per new plan creating comparative charts and 4 hours per existing plan updating comparative charts for a total of 2.3 million hours at an equivalent cost of \$236 million. The comparative chart will be sent to all participants (75.5 million participants) and 43.6 percent of the disclosures (32.9 million disclosures) will be sent by mail. Clerical workers are assumed to spend, on average, two minutes per disclosure to copy and mail this information for a total of 1,096,903 hours at an equivalent cost of \$70.3 million.

The Department assumes that in-house IT staff will spend 3.5 hours per new plan creating, and updating quarterly, a website that meets the requirements of this rule, while in-house IT staff will spend 2 hours per existing plan making quarterly updates of the website. The total hourly burden for IT staff will be approximately 1.3 million hours at an equivalent cost of \$138 million (1.3 million hours at \$110.34 an hour).

Because the “pass through” disclosures are only required to be given post-investment to investors choosing alternative investments, the Department assumes that only plan participants in plans with employer securities will receive these disclosures. These disclosures will be sent to all participants in plans with employer securities (14.4 million participants) and 43.6 percent of the disclosures (6.3 million disclosures) will be sent by mail. Clerical workers are assumed to spend, on average, two minutes per disclosure to copy and mail this information for a total of 208,951 hours at an equivalent cost of \$13.4 million.

Finally, the Department estimates that each plan will receive one request for information per year. Each information request will require 1 hour of clerical time to prepare the request and 2 minutes of clerical time to copy and mail the information. Assuming that 43.6 percent of requests will be mailed, approximately 574,194 hours of clerical burden at an equivalent cost of \$36.8 million will result.

Summary

In summary, creating, preparing, and distributing these require disclosures will result in 9.3 million hours of burden annually at an equivalent cost of \$752.2 million.

Time Burden Summary Table

| Activity | Number of Respondents | Frequency | Total Annual Responses | Time Per Response (Hours) | Total Annual Burden (Hours) | Hourly Rate* | Monetized Value of Respondent Time |
|---|-----------------------|-----------|------------------------|---------------------------|-----------------------------|--------------|------------------------------------|
| New Plan Compliance Review (Legal) | 79,236 | 1 | 79,236 | 0.5 | 39,618 | \$138.41 | \$5.5 million |
| New Plan Document Gathering (Clerical) | 79,236 | 1 | 79,236 | 0.5 | 39,618 | \$64.11 | \$2.5 million |
| Existing Plan Compliance Review (Legal) | 486,733 | 1 | 486,733 | 0.25 | 121,683 | \$138.41 | \$16.8 million |
| Existing Plan Document Gathering (Clerical) | 486,733 | 1 | 486,733 | 0.25 | 121,683 | \$64.11 | \$7.8 million |

Participant Level Fee Disclosure
OMB Number 1210-0090
March 2020

| | | | | | | | |
|---|---------|-------|-------------|---|-------------|----------|-----------------|
| Production and Distribution of General Plan Information (Paper Copies) | 565,969 | 58.14 | 32,907,100 | 0.03 | 1.1 million | \$64.11 | \$70.3 million |
| Production and Distribution of General Plan Information (Electronic Copies) | 565,969 | 75.2 | 42,567,900 | 0 | 0 | \$64.11 | \$0 |
| Administrative and Individual Expense Information | 565,969 | 53.3 | 301,900,000 | Burden accounted for in Question 13 and in Other ICRs | | | |
| New Plan Comparative Chart (Accountant) | 79,236 | 1 | 79,236 | 5 | 396,178 | \$100.74 | \$39.9 million |
| Existing Plan Comparative Chart (Accountant) | 486,733 | 1 | 486,733 | 4 | 1.9 million | \$100.74 | \$196.1 million |
| Production and Distribution of Comparative Chart (Paper Copies) | 565,969 | 58.14 | 32,907,100 | 0.03 | 1.0 million | \$64.11 | \$70.3 million |
| Production and Distribution of Comparative Chart (Electronic Copies) | 565,969 | 75.2 | 42,567,900 | 0 | 0 | \$64.11 | \$0 |
| New Plan Website (IT Staff) | 79,236 | 4 | 315,142 | 0.88 | 277,325 | \$110.34 | \$30.6 million |
| Existing Plan Website (IT Staff) | 486,733 | 4 | 1,946,934 | 0.5 | 973,467 | \$110.34 | \$107.4 million |
| Production and Distribution of "Pass Through" Disclosures (Paper Copies) | 565,969 | 11.08 | 6,268,521 | 0.03 | 208,951 | \$64.11 | \$13.4 million |

| | | | | | | | |
|---|----------------|-------|--------------------|------|--------------------|---------|------------------------|
| Production and Distribution of "Pass Through" Disclosures (Electronic Copies) | 565,969 | 14.33 | 8,108,820 | 0 | 0 | \$64.11 | \$0 |
| Information on Request (Clerical) | 565,969 | 1 | 565,969 | 1 | 565,969 | \$64.11 | \$36.3 million |
| Production and Distribution of Information on Request (Paper Copies) | 565,969 | 0.436 | 246,762 | 0.03 | 8,225 | \$64.11 | \$527,344 |
| Production and Distribution of Information on Request (Electronic Copies) | 565,969 | 0.564 | 319,207 | 0 | 0 | \$64.11 | \$0 |
| Unduplicated Totals | 565,969 | | 769,693,310 | | 9.3 million | | \$752.2 million |

2019 Electronic Disclosure Final Regulation

The finalized changes would provide plan administrators with more flexibility to deliver pension plan disclosures electronically. Expanded electronic disclosure would lower the burden associated with delivering the 404(a)(5)/404(c) Disclosure by mail, including burden to prepare the mailings.

The Department estimates that in the first year, 81.5 percent of participants and beneficiaries currently receiving the 404(a)(5)/404(c) Disclosure by mail in the base year would begin receiving the 404(a)(5)/404(c) Disclosure electronically. The expanded electronic disclosure is estimated to lower the 404(a)(5)/404(c) Disclosure average hour burden by 3,390,106 hours, resulting in a new three-year average hour burden of 5,914,334 hours.

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

As explained in question 12 above, the rule requires plan-related and investment-related information to be disclosed to participants and beneficiaries covered by participant directed individual account plans. The Department developed estimates for the universe of plans, participants and beneficiaries affected by these information collections. Additional costs in this Question 13 relate solely to the additional costs that arise from determining administrative and individual fees charge against participants' accounts, printing and distributing the required

disclosures, and establishing and maintaining the plans' websites. The annual cost burden is calculated as follows:

Plan-Related Information

The Department assumes that plans will send 75.5 million copies of the General Plan Information to plan participants and beneficiaries, which will contain an average of 10 pages. Paper and printing costs are expected to be 5 cents per page and mailing costs are expected to be \$0.85 per mailed disclosure. It is assumed that 56.4 percent of the required plan information will be delivered electronically for a de minimis cost. The mailed copies result in a cost burden of \$44.4 million.

Plans will also have to determine the administrative and individual fees that will be charged directly against participants' accounts, which will be included in the plans' quarterly benefit statements.⁷ The Department estimates a cost burden of approximately \$20 million for new plans to establish information systems or accounting practices that will collect, track and report the actual dollar amounts charged to the individual accounts and \$43 million for existing plans to update systems.⁸

Investment-Related Information

Disclosing investment related information leads to material costs, if the materials are given out by hand or mailed. As with the disclosure of the General Plan Information, it is assumed that 56.4 percent of the disclosures will be sent electronically with no associated cost burden. Paper and printing costs are assumed to be 5 cents per page.

The Department assumes that plans will send 75.5 million copies of the Comparative Chart to plan participants and beneficiaries, which will contain an average of three pages. As this information is required to be sent on an annual basis the Department assumes it will be sent with the General Plan Information. Mailing costs are already accounted for in the calculation of the cost burden for the General Plan Information. The resulting annual cost burden for materials is \$4.9 million.

Plans also are required to create and maintain a website. Having a plan website might require plans to rent server space at an estimated cost of \$265 annually per plan. The estimated annual cost of renting the server space is approximately \$150 million.

⁷ Because these data will be included in quarterly benefit statements, no materials cost has been assessed for this requirement.

⁸ According to a GAO report (GAO-03-661T, "Mutual Funds: Information on Trends in Fees and Their Related Disclosure," March 12, 2003, p. 14), which measures the cost of the disclosures of the actual dollar amount of mutual fund investment expenses on a participant level, it cost \$1 per account to generate these disclosures in 2001 and \$0.35 per account to maintain compliance. Using the Consumer Price Index to inflate these values, the costs would be \$1.42 and \$0.35 respectively in 2020. The Department estimates that approximately 1/3 of these costs would be comparable to the costs of complying with this rule.

With regard to post-investment pass-through disclosures, it is assumed that this information would primarily be sent to those participants holding company securities. This results in approximately 14.4 million participants receiving disclosures each year. One disclosure is assumed to be, on average, ten pages long, with mailing costs of \$0.70 per disclosure. This results in an annual cost burden of \$7.5 million.

Finally, each plan is expected to receive one information request per year. Information requests are assumed to be 20 pages in length and come with mailing costs of \$0.85 per disclosure. Of these information requests, 56.4 percent are assumed to be distributed electronically at de minimis cost, while the remaining 246,762 requests will result in a printing and mailing cost of \$456,511.

Summary

It is estimated that the total costs prior to the final regulation burden of these information collections are \$270.3 million.

Cost Burden Summary Table

| Activity | Number of Responses | Average Cost per Response | Total Cost |
|--|---------------------|---------------------------|------------------------|
| General Plan Information (Paper) | 32,907,100 | \$1.35 | \$44.4 million |
| General Plan Information (Electronic) | 42,567,900 | \$0.00 | \$0 |
| Administrative and Individual Fees (New Plans) | 42,266,000 | \$0.47 | \$20 million |
| Administrative and Individual Fees (Existing Plans) | 259,634,000 | \$0.17 | \$43 million |
| Comparative Chart (Paper) | 32,908,100 | \$0.15 | \$4.9 million |
| Comparative Chart (Electronic) | 42,567,900 | \$0.00 | \$0 |
| Website | 565,969 | \$265 | \$150 million |
| Post-Investment Pass-Through Disclosure (Paper) | 6,286,521 | \$1.20 | \$7.5 million |
| Post-Investment Pass-Through Disclosure (Electronic) | 8,108,820 | \$0.00 | \$0 |
| Information on Request (Paper) | 246,763 | \$1.85 | \$456,511 |
| Information on Request (Electronic) | 319,207 | \$0.00 | \$0 |
| Unduplicated Totals | | | \$270.3 million |

2019 Electronic Disclosure Final Regulation

The finalized changes would provide plan administrators with more flexibility to deliver pension plan disclosures electronically. Expanded electronic disclosure would lower the cost associated with delivering the 404(a)(5)/404(c) Disclosure by mail.

The Department estimates that in the first year, 81.5 percent of participants and beneficiaries currently receiving the 404(a)(5)/404(c) Disclosure by mail in the base year would begin receiving the 404(a)(5)/404(c) Disclosure electronically.

The expanded electronic disclosure is estimated to lower the 404(a)(5)/404(c) Disclosure average cost burden by \$46.35 million, resulting in a new three-year average cost of \$223.98 million.

3. *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 cost to the Federal Government associated with this information collection.

4. *Explain the reasons for any program changes or adjustments reported in Items 13 or 14.*

In accordance with Executive Order 13847, the Department finalized a new safe harbor for the use of electronic media by administrators of retirement plans covered by ERISA. This amendment enables plan administrators to furnish documents to plan participants and beneficiaries by means of electronic delivery if they have electronic addresses and if they do not opt out of electronic delivery. This rule creates cost savings by increasing the number of electronically delivered documents, thereby reducing printing and mailing costs. This cost savings is reflected in the lower estimated costs for materials and postage reflected in Item 13 above.

5. *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.*

Not applicable.

6. *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. The OMB expiration date will be published in the Federal Register following OMB approval.

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

Not applicable; no exceptions to the certification statement.