



## DEPARTMENT OF LABOR

### **Agency Information Collection Activities; Submission for OMB Review; Comment Request; Petition for Finding under the Employee Retirement Income Security Act Section 3(40)**

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that the agency receives on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Michael Howell by telephone at 202-693-6782, or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**SUPPLEMENTARY INFORMATION:** The term “multiple employer welfare arrangement” (MEWA) is defined in Section 3(40) of the Employee Retirement Income Security Act of 1974 (ERISA) as an employee welfare benefit plan or any other arrangement which is established or maintained for the purpose of offering or providing [welfare plan benefits] to the employees of two or more employers, (including one or more self-employed individuals), or their beneficiaries, except that such term does not

include any such plan or other arrangement which is established or maintained under or pursuant to one or more agreements which the Secretary of Labor (the Secretary) finds to be collective bargaining agreements. Under Section 514(b)(6) of ERISA, an employee welfare benefit plan that is a MEWA is generally subject to state insurance law. The Department's regulation at 29 CFR 2510.3-40 sets forth criteria for determining when an employee welfare benefit plan is established or maintained under or pursuant to collective bargaining agreements for purposes of section 3(40) of ERISA. The Department's regulations at 29 CFR part 2570, subpart H set forth procedures for administrative hearings to obtain a determination by the Secretary as to whether a particular entity is an employee welfare benefit plan established or maintained under or pursuant to one or more collective bargaining agreements for purposes of section 3(40) of ERISA.

To initiate adjudicatory proceedings, an entity is required to file a petition for a determination under Section 3(40) of ERISA with an Administrative Law Judge (ALJ). The petition must identify the parties, describe the basis on which the petition is being filed and the entity in question, provide evidence that the entity satisfies the criteria to be an employee welfare benefit plan, and include affidavits as to both the competency of the affiant to testify and the facts that allegedly establish the entity as a plan established under or pursuant to agreements that the Secretary finds to be a collective bargaining agreement.. For additional substantive information about this ICR, see the related notice published in the *Federal Register* on July 11, 2025 (90 FR 30984).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the

collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

*Agency:* DOL-EBSA.

*Title of Collection:* Petition for Finding under the Employee Retirement Income Security Act Section 3(40).

*OMB Control Number:* 1210-0119.

*Affected Public:* Private sector.

*Total Estimated Number of Respondents:* 1.

*Total Estimated Number of Responses:* 1.

*Total Estimated Annual Time Burden:* 37 hours.

*Total Estimated Annual Other Costs Burden:* \$10.

(Authority: 44 U.S.C. 3507(a)(1)(D))

**Michael Howell,**

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