

**DEPARTMENT OF LABOR****Employee Benefits Security Administration****Proposed Extension of Information Collection; Comment Request Regulation Regarding Participant Directed Individual Account Plans Under ERISA 404(c)****ACTION:** Notice.

**SUMMARY:** The Department of Labor (the Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that the data the Department gathers can be provided in the desired format, that the reporting burden on the public (time and financial resources) is minimized, that the public understands the Department's collection instruments, and that the Department can accurately assess the impact of collection requirements on respondents.

Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments concerning an extension of the information collections in regulation section 2550.404c-1, pertaining to participant-directed individual account plans under section 404(c) of the Employee Retirement Income Security Act of 1974 (ERISA). A copy of the information collection request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

**DATES:** Written comments must be submitted on or before January 17, 2006.

**ADDRESSES:** Direct all written comments regarding the information collection request and burden estimates to Susan G. Lahne, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5647, Washington, DC 20210. Telephone: (202) 693-8410; Fax: (202) 219-4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet e-mail address: [ebbsa.opr@dol.gov](mailto:ebbsa.opr@dol.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

Section 404(c) of ERISA provides that, if an individual account pension plan permits a participant or beneficiary to exercise control over assets in his or her

account and the participant or beneficiary in fact exercises such control, the participant or beneficiary shall not be deemed to be a fiduciary by such exercise of control and no person otherwise a fiduciary shall be liable for any loss or breach that results from the participant's or beneficiary's exercise of control.

The Department's regulation at 29 CFR 2550.404c-1 describes the circumstances in which a participant or beneficiary will be considered to have exercised independent control over the assets in his or her individual account as contemplated in section 404(c). The regulation specifies information that must be made available to participants or beneficiaries in order for them to exercise independent control over the assets in their individual accounts. The regulation provides that the relief from fiduciary liability specified in section 404(c) is not available with respect to a transaction undertaken by a participant or beneficiary unless the specific information is provided to the participant or beneficiary. EBSA submitted the information collection provisions in the regulation to the Office of Management and Budget (OMB) for review in an information collection request (ICR) in connection with promulgation of the final rulemaking, and OMB approved the ICR under OMB Control No. 1210-0090. The ICR approval is scheduled to expire on February 28, 2006.

**II. Desired Focus of Comments**

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submission of responses.

**III. Current Action**

This notice requests comments on an extension of the information collections

included in regulation section 2550.404c-1, which sets requirements for fiduciary relief pertaining to participant-directed individual account plans under section 404(c) of ERISA. The Department is not proposing or implementing changes to the existing ICR at this time. A summary of the ICR and the current burden estimates follows:

*Type of Review:* Extension of a currently approved collection of information.

*Agency:* Employee Benefits Security Administration, Department of Labor.

*Title:* Regulation Regarding Participant Directed Individual Account Plans (ERISA section 404(c) Plans).

*OMB Number:* 1210-0090.

*Affected Public:* Individuals or households; Business or other for-profit; Not-for-profit institutions.

*Respondents:* 324,000.

*Frequency of Response:* On occasion.

*Responses:* 324,000.

*Estimated Total Burden Hours:* 37,000.

*Total Burden Cost (Operating and Maintenance):* \$17,755,000.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: November 8, 2005.

**Susan G. Lahne,**

*Senior Pension Law Specialist, Office of Policy and Research, Employee Benefits Security Administration.*

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**DEPARTMENT OF LABOR****Occupational Safety and Health Administration**

**[Docket No. NRTL03-SDOC]**

**RIN 1218-AC21**

**Nationally Recognized Testing Laboratories; Supplier's Declaration of Conformity**

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

**ACTION:** Request for information.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) requests comments on a specific proposal submitted to OSHA to permit the use of a Supplier's Declaration of Conformity (SDoC) as part of, or as an alternative to, the Nationally Recognized Testing Laboratories (NRTLs) product approval process.