

available data is representative of all filers.

Original estimates, as well as those shown here, were based on the assumption that 2 hours of start-up time for learning the law and becoming familiar with the form and instructions would be required for all filers, and that a range of 50 minutes for single state filers to 1 hour and 35 minutes for multiple state filers would be required for Part III of the form. Part IV was estimated to require 15 minutes for fully insured filers, and 30 minutes for non-fully insured filers. It was also assumed that 100% of filings would be made by providers of service to the MEWA administrators, and thus result in the payment of fees rather than in the expenditure of time.

Approximately 50% of actual filers report doing business in multiple states, and 50% in single states. Also, about 50% of all filers, without regard to the number doing business in single or multiple states, report being fully insured in most or all of the states in which they do business. Applying these ratios to the estimate of 2,000 filers results in estimates of 1,000 MEWAs doing business in multiple states, 1,000 in single states, 1,000 fully insured MEWAs, and 1,000 not-fully insured. The resulting cost estimate is about \$403,000, or \$200 per filer on average. This estimate incorporates updated assumptions for wage rates and increased postage rates. Of the projected filers, about 15%, or about 300 filers are expected to have fewer than 100 participants, based upon the number of actual filers with fewer than 100 participants. As noted earlier, this is the total estimated cost of the filing requirement; no incremental cost is considered to be associated with this final rule.

Executive Order 12866 Statement

Under Executive Order 12866, the Department must determine whether a regulatory action is "significant" and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Under section 3(f) of the Executive Order, a "significant regulatory action" is an action that is likely to result in a rule (1) having an annual effect of the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering

with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. This action is significant under section 3(f)(4) because it raises novel legal or policy issues arising from the President's priorities. Accordingly, OMB has reviewed this regulatory action.

Paperwork Reduction Act

The Department of Labor submitted the Form M-1 and instructions to OMB for emergency review and approval at the time of publication of the interim final rule on February 11, 2000. OMB subsequently approved the ICR on March 2, 2000 under control number 1210-0116. On November 22, 2000, OMB approved the Department's request for extension of the emergency approval for a three-year period ending November 30, 2003. This final rule does not implement any substantive or material change to the information collection, and as such, no change is made to the ICR, and no further review is requested of OMB at this time. The estimated burden hours and costs associated with the information collection have been adjusted to reflect an updated estimate of the likely number of respondents as well as updated wage and postal rates. Estimates of the number of filers and burden hours and costs are shown below.

You may address requests for copies of the ICR to Joseph S. Piacentini, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N-5718, Washington, DC 20210. Telephone: (202) 693-8410; Fax: (202) 219-5333. These are not toll-free numbers.

Agency: U.S. Department of Labor, Employee Benefits Security Administration.

Title: Annual Report for Multiple Employer Welfare Arrangements and Certain Entities Claiming Exception.

Form: M-1.

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

OMB Control Number: 1210-0116.

Frequency of Response: Annually.

Respondents: 2,000.

Response time: Ranges from 2 hours to 3 hours and 50 minutes based on characteristics of filer.

Responses: 2,000.

Estimated Burden Hours: 1.

Estimated Annual Cost (Operating and Maintenance): \$403,000.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and likely to have a significant economic impact on a substantial number of small entities. Unless the agency certifies that a rulemaking action subject to section 553(b) is not likely to have a significant economic impact on a substantial number of small entities, section 604 of the RFA requires the agency to present a final regulatory flexibility analysis at the time of publication of the notice of final rulemaking describing the impact of the rule on small entities and seeking public comment on such impact. Small entities include small businesses, organizations, and governmental jurisdictions.

Because these rules were issued as interim final rules and not as a notice of proposed rulemaking, the RFA does not apply and the Department is not required to either certify that the rule will not have a significant economic impact on a substantial number of small entities, or conduct a regulatory flexibility analysis. The Department did, however, take the potential impact on small entities into account in developing the interim final and final rules. The Department defines a small entity for purposes of its RFA analyses as an employee benefit plan with fewer than 100 participants. This definition is grounded in section 104(a)(2) of ERISA, which permits the Secretary of Labor to prescribe simplified annual reports for certain employee benefit plans which cover fewer than 100 participants. Based on actual filer data, about 15% of filers are expected to be small. This results in an estimate of 300 small MEWAs being required to file Form M-1. The average cost to all filers, including the highest average cost filers—those not-fully insured and those doing business in multiple states—is about \$200 per year. The cost to small MEWA filers is expected to be lower than average due to the lower likelihood that they are not fully insured, and that they do business in many states. This cost is not expected to be considered substantial for any entity. The Department has developed a form for the collection of data, and has included voluntary worksheets with the form that are designed to assist with compliance and ease compliance burdens for all filers.