

**Field Assistance Bulletin No. 2026-02****Date:** May 12, 2026**Memorandum For:** Colleen McKee, Director of Enforcement
Regional Directors**From:** Elizabeth Schumacher *Elizabeth Schumacher*
Acting Director of Regulations and Interpretations**Subject:** Temporary Enforcement Policy Regarding Pension Benefit Statements
Pursuant to ERISA § 105(a)(2)(E)**Background**

Section 338(a) of the SECURE 2.0 Act of 2022 (SECURE 2.0) amended section 105(a)(2) of ERISA by adding subparagraph (E), which mandates the disclosure of certain pension benefit statements in paper format. Under subparagraph (E) of ERISA section 105(a)(2), defined contribution plans must furnish at least one pension benefit statement on paper in any calendar year, and defined benefit plans generally must furnish at least one paper pension benefit statement every three calendar years.¹ The paper benefit statement requirement added by SECURE 2.0 is effective for plan years beginning after December 31, 2025.²

Notice of Proposed Rulemaking

On February 25, 2026, the Department published a notice of proposed rulemaking titled “Requirement to Provide Paper Statements in Certain Cases - Amendments to Electronic Disclosure Safe Harbors” (the NPRM).³ The NPRM would amend the Department’s 2002

¹ Subparagraph (E) of section 105(a)(2) of ERISA as amended by SECURE 2.0 Act of 2022, Public Law 117-328, § 338(a), 136 Stat. 5275, 5373 (Dec. 29, 2022), provides in relevant part: “With respect to at least 1 pension benefit statement furnished for a calendar year with respect to an individual account plan under paragraph (1)(A), and with respect to at least 1 pension benefit statement furnished every 3 calendar years with respect to a defined benefit plan under paragraph (1)(B), such statement shall be furnished on paper in written form[.]”

² SECURE 2.0 Act of 2022, § 338(c).

³ 91 FR 9213 (Feb. 25, 2026).

electronic disclosure safe harbor,⁴ as directed by SECURE 2.0, to require retirement plans to send to participants who first become eligible to participate, and beneficiaries who first become eligible for benefits, after December 31, 2025, a one-time initial notice on paper prior to defaulting them into electronic delivery.⁵ This notice must inform them of their right to opt out of electronic delivery. Compliance with this provision, in addition to the other requirements of the 2002 safe harbor, would allow plans to forego the furnishing of periodic paper pension benefit statements for those participants and beneficiaries who do not request that all documents required to be disclosed by the plan under Title I of ERISA be furnished on paper in written form.⁶

The NPRM would also amend the Department's 2020 alternative electronic disclosure safe harbor,⁷ in accordance with SECURE 2.0, to mandate that participants and beneficiaries be permitted the opportunity to request that any paper pension benefit statement instead be delivered electronically.⁸ In addition, the NPRM would amend the 2020 safe harbor to require, as a condition of its use, that periodic paper pension benefit statements contain: (1) an explanation of how to request and receive such statements electronically,⁹ and (2) contact information for the plan sponsor, plan administrator, or other designated representative of the plan.¹⁰ The NPRM would also add a provision that prohibits the plan from charging any fee for the delivery of any paper pension benefit statement.¹¹

Temporary Enforcement Policy

In light of recent inquiries regarding compliance with the requirements of section 105(a)(2)(E) of ERISA, and in the absence of final regulations addressing the 2002 and 2020 electronic delivery safe harbors as outlined in section 338(b) of SECURE 2.0, the Department wishes to provide clarity and assurance to plan administrators as they navigate these evolving compliance requirements. There are approximately 720,000 participant-directed defined contribution plans, most of which operate on a calendar year basis.¹² Such plans operating on a calendar-year basis must furnish a quarterly pension benefit statement for the calendar-year quarter that ended on March 31, 2026, no later than May 15, 2026.¹³

⁴ 29 CFR § 2520.104b-1(c).

⁵ 91 FR 9213, 9236 (to be codified at 29 CFR § 2520.104b-1(c)(1)(iv)).

⁶ ERISA § 105(a)(2)(E)(i) (setting forth an exception to the paper statement requirement).

⁷ 29 CFR § 2520.104b-31.

⁸ 91 FR 9213, 9236-37 (to be codified at 29 CFR § 2520.104b-31(l)(1)).

⁹ 91 FR 9213, 9236-37 (to be codified at 29 CFR § 2520.104b-31(l)(2)(ii)).

¹⁰ 91 FR 9213, 9236-37 (to be codified at 29 CFR § 2520.104b-31(l)(2)(ii)).

¹¹ 91 FR 9213, 9236-37 (to be codified at 29 CFR § 2520.104b-31(l)(3)).

¹² U.S. Department of Labor, EBSA, Private Pension Plan Bulletin: Abstract of 2023 Form 5500 Annual Reports, Table D5 (January 2026),

<https://www.dol.gov/sites/dolgov/files/ebsa/researchers/statistics/retirement-bulletins/private-pension-plan-bulletins-abstract-2023.pdf>.

¹³ FAB 2006-03 (Dec. 20, 2006).

To address these concerns, the Department has established a temporary enforcement policy. As such, until after the Department issues a final regulation or other applicable administrative guidance, the Department, as an enforcement policy, will not take enforcement action against plan administrators that comply in good faith with a reasonable interpretation of the provisions set forth in the NPRM.¹⁴ Likewise, the Department will not take enforcement action against plan administrators that comply in good faith with a reasonable interpretation of section 105(a)(2)(E) of ERISA pending the adoption of a final rule (for example, plan administrators may furnish the pension benefit statement described in section 105(a)(2)(E) of ERISA in accordance with the current regulation under 29 CFR § 2520.104b-1(c)).

For Further Information

Questions concerning this memorandum may be directed to Rebecca Davis in EBSA's Office of Regulations and Interpretations at (202) 693-8500.

¹⁴ 91 FR 9213, 9217.