PLUMBERS & PIPEFITTERS NATIONAL PENSION FUND
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ADMINISTRATOR: TONI C. INSCOE

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VIA FEDERAL eRULEMAKING PORTAL
https://www.regulations.gov

Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
United States Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: Electronic Disclosure by Employee Benefit Plans, RIN 1210-AB90

Dear Sir or Madam:

I am the Administrator of the Plumbers and Pipefitters National Pension Fund ("PPNPF" or "Fund"), a multiemployer employee pension benefit plan as defined in Sections 3(2) and (37) of the Employee Retirement Income Security Act of 1974 ("ERISA"). I am writing on behalf of the PPNPF to comment on the proposed regulation creating a new safe harbor for the use of electronic media to furnish certain information to participants and beneficiaries of plans subject to ERISA. The Fund applauds the Department's efforts to reduce administrative costs for pension plans and to update the Department's regulations to reflect the ability of organizations to use electronic media to make a wealth of information available online. The Fund would like in these comments to bring several concerns arising out of the Fund's situation to the Department's attention.

The PPNPF has approximately 166,000 participants and beneficiaries nationwide, most of whom work in, or retired from, the plumbing and pipe fitting industry in the United States. The participants as a group work or worked for more than 5,000 different contributing employers. Moreover, because of the frequently temporary nature of work in the construction industry, each participant may work for multiple employers in a given year and over the course of a career. Thus, the Fund is unlike a single employer plan where the active participants all have e-mail addresses provided by the employer in a single domain.

Nevertheless, a number of participants have provided the Fund with their personal electronic addresses and indicated their interest in being able to receive documents electronically. Such receipt has a number of benefits to participants including that they can go back to review the documents at any time without having to retain voluminous paper documents, and they can review the documents from any location in which they can access the Internet including on their "smartphone." This receipt certainly benefits the Fund in that the current annual cost to the Fund to send out the required disclosures to all participants and beneficiaries, is approximately $150,000.

Accordingly, the Fund is eager to be able to take advantage of the proposed safe harbor as a means to reduce its printing and postage costs and to communicate more effectively with the increasing number of participants and beneficiaries who prefer to receive documents electronically. But the Fund has some concerns about its ability to do so under the proposed regulation as currently written.

First, under the definition of "Covered Individual" at proposed § 2520.104b-31(b), only "a participant, beneficiary, or other individual entitled to covered documents who, **as a condition of employment,** at the commencement of plan participation, or otherwise, provides the employer, plan sponsor, or administrator with an electronic address" (emphasis added) is eligible to obtain plan documents through the proposed electronic regime. However, multiemployer plans are sponsored by employers and labor organizations and have no ability to impose conditions of employment on plan participants. It is unclear if the term "otherwise" in this section is meant as an alternative only to the "commencement of plan participation" so as to leave out those organizations unable to establish conditions of employment such as the multiemployer pension plan community from utilizing the proposed safe harbor. Alternatively, perhaps "or otherwise" is meant as an alternative to "as a condition of employment" in which case multiemployer plans would be included in the safe harbor to the extent of participants and others having provided an electronic address to the plan sponsor. The Fund requests that the Department revise this language in the final regulation to clarify that the safe harbor includes multiemployer pension plans and other entities that do not have the ability to establish conditions of employment.

Second, at present, only approximately 1,000 of the 166,000 participants and beneficiaries have provided the Fund with their email address. Working with our sponsoring employee organization (and assuming the final regulations will include entities that do not impose conditions of employment as discussed above), the Fund anticipates that it would conduct a campaign to increase the number of participants and beneficiaries who provide an electronic address to the Fund so as to increase the cost saving realized by the Fund from the new safe harbor. The Fund contemplates that its effort to obtain email addresses and "smartphone" numbers on a voluntary basis would be a reasonable plan expense when balancing the potential savings in printing and postage against the increased potential to reach participants and beneficiaries in a more convenient and "user-friendly" manner. The Fund would like to consider sending the initial notification of default electronic delivery and right to opt out ("Initial Notification") described in the proposed rule to all participants and beneficiaries and including in it a request to provide the Fund with an electronic address. The Fund would thereafter treat anyone for whom the Fund did not already have -- or did not receive in response to the Initial Notification -- an electronic address as having opted out of default electronic delivery. The Fund would appreciate clarification from the Department that this would be permissible content for the Initial Notification.

Third, we suggest that the final regulation provide a short version of the notice of internet availability to be used when provided by text message with a link to the more complete version of the notice, which could be provided on the Fund's website. For example, perhaps a text message notice could simply include the content described in (d)(3)(ii), (iii), and (iv) with the remaining paragraphs to be included in a notice that comes up when the person follows the link in the text message. The Fund would also find it helpful for the Department to provide model language for (d)(iii) that would be both brief and sufficient.

Finally, we note that anecdotal experience with some of our younger participants and beneficiaries suggests that the Fund consider creating an "app" whereby individuals can access their benefit documents and information through their smartphones. The Fund respectfully requests that the Department consider the possibilities of emerging technologies and provide additional guidance that will permit pension plans to use these emerging technologies to reach participants and beneficiaries with useful information in "real time."

The Fund welcomes the Department's effort to streamline the delivery of important disclosures to participants and beneficiaries of the PPNPF and other pension plans. At this time when many multiemployer plans face significant challenges, the ability to realize administrative cost savings and efficiencies available through current and perhaps future technologies will enable these plans to meet the reporting and disclosure responsibilities envisioned by Congress back in 1974 in a more efficient manner. The Fund urges the Department to consider these comments and create a final regulation that will help plans meet this very important need.

Sincerely,

Toni C. Inscoe

Toni C. Inscoe
Administrator for the Trustees