

allocated by termination priority categories, as set forth in section 4044 of title IV of ERISA, and the actuarial assumptions used in these computations, is waived.

[44 FR 5446, Jan. 26, 1979]

§ 2520.104-43 Exemption from annual reporting requirement for certain group insurance arrangements.

(a) *General.* Under the authority of section 104(a)(3) of the Act, the administrator of an employee welfare benefit plan which meets the requirements of paragraph (b) of this section is not required to file an annual report with the Secretary of Labor as required by section 104(a)(1) of the Act.

(b) *Application.* (1) This exemption applies only to a welfare plan for a plan year in which (i) such plan meets the requirements of § 2520.104-21, except the requirement that the plan cover fewer than 100 participants at the beginning of the plan year, and

(ii) An annual report containing the items set forth in § 2520.103-2 has been filed with the Secretary of Labor in accordance with § 2520.104a-6 by the trust or other entity which is the holder of the group insurance contracts by which plan benefits are provided.

(2) For purposes of this section, the terms “group insurance arrangement” or “trust or other entity” shall be used in place of the terms “plan” and “plan administrator,” as applicable, in §§ 2520.103-3, 2520.103-4, 2520.103-6, 2520.103-8, 2520.103-9 and 2520.103-10.

(c) *Limitation.* This provision does not exempt the administrator of an employee benefit plan which meets the requirements of paragraph (b) from furnishing a copy of a summary annual report to participants and beneficiaries of the plan, as required by section 104(b)(3) of the Act.

[43 FR 10150, Mar. 10, 1978, as amended at 65 FR 21084, Apr. 19, 2000; 67 FR 777, Jan. 7, 2002]

§ 2520.104-44 Limited exemption and alternative method of compliance for annual reporting by unfunded plans and by certain insured plans.

(a) *General.* (1) Under the authority of section 104(a)(3) of the Act, the Secretary of Labor may exempt an employee welfare benefit plan from any or all of the reporting and disclosure re-

quirements of title I. An employee welfare benefit plan which meets the requirements of paragraph (b)(1) of this section is not required to comply with the annual reporting requirements described in paragraph (c) of this section.

(2) Under the authority of section 110 of the Act, an alternative method of compliance is prescribed for certain employee pension benefit plans subject to part 1, title I of the Act. An employee pension benefit plan which meets the requirements of paragraph (b)(2) or (b)(3) of this section is not required to comply with the annual reporting requirements described in paragraph (c) of this section.

(b) *Application.* This section applies only to:

(1) An employee welfare benefit plan under the terms of which benefits are to be paid—

(i) Solely from the general assets of the employer or employee organization maintaining the plan;

(ii) The benefits of which are provided exclusively through insurance contracts or policies issued by an insurance company or similar organization which is qualified to do business in any State or through a qualified health maintenance organization as defined in section 1310(d) of the Public Health Service Act, as amended, 42 U.S.C. 300e-9(d), the premiums for which are paid directly by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members, provided that any plan assets held by such an insurance company are held solely in the general account of such company or organization, contributions by participants are forwarded by the employer or employee organization within three months of receipt and, in the case of a plan that provides for the return of refunds to contributing participants, such refunds are returned to them within three months of receipt by the employer or employee organization, or

(iii) Partly in the manner specified in paragraph (b)(1)(i) of this section and partly in the manner specified in paragraph (b)(1)(ii) of this section; and

(2) A pension benefit plan the benefits of which are provided exclusively through allocated insurance contracts

or policies which are issued by, and pursuant to the specific terms of such contracts or policies benefit payments are fully guaranteed by an insurance company or similar organization which is qualified to do business in any State, and the premiums for which are paid directly by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members: *Provided*, That contributions by participants are forwarded by the employer or employee organization to the insurance company or organization within three months of receipt and, in the case of a plan that provides for the return of refunds to contributing participants, such refunds are returned to them within three months of receipt by the employer or employee organization.

(c) *Contents*. An employee benefit plan described in paragraph (b) of this section is exempt from complying with the following annual reporting requirements:

(1) Completing certain items of the annual report relating to financial information and transactions entered into by the plan as described in the instructions to the Form 5500 “Annual Return/Report of Employee Benefit Plan” and accompanying schedules;

(2) Engaging an independent qualified public accountant pursuant to section 103(a)(3)(A) of the Act and §2520.103-1(b) to conduct an examination of the financial statements and schedules of the plan; and

(3) Including in the annual report a report of an independent qualified public accountant concerning the financial statements and schedules required to be a part of the annual report pursuant to section 103(b) of the Act and §2520.103-1(b).

(d) *Limitation*. This section does not exempt any plan from filing an annual report form with the Secretary in accordance with section 104(a)(1) of the Act and §2520.104a-5.

(e) *Example*. A welfare plan which is funded entirely with insurance contracts and which meets all the requirements of exemption under §2520.104-20 except that it covers 100 or more participants at the beginning of the plan year is not exempt from the annual re-

porting requirements under §2520.104-20, but is exempt from certain reporting requirements under §2520.104-44. Under the latter section, such a welfare plan should file Form 5500, including Schedule A “Insurance Information.” However, the plan is not required to engage an independent qualified public accountant and need not complete certain items on form 5500.

[43 FR 10150, Mar. 10, 1978, as amended at 45 FR 51446, Aug. 1, 1980; 46 FR 5884, Jan. 21, 1981; 65 FR 21085, Apr. 19, 2000; 67 FR 777, Jan. 7, 2002; 72 FR 64728, Nov. 16, 2007]

§ 2520.104-45 [Reserved]

§ 2520.104-46 Waiver of examination and report of an independent qualified public accountant for employee benefit plans with fewer than 100 participants.

(a) *General*. (1) Under the authority of section 103(a)(3)(A) of the Act, the Secretary may waive the requirements of section 103(a)(3)(A) in the case of a plan for which simplified annual reporting has been prescribed in accordance with section 104(a)(2) of the Act.

(2) Under the authority of section 104(a)(3) of the Act the Secretary may exempt any employee welfare benefit plan from certain annual reporting requirements.

(b) *Application*. (1)(i) The administrator of an employee pension benefit plan for which simplified annual reporting has been prescribed in accordance with section 104(a)(2)(A) of the Act and §2520.104-41 is not required to comply with the annual reporting requirements described in paragraph (c) of this section, provided that with respect to each plan year for which the waiver is claimed—

(A)(I) At least 95 percent of the assets of the plan constitute qualifying plan assets within the meaning of paragraph (b)(1)(ii) of this section, or

(2) Any person who handles assets of the plan that do not constitute qualifying plan assets is bonded in accordance with the requirements of section 412 of the Act and the regulations issued thereunder, except that the amount of the bond shall not be less than the value of such assets;