(3) The procedures for withdrawing consent and for updating the participant’s, beneficiary’s or other individual’s address for receipt of electronically furnished documents or other information;

(4) The right to request and obtain a paper version of an electronically furnished document, including whether the paper version will be provided free of charge; and

(5) Any hardware and software requirements for accessing and retaining the documents; and

(D) Following consent, if a change in hardware or software requirements needed to access or retain electronic documents creates a material risk that the individual will be unable to access or retain electronically furnished documents:

(1) Is provided with a statement of the revised hardware or software requirements for access to and retention of electronically furnished documents;

(2) Is given the right to withdraw consent without charge and without the imposition of any condition or consequence that was not disclosed at the time of the initial consent; and

(3) Again consents, in accordance with the requirements of paragraph (c)(2)(ii)(A) or paragraph (c)(2)(ii)(B) of this section, as applicable, to the receipt of documents through electronic media.

(d) Participant and beneficiary status for purposes of section 101(a) and 104(b)(1) of the Act and subpart E of this part. See §§2510.3–3(d)(1), 2510.3–3(d)(2) and 2520.3–3(d)(3) of this chapter.

(e) Limitations. This section does not apply to disclosures required under provisions of part 2 and part 3 of the Act over which the Secretary of the Treasury has interpretative and regulatory authority pursuant to Reorganization Plan No. 4 of 1978.

(Approved by the Office of Management and Budget under control number 1210–0039)


§2520.104b–2 Summary plan description.

(a) Obligation to furnish. Under the authority of sections 104(b)(1) and 104(c) of the Act, the plan administrator of an employee benefit plan subject to the provisions of part 1 of title I shall furnish a copy of the summary plan description and a statement of ERISA rights as provided in §2520.102–3(t), to each participant covered under the plan (as defined in §2510.3–3(d)), and each beneficiary receiving benefits under a pension plan on or before the later of:

(1) The date which is 90 days after the employee becomes a participant, or (in the case of a beneficiary receiving benefits under a pension plan) within 90 days after he or she first receives benefits, except as provided in §2520.104b–4(a), or,

(2) Within 120 days after the plan becomes subject to part 1 of title I.

(3)(i) A plan becomes subject to part 1 of title I on the first day on which an employee is credited with an hour of service under §2530.200b–2 or §2530.200b–3. Where a plan is made prospectively effective to take effect after a certain date or after a condition is satisfied, the day upon which the plan becomes subject to part 1 of title I is the day after such date or condition is satisfied. Where a plan is adopted with a retroactive effective date, the 120 day period begins on the day after the plan is adopted. Where a plan is made retroactively effective dependent on a condition, the day on which the plan becomes subject to part 1 of title I is the day after the day on which the condition is satisfied. Where a plan is made retroactively effective subject to a contingency which may or may not occur in the future, the day on which the plan becomes subject to part 1, title I is the day after the day on which the contingency occurs.

(ii) Examples: Company A is negotiating the purchase of Company B. On September 1, 1978, as part of the negotiations, Company A adopts a pension plan covering the employees of Company B, contingent on the successful conclusion of its negotiations to purchase Company B. The plan provides that it shall take effect on the first day of the calendar year in which the purchase is concluded. On February 1, 1979, the negotiations conclude with Company A’s purchase of Company B. The plan therefore becomes effective on
§ 2520.104b–3 Summary of material modifications to the plan and changes in the information required to be included in the summary plan description.

(a) The administrator of an employee benefit plan subject to the provisions of part 1 of title I of the Act shall, in accordance with §2520.104b–1(b), furnish a summary description of any material modification to the plan and any change in the information required by section 102(b) of the Act and §2520.102–3 of these regulations to be included in the summary plan description to each participant covered under the plan and each beneficiary receiving benefits under the plan. Except as provided in paragraph (d) of this section, the plan administrator shall furnish this summary, written in a manner calculated...