

§ 1625.30

29 CFR Ch. XIV (7–1–10 Edition)

§ 1625.30 Administrative exemptions; procedures.

(a) Section 9 of the Act provides that,

In accordance with the provisions of subchapter II of chapter 5, of title 5, United States Code, the Secretary of Labor * * * may establish such reasonable exemptions to and from any or all provisions of this Act as he may find necessary and proper in the public interest.

(b) The authority conferred on the Commission by section 9 of the Act to establish reasonable exemptions will be exercised with caution and due regard for the remedial purpose of the statute to promote employment of older persons based on their ability rather than age and to prohibit arbitrary age discrimination in employment. Administrative action consistent with this statutory purpose may be taken under this section, with or without a request therefor, when found necessary and proper in the public interest in accordance with the statutory standards. No formal procedures have been prescribed for requesting such action. However, a reasonable exemption from the Act's provisions will be granted only if it is decided, after notice published in the FEDERAL REGISTER giving all interested persons an opportunity to present data, views, or arguments, that a strong and affirmative showing has been made that such exemption is in fact necessary and proper in the public interest. Request for such exemption shall be submitted in writing to the Commission.

§ 1625.31 Special employment programs.

(a) Pursuant to the authority contained in section 9 of the Act and in accordance with the procedure provided therein and in § 1625.30(b) of this part, it has been found necessary and proper in the public interest to exempt from all prohibitions of the Act all activities and programs under Federal contracts or grants, or carried out by the public employment services of the several States, designed exclusively to provide employment for, or to encourage the employment of, persons with special employment problems, including employment activities and programs under the Manpower Development and Training Act of 1962, Pub. L. No. 87–415,

76 Stat. 23 (1962), as amended, and the Economic Opportunity Act of 1964, Pub. L. No. 88–452, 78 Stat. 508 (1964), as amended, for persons among the long-term unemployed, individuals with disabilities, members of minority groups, older workers, or youth. Questions concerning the application of this exemption shall be referred to the Commission for decision.

(b) Any employer, employment agency, or labor organization the activities of which are exempt from the prohibitions of the Act under paragraph (a) of this section shall maintain and preserve records containing the same information and data that is required of employers, employment agencies, and labor organizations under §§ 1627.3, 1627.4, and 1627.5, respectively.

[44 FR 38459, July 2, 1979, as amended at 52 FR 32296, Aug. 27, 1987; 55 FR 24078, June 14, 1990; 57 FR 4158, Feb. 4, 1992; 72 FR 72944, Dec. 26, 2007; 74 FR 63984, Dec. 7, 2009]

§ 1625.32 Coordination of retiree health benefits with Medicare and State health benefits.

(a) *Definitions.*

(1) *Employee benefit plan* means an employee benefit plan as defined in 29 U.S.C. 1002(3).

(2) *Medicare* means the health insurance program available pursuant to Title XVIII of the Social Security Act, 42 U.S.C. 1395 *et seq.*

(3) *Comparable State health benefit plan* means a State-sponsored health benefit plan that, like Medicare, provides retired participants who have attained a minimum age with health benefits, whether or not the type, amount or value of those benefits is equivalent to the type, amount or value of the health benefits provided under Medicare.

(b) *Exemption.* Some employee benefit plans provide health benefits for retired participants that are altered, reduced or eliminated when the participant is eligible for Medicare health benefits or for health benefits under a comparable State health benefit plan, whether or not the participant actually enrolls in the other benefit program. Pursuant to the authority contained in section 9 of the Act, and in accordance with the procedures provided therein and in § 1625.30(b) of this part, it is