

(iv) In Year 3, the trustee of *Y* sells *B*, one of the three unmarketable assets. After the sale of *B*, the fair market value of all of *Y*'s unmarketable assets is greater than 50 percent of the fair market value of *Y*'s assets. Therefore, in Year 3, the method used to calculate the unitrust amount remains the initial method.

(v) In Year 4, the trustee sells *D*. After the sale of both *B* and *D*, the fair market value of *Y*'s unmarketable assets is 50 percent or less of the fair market value of *Y*'s assets. In Year 4, however, the method used to calculate the unitrust amount remains the initial method.

(vi) In Year 5 and for all subsequent years, the trust must pay a unitrust amount equal only to six percent of the net fair market value of *Y*'s assets determined annually. The change in method occurs in Year 5 because the fair market value of *Y*'s unmarketable assets totaled 50 percent or less of the fair market value of *Y*'s assets after the sale of both *B* and *D*. The change in method occurs even though *Y* still owns *C*, the other unmarketable asset specified in the governing instrument.

(vii) By the end of Year 4, *Y*'s total trust income had been less than the sum of the unitrust amounts based on six percent of the net fair market value of *Y*'s assets determined annually, leaving a balance of \$1,000. The \$1,000 balance can never be distributed to the unitrust recipient after the change to the fixed percentage method.

(e) *Payment under general rule.* When the unitrust amount is computed under paragraph (a)(1)(i)(a) of this section, the unitrust amount must be paid to the recipient no later than the close of the taxable year of the trust for which the payment is due.

(f) *Payment under income exception.* When the unitrust amount is computed under paragraph (a)(1)(i)(b) of this section, the unitrust amount may be paid to the recipient after the close of the taxable year of the trust for which the payment is due if paid within a reasonable time after the close of such taxable year. The trust will not be deemed to have engaged in an act of self-dealing (within the meaning of section 4941), to have unrelated debt-financed income (within the meaning of section 514), to have received an additional contribution (within the meaning of paragraph (b) of this section), or to have failed to function exclusively as a charitable remainder trust (within the meaning of paragraph (a)(4) of this section) merely because payment of the unitrust amount is made after the close of the taxable year if such payment is made within a reasonable time after the close of such taxable year. For this paragraph (a)(1)(i)(f), a reasonable time will not ordinarily extend beyond the date by which the trustee is required to file Form 5227, Split-Interest Trust Information Return,

(including extensions) for the taxable year.

(iv) * * * If the governing instrument does not specify the valuation date or dates, the trustee must select such date or dates and indicate the selection on the first return on Form 5227, Split-Interest Trust Information Return, that the trust must file. * * *

(vi) *Effective date and reformations.* (a) The rules in paragraph (a)(1)(i)(a) of this section are effective for taxable years ending after April 18, 1997.

(b) The rules in paragraphs (a)(1)(i)(c) and (d) of this section are effective for charitable remainder unitrusts created on or after the date the final regulations are published in the **Federal Register**. If a trust was created before the effective date of paragraph (a)(1)(i)(c) of this section and contains a provision allowing a change in calculating the unitrust method, the trust may be amended or reformed to comply with the provisions of paragraph (a)(1)(i)(c) of this section. If a trust is created after the effective date of paragraph (a)(1)(i)(c) of this section and contains a provision allowing a change in calculating the unitrust method that does not comply with the provisions of paragraph (a)(1)(i)(c) of this section, the trust will continue to qualify as a charitable remainder unitrust if it is amended or reformed to use the initial method for computing the unitrust amount throughout the term of the trust. A qualified charitable remainder unitrust created before or after the effective date of paragraph (a)(1)(i)(c) of this section will not continue to qualify as a charitable remainder unitrust if its governing instrument is amended or reformed to add a provision allowing a change in the method for calculating the unitrust amount.

(c) The rules in paragraphs (a)(1)(i)(b) (1), (2), and (3) of this section are effective for taxable years ending after April 18, 1997 and for sales or exchanges described in paragraph (a)(1)(i)(b)(3) of this section that occur after April 18, 1997.

(d) The rules in paragraphs (a)(1)(i)(e) and (f) of this section are effective for taxable years ending after April 18, 1997.

* * * * *

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 5. The authority for part 25 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 6. In § 25.2702–1, paragraph (c)(3) is revised to read as follows:

§ 25.2702–1 Special valuation rules in the case of transfers of interests in trust.

* * * * *

(c) * * *
(3) *Charitable remainder trust.* (i) For transfers made on or after May 19, 1997, a transfer to a pooled income fund described in section 642(c)(5); a transfer to a charitable remainder annuity trust described in section 664(d) (1); a transfer to a charitable remainder annuity trust described in section 664(d) (2) if under the terms of the governing instrument the unitrust amount is computed only under section 664(d)(2)(A); and a transfer to a charitable remainder unitrust described in sections 664(d) (2) and (3) if the only permitted recipients of the unitrust amount are the donor, the donor's spouse, or both the donor and the donor's spouse who is a citizen of the United States.

(ii) For transfers made before May 19, 1997, a transfer in trust if the remainder interest in the trust qualifies for a deduction under section 2522.

* * * * *

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 97–9810 Filed 4–17–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

29 CFR Part 2570

RIN 1210–0056

Proposed Rule Relating to Adjustment of Civil Monetary Penalties

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed rule that would adjust the civil monetary penalties under Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA), pursuant to the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Act), Public Law 101–410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996 (the Act), Public Law 104–134, 110 Stat. 1321–373. The Act amended the 1990 Act to require generally the adjustment of civil monetary penalties for inflation no later than 180 days after enactment of the Act, and at least once every four years thereafter, in accordance with guidelines specified in the 1990 Act, as amended.

DATES: Written comments concerning the proposed rule must be received by May 19, 1997.

ADDRESSES: Interested persons are invited to submit written comments concerning the proposed rule to: Pension and Welfare Benefits Administration, Room N-5669, U.S. Department of Labor, 200 Construction Ave., NW., Washington, DC 20210. Attention: Proposed CMP Adjustment Rule. Written comments may also be sent by the Internet to the following address: cmpad@jpwbba.dol.gov.

FOR FURTHER INFORMATION CONTACT: Rudy Nuissl, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, (202) 219-7461. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Section 3720E of the Act amended section 4 of the 1990 Act to require, with certain exceptions, that, by a regulation

published in the **Federal Register**, each civil monetary penalty (CMP) be adjusted in accordance with guidelines specified in the amendment. The Act specifies that any such increase in a CMP shall apply only to violations which occur after the date the increase takes effect.

The term "civil monetary penalty" is defined in the 1990 Act to mean any penalty, fine or other sanction that—

A. (i) Is for a specific monetary amount as provided by federal law; and
(ii) Has a maximum amount provided for by federal law; and

B. Is assessed or enforced by an agency pursuant to federal law; and

C. Is assessed or enforced pursuant to an administrative proceeding or a civil action in the federal courts.

Only CMPs that are specified by statute or regulation in dollar amounts are adjusted under the 1990 Act, as amended. CMPs that are specified as

percentages are not adjusted. The statutory citations for each of the CMPs under Title I of ERISA that would be adjusted by the proposed rule contained in this Notice are set forth in columns (A) and (B) of Table A. Column (C) briefly describes the nature of the violations associated with these citations. Column (D) of Table A indicates the dollar amount of each CMP to be adjusted, and Column (E) sets forth the year that each penalty was established by law or last adjusted. Columns (F), (G), and (H), (I), and (J) contain the intermediate results of applying the series of steps mandated by the 1990 Act, as amended. Reference should be made to Column (K) of Table A to determine the dollar amounts of the final penalty adjustments that would be effected by the proposed rule contained in this Notice pursuant to the requirements of the 1990 Act, as amended.

TABLE A.—INFLATION ADJUSTMENT OF CIVIL MONETARY PENALTIES UNDER TITLE I OF ERISA

U.S. Code citation	ERISA Title I section	Nature of violation	Penalty amount to be adjusted	Year penalty last set or adjusted	CLA factor= 456.7/ CPI below	Penalty after raw adjustment= col D × 456.7/col F	Unrounded penalty increase= col G-col D	Rounded penalty increase	Uncapped maximum penalty= col D +col I	Capped penalty= min(col J, 1.1 × col D)
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)
29 USC 1059(b)	209(b)	Failure to furnish or maintain records.	\$10 per employee	1974	146.9	\$31.09	\$21.09	\$20	\$30	\$11 per employee.
29 USC 1132(c)(1)(A) ...	502(c)(1)(A)	Failure to notify plan participants of group health benefits under COBRA.	Up to \$100 a day	1986	327.9	139.28	39.28	40	140	Up to \$110 a day.
		Failure to notify participants and beneficiaries re: asset transfer.	Up to \$100 a day	1990	389.1	117.37	17.37	20	120	Up to \$110 a day.
29 USC 1132(c)(1)(B) ...	502(c)(1)(B)	Refusal to provide required info in timely manner.	Up to \$100 a day	1974	146.9	310.89	210.89	210	310	Up to \$110 a day.
29 USC 1132(c)(2)	502(c)(2)	Failure or refusal to file an annual report.	Up to \$1,000 a day	1987	340.1	1,342.84	342.84	300	1,300	Up to \$1,100 a day.
29 USC 1132(c)(3)	502(c)(3)	Failure to notify participants and beneficiaries re: failure to meet minimum funding requirements.	Up to \$100 a day	1989	371.7	122.87	22.87	20	120	Up to \$110 a day.
		Failure to notify certain persons re: transfer of excess pension assets to health account.	Up to \$100 a day	1990	389.1	117.37	17.37	20	120	Up to \$110 a day.

Specifically, the 1990 Act, as amended, provides that the required inflation adjustment shall be determined by increasing the maximum CMP amount or the range of maximum and minimum CMP amounts, as applicable, for each CMP by a cost-of-living adjustment (CLA). The term "cost-of-living adjustment" is defined in the Act as the percentage for each CMP by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the calendar year in which the

amount of such CMP was last set or adjusted by law. The term "Consumer Price Index" is defined in the 1990 Act, as amended, to mean the Consumer Price Index for All-Urban Consumers published by the U.S. Department of Labor.

Accordingly, to calculate the CLA it is necessary to divide the CPI for June of the calendar year preceding the adjustment by the CPI for June of the calendar year in which the CMP was last set by law or adjusted for inflation. (See Column (F) of Table A). In order to calculate the raw inflation adjustment, it

is necessary to multiply the original penalty amount by the relevant CLA. (See Column (G) of Table A). The subtraction of the original CMP amount from this product yields the unrounded penalty increase (See Column (H) of Table A).

Section 5 of the 1990 Act, as amended, sets out the manner in which inflation adjustments must be rounded. Specifically, any increase in the maximum CMP or the range of maximum and minimum CMPs, as applicable, must be rounded to the nearest:

(1) Multiple of \$10.00 in the case of penalties less than or equal to \$100;

(2) Multiple of \$100.00 in the case of penalties greater than \$100 but less than or equal to \$1000;

(3) Multiple of \$1000 in the case of penalties greater than \$1000 but less than or equal to \$10,000;

(4) Multiple of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; or

(5) Multiple of \$25,000 in the case of penalties greater than \$200,000.

Once the penalty increase has been rounded in accordance with the procedures set forth in the 1990 Act, as amended (see Column (I) of Table A), the rounded increase must be added to the original penalty amount to determine the uncapped maximum penalty. (See Column (J) of Table A). The first adjustment of a CMP pursuant to the amendments effected by the Act, however, may not exceed 10% of the penalty being adjusted. The final adjusted penalty amounts listed in Column (K) of Table A reflect the application of this statutory cap.

Upon application of the CLA rules described above, the following CMPs under Title I of ERISA need to be adjusted.¹ (See Columns (A), (B), and (C) of Table A):

(1) The per capita CMP of \$10.00 set by ERISA section 209(b) (29 U.S.C. 1059(b)) for a failure to furnish the employee benefit plan information or to maintain the plan records specified in ERISA section 209(a);

(2) The CMP of up to \$100.00 a day (as determined in the discretion of a court) set by section 502(c)(1)(A) (29 U.S.C. 1132(c)(1)(A)) for a failure or refusal by a plan administrator to meet the requirements of ERISA section 101(e)(1) (concerning notice with regard to a transfer of excess pension assets) or ERISA section 606(4) (concerning notice with regard to the occurrence of qualifying events), or to comply with a request for information which such administrator is required by Title I of ERISA to furnish to a participant or beneficiary;

(3) The CMP of up to \$100.00 a day (as determined in the discretion of a court) set by ERISA section 502(c)(1)(B) for a failure or refusal to comply with a request for information which a plan administrator is required by Title I of ERISA to furnish to a participant or beneficiary;

(4) The CMP of up to \$1,000.00 a day set by ERISA section 502(c)(2) for the failure on the part of a plan administrator to file the annual report required to be filed under ERISA section 101(b)(4);

(5) The CMP of up to \$100.00 a day (as determined in the discretion of a court) set by ERISA section 502(c)(3) for the failure on the part of an employer to meet the requirements of ERISA section 101(d) (concerning provision of notice to participants and beneficiaries for failure to meet the minimum funding requirements) or ERISA section 101(e)(2) (concerning provision of notice regarding transfers of excess pension assets).

In view of the foregoing, the proposed rule contained in this document would amend Part 2570 ("Procedural Regulations Under the Employee Retirement Income Security Act") of Title 29 of the Code of Federal Regulations (CFR) by adding a new "Subpart E—Adjustment of Civil Penalties Under ERISA Title I." New Subpart E contains five new regulations effecting the adjustment for inflation of the civil monetary penalties discussed above.

Executive Order 12866

The Department has determined that this regulatory action is not a "significant rule" within the meaning of Executive Order 12866 concerning federal regulations, because it is not likely to result in: (1) an annual effect on the economy of \$100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) the raising of novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires each Federal agency to perform an initial regulatory flexibility analysis for all proposed rules unless the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. Small entities include small businesses, organizations, and governmental

jurisdictions. Because this proposed regulation does no more than mechanically increase certain statutory CMPs to account for inflation, pursuant to specific directions set forth in the 1990 Act, as amended by the Act, the proposed regulation has no impact, independent of the specific statutory requirements, on small entities. The statute specifies the procedure for calculating the adjusted CMP and does not allow the Department to vary the calculation to minimize the effect on small entities. As a result, the undersigned hereby certifies that the rule, if promulgated as proposed, will not have a significant effect on a substantial number of small entities.

Nevertheless, the Department provides the following information concerning the potential effect of the increased penalties on small entities. No small governmental jurisdictions will be affected by this regulation because governmental plans are not covered by Title I of ERISA. Each CMP is discussed in more detail as follows:

ERISA section 209(b)

The CMP provided in ERISA section 209(b), 29 U.S.C. 1059(b) is payable to the Secretary. It applies to employers who maintain ERISA covered pension plans (except those described at ERISA sections 201(2)–(7), 29 U.S.C. 1051(2)–(7)) and who fail to furnish information or maintain records described in section 209(a) unless such failure is due to reasonable cause. Of the approximately 506,000 employers who file reports indicating that they maintain ERISA-covered pension plans, 465,000 employers file report forms indicating that the plans they maintain have less than 100 participants. The data available to the Department does not indicate the number of employers who fail to comply with the requirements of ERISA section 209(a). The Department has to date chosen to pursue voluntary compliance to achieve correction of deficiencies with regard to those requirements, rather than assessing penalties under section 209(b).

ERISA section 502(c)(1)

The CMP provided in ERISA section 502(c)(1) applies to three different situations. Section 502(c)(1)(A), 29 U.S.C. 1132(c)(1)(A), refers to administrators of group health plans sponsored by employers with 20 or more employees if the administrator fails to provide notices to participants and beneficiaries required under ERISA section 606(1) and (4), 29 U.S.C. 1166(1) and (4). Because most group health plans are not required to file annual reports, the data available to the

¹ The civil penalty set forth in ERISA section 502(c)(4) for a failure to provide the information specified in ERISA section 101(f), relating to Medicare and Medicaid coverage data bank requirements, is not being implemented or enforced. See H.R. Conf. Rep. No. 103-733, 103rd Cong. 2nd Sess., at 22 (1994).

Department does not indicate the number of group health plans covered by the requirements of sections 606(1) and (4). Nor does the data available to the Department indicate the number of administrators that are small entities and the number of such administrators who fail to comply with the requirements of sections 606(1) and (4).

Section 502(c)(1)(A) also refers to administrators of defined benefit pension plans who violate ERISA section 101(e)(1) by failing to provide a notice to plan participants and beneficiaries at least 60 days in advance of a qualified transfer of excess plan assets to a health benefits account. Although the Department is unable to estimate the number of administrators that administer such plans or the number which are small entities, the Department estimates that approximately 63,000 employers file annual reports indicating that they maintain defined benefit plans. The Department is unable to estimate the number of employers who maintain such plans but fail to file annual reports. The notices to which the CMP applies concern only those administrators of such plans who fail to meet the notice requirements of ERISA section 101(e)(1).

Section 502(c)(1)(B), 29 U.S.C. 1132(c)(1)(B), refers to administrators of employee benefit plans covered by ERISA who fail to comply with a request (within 30 days) for information which the administrator is required, under Title I of ERISA, to provide to a participant or beneficiary, unless the failure results from matters beyond the control of the administrator.

The CMP amount provided under ERISA Section 502(c)(1) is a maximum penalty amount. It is assessed by the courts in private lawsuits. The courts are free to, and often do, impose less than the maximum amount based on factors such as the degree of prejudice to the affected participant caused by the administrator's violation. Research of court opinions indicates that Federal courts imposed, or indicated some likelihood of imposing, a CMP under § 502(c)(1) in approximately 100 cases since 1978. None of such cases concerned a failure to comply with ERISA section 101(e)(1). The available data with respect to these cases does not indicate how many involved imposition of a CMP on a small entity.

ERISA § 502(c)(2)

The CMP provided in ERISA section 502(c)(2), 29 U.S.C. 1132(c)(2), applies to administrators of employee benefit plans covered by ERISA who fail to file annual reports with the Secretary as required under ERISA section 101(b)(4),

29 U.S.C. 1021(b)(4), unless exempted under the Department's regulations. Annual reports are filed by approximately 970,000 employee benefit plans. Over the past six years, the Department has collected CMPs totalling \$56,390,000 under this section from 31,030 plan administrators. Approximately \$16,000,000 of such CMPs were collected from 1,600 administrators of small plans (plans having less than 100 participants).

The CMP provided in ERISA section 502(c)(2) is a maximum penalty of \$1000 per day. Under the Department's current practice, the Department has not assessed a penalty of more than \$300 per day and does not intend to change this practice as a result of promulgating this proposed regulation. In addition, all but approximately \$5 million in CMPs collected thus far have been collected under either the temporary grace period program which ended in 1992 or under the Department's Delinquent Filer Voluntary Compliance Program established in 1995 (60 FR 20874, Apr. 27, 1995). Under the DFVC program, the Department assesses much lower CMPs on administrators who voluntarily correct their noncompliance before the Department notifies them of such noncompliance. The same was true during the temporary grace period.

502(c)(3)

The CMP provided in ERISA section 502(c)(3) applies to employers maintaining a defined benefit plan (other than a multiemployer plan) who failed to comply with the notice requirements of ERISA sections 101(d) or (e)(2), 29 U.S.C. 1021(d) or (e)(2). The Department estimates that approximately 63,000 employers file annual reports indicating that they maintain such plans. The Department is unable to estimate the number of employers who maintain such plans but fail to file annual reports. The notices to which the CMP applies concern only those covered plans that fail to meet the minimum funding standard under ERISA section 302, 29 U.S.C. 1082, and those that fail to meet the notice requirements of ERISA section 101(e)(2) in connection with a qualified transfer of excess plan benefits to a health benefits account. The data available to the Department does not indicate the number of employers or the number of small entities that fail to meet the notice requirements of sections 101(d) or (e)(2). To date, however, the Department has not sought to hold an employer liable for the CMP provided under section 502(c)(3). In certain instances, this CMP may also be applied by a court in a private lawsuit. Research of court

opinions revealed no cases where an employer was held liable for a CMP under this section.

Paperwork Reduction Act

This proposed rule contains no information collection requirements which are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3500 *et seq.*).

Unfunded Mandates Reform Act

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 5 U.S.C. 1531-1538, as well as Executive Order 12875, this proposed rule does not contain any federal mandate that may result in increased expenditures in either Federal, State, local, and tribal governments in the aggregate, or impose an annual burden exceeding \$100 million on the private sector.

Effective Date

Pursuant to the requirements of the Administrative Procedure Act at 5 U.S.C. 553(b), the Department is publishing this notice of proposed rulemaking for notice and comment and will promulgate this rule in final form subsequent to such comment period. The Department expects to issue a final rule 30 days following the close of the comment period. The final rule will be effective upon publication in the **Federal Register** and will apply only to violations occurring after the date of publication of the final rule in the **Federal Register**.

Congressional Review

The Department has determined that this proposed rule is not a "major rule" as that term is defined in 5 U.S.C. 804, because it is not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Statutory Authority

This proposed regulation would be adopted pursuant to authority contained in section 4 of the Federal Civil Penalties Adjustment Act of 1990, Public Law 101-410, 104 Stat. 890, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of

1996, Public Law 104-134, Title III, section 31001(s)(1), 110 Stat. 1321-373, and contained in sections 209(b), 502(c)(1) and 505 of ERISA, 29 U.S.C. 1059(b), 1132(c)(1) and 1135.

List of Subjects in CFR Part 2570

Administrative practice and procedure, Employee benefit plans, Employee Retirement Income Security Act, Pensions, Pension and Welfare Benefits Administration.

Proposed rule

In view of the foregoing, Part 2570 of Chapter XXV of Title 29 of the Code of Federal Regulations is proposed to be amended as follows:

PART 2570—PROCEDURAL REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT

1. The authority citation for Part 2570 is revised to read as set forth below:

Authority: (5 U.S.C. 8477(c)(3);) 29 U.S.C. 1108, 1135; Reorganization Plan No. 4 of 1978; Secretary of Labor Order No. 1-87.

Subpart A is also issued under 29 U.S.C. 1132(c)(1).

Subpart E is also issued under sec. 4, Pub. L. 101-410, 104 Stat. 890, (28 U.S.C. 2461 note), as amended by sec. 31001(s)(1), Pub. L. 104-134, 110 Stat. 1321-373.

2. Part 2570 is amended by adding a new Subpart E in the appropriate place to read as follows:

PART 2570—PROCEDURAL REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT

* * * * *

Subpart E—Adjustment of Civil Penalties Under ERISA Title I

§ 2570.100 In general.

§ 2570.209b-1 Adjusted civil penalty under section 209(b).

§ 2570.502c-1 Adjusted civil penalty under section 502(c)(1).

§ 2570.502c-2 Adjusted civil penalty under section 502(c)(2).

§ 2570.502c-3 Adjusted civil penalty under section 502(c)(3).

* * * * *

Subpart E—Adjustment of Civil Penalties Under ERISA Title I

§ 2570.100 In general.

Section 3720E of the Debt Collection Improvement Act of 1996 (the Act, Pub. L. 104-134) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Act, Pub. L. 101-410) to require generally that the head of each federal agency adjust the civil monetary penalties subject to its jurisdiction for

inflation within 180 days after enactment of the Act and at least once every four years thereafter.

§ 2570.209b-1 Adjusted civil penalty under section 209(b).

In accordance with the requirements of the 1990 Act, as amended, the amount of the civil monetary penalty established by section 209(b) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$10 for each employee to \$11 for each employee. This adjusted penalty applies only to violations occurring after [insert date of publication of the final rule in the Federal Register].

§ 2570.502c-1 Adjusted civil penalty under section 501(c)(1).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(1) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$100 a day to \$110 a day. This adjusted penalty applies only to violations occurring after [insert day of publication of the final rule in the Federal Register].

§ 2570.502c-2 Adjusted civil penalty under section 502(c)(2).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(2) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$1000 a day to \$1100 a day. This adjusted penalty applies only to violations occurring after [insert date of publication of the final rule in the Federal Register].

§ 2570.502c-3 Adjusted civil penalty under section 502(c)(3).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(3) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from \$100 a day to \$110 a day. This adjusted penalty applies only to violations occurring after [insert date of publication of the final rule in the Federal Register].

Signed at Washington, DC this 11th day of April, 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 97-10078 Filed 4-17-97; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09-97-008]

RIN-2115-AE47

Drawbridge Operation Regulations; Grand River, MI

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the operating hours of the U.S. Route 31 highway bridge at mile 2.9 over the Grand River in Grand Haven, MI. The proposed changes would reduce the number of bridge openings for recreational vessels to relieve vehicular traffic congestion and would reduce the notice requirements for draw openings during the winter months.

The Coast Guard requests comments on the proposed revisions.

DATES: Comments must be received on or before July 15, 1997.

ADDRESSES: Comments may be mailed or delivered to: Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Room 2019, Cleveland, OH 44199-2060 between 6:30 a.m. and 3:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Bloom, Chief, Bridge Branch at (216) 902-6084.

SUPPLEMENTARY INFORMATION:

Drafting Information: The principal persons involved in drafting this document are Mr. Scot Striffler, Project Manager, and Lieutenant Commander Kent Booher, Project Counsel, Ninth Coast Guard District.

Requests for Comments

The Coast Guard encourages interested persons to submit written data, or arguments for or against this rule. Persons submitting comments should include their name, address, identify this rulemaking (CGD09-97-008), the specific section of this rule to which each comment applies, and the reason(s) for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½ × 11" unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons wanting acknowledgement of receipt of comments should enclose a stamped self-addressed post card or envelope. Persons may submit comment by writing to the Commander (obr), Ninth