

**DEPARTMENT OF LABOR****Pension and Welfare Benefits Administration****29 CFR Parts 2570 and 2575****Redesignation of Rules Relating to Adjustment of Civil Monetary Penalties**

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Final rule.

**SUMMARY:** This document contains a final rule which relocates and redesignates certain regulations relating to adjustment of civil monetary penalties under Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA). These changes are needed to simplify the organization and numbering of procedural regulations in the Code of Federal Regulations (CFR) relating to civil monetary penalties under Title I of ERISA.

**EFFECTIVE DATE:** August 3, 1999.

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

**SUPPLEMENTARY INFORMATION:****Background**

Part 2570 of Chapter XXV of Title 29 of the CFR contains procedural regulations relating to the assessment of civil penalties under Title I of ERISA. On July 29, 1997, the Department of Labor published at 62 FR 40696 a final rule adopting five new sections effecting the adjustment for inflation of the civil monetary penalties under Title I of ERISA, pursuant to the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. The July 29, 1997, final rule also amended the CFR by placing the penalty adjustment regulations in a new subpart E of Part 2570.

**Discussion of the Final Rule**

The final rule contained in this document amends the CFR by transferring all regulations in Subpart E of part 2570 to Subpart A of a new part 2575 of Chapter XXV of title 29 of the CFR and redesignating each of the regulations so transferred accordingly. This transfer will have the effect of simplifying the organization and numbering of procedural regulations in part 2570.

**Publication in Final**

The Department has determined that this reorganization of regulations need

not be published as a proposed rule, as generally required by the Administrative Procedure Act (APA, 5 U.S.C. 553), since this rulemaking merely reflects agency organization, procedure and practice. It is thus exempt under section 553(b)(A) of the APA.

**Effective Date**

This final action will become effective upon publication pursuant to 5 U.S.C. 553(d). The undersigned has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. This determination is based upon the fact that the rule is technical and non-substantive, and merely reflects agency organization, practice and procedure.

**Executive Order 12866**

This rule has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866, Principles of Regulation. The Department has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, it does not require an assessment of potential costs and benefits under section 6(a)(3) of that order.

**Regulatory Flexibility Act**

Because no notice of proposed rulemaking is required for this rule under section 553(b) of the APA, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601) pertaining to regulatory flexibility analysis do not apply to the rule.

**Paperwork Reduction Act**

This final rule is not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) since it does not contain any new collection of information requirement.

**Small Business Regulatory Enforcement Fairness Act**

The rule contained in this document is not subject to the provisions of the Small Business Regulatory Enforcement Fairness Act (SBREFA, 5 U.S.C 801 *et seq.*) because it is a rule of agency organization, procedure or practice that does not substantially affect the rights or obligations of non-agency parties, within the meaning of section 804(3)(C) of SBREFA.

**Unfunded Mandates Reform Act**

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), as well as Executive Order

12875, the final rule contained in this document does not include any Federal mandate that may result in expenditures by State, local, or tribal governments, nor does it include mandates which may impose an annual burden of \$100 million or more on the private sector.

**List of Subjects***29 CFR Part 2570*

Administrative practice and procedure, Employee benefit plans, Employee Retirement Income Security Act, Penalties, Claims, Law enforcement, Pension and Welfare Benefits Administration, Reporting and disclosure.

*29 CFR Part 2575*

Administrative practice and procedure, Employee benefit plans, Employee Retirement Income Security Act, Penalties, Pensions.

**Statutory Authority**

This final rule is being adopted pursuant to the authority contained in section 505 of ERISA and section 553(b)(A) of the APA.

For the reasons set forth in the preamble, Subchapter G of Chapter XXV of the *Code of Federal Regulations* is amended as follows:

1. A new Part 2575 is added to read as follows:

**PART 2575—ADJUSTMENT OF CIVIL PENALTIES UNDER ERISA TITLE I**

**Authority:** 29 U.S.C.1135; Secretary of Labor Order No. 1-87; 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.

**PART 2570—[AMENDED]**

2. The authority citation for Part 2570 is revised to read as follows:

**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—[Redesignated as Subpart A]**

3. Subpart E of Part 2570 is redesignated as Subpart A of Part 2575.

**§§ 2570.100—257.502c-3 [Redesignated]**

4. Sections 2570.100 through 2570.502c-3 are redesignated as sections 2575.100 through 2575.502c-3.

5. Subparts B through D are added and reserved in the new Part 2575.

**Subpart E—[Reserved]**

6. Subpart E of Part 2570 is reserved.

Signed at Washington, DC, this 28th day of  
July 1999,

**Richard M. McGahey,**

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

[FR Doc. 99-19862 Filed 8-2-99; 8:45 am]

BILLING CODE 4510-29-P