

(c) Upon receipt of an appeal, the Secretary shall request the Chief Administrative Law Judge to submit to the Secretary a copy of the entire record before the administrative law judge.

§ 2571.11 Scope of review by the Secretary.

The review of the Secretary shall be based on the record established before the administrative law judge. There shall be no opportunity for oral argument.

§ 2571.12 Procedures for review by the Secretary.

(a) Upon receipt of a notice of appeal, the Secretary shall establish a briefing schedule which shall be served on all parties of record. Upon motion of one or more of the parties, the Secretary may, in her discretion, permit the submission of reply briefs.

(b) The Secretary shall issue a decision as promptly as possible after receipt of the briefs of the parties. The Secretary may affirm, modify, or set aside, in whole or in part, the decision on appeal and shall issue a statement of reasons and bases for the action(s) taken. Such decision by the Secretary shall be the final agency action with the meaning of 5 U.S.C. 704.

§ 2571.13 Effective date.

This regulation is effective with respect to all cease and desist orders issued by the Secretary under section 521 of ERISA at any time after April 1, 2013.

Subpart B [Reserved]

PART 2575—ADJUSTMENT OF CIVIL PENALTIES UNDER ERISA TITLE I

Subpart A—Adjustment of Civil Penalties Under ERISA Title I

Sec.

2575.1 In general.

2575.2 Catch-up adjustments to civil monetary penalties.

2575.3 Subsequent adjustments to civil monetary penalties.

2575.502c-1 Adjusted civil penalty under section 502(c)(1).

2575.502c-3 Adjusted civil penalty under section 502(c)(3).

Subparts B–D [Reserved]

AUTHORITY: 29 U.S.C. 1135; 28 U.S.C. 2461 note; Secretary of Labor’s Order 1-2003, 68 FR 5374 (Feb. 3, 2003).

SOURCE: 64 FR 42246, Aug. 3, 1999, unless otherwise noted.

Subpart A—Adjustment of Civil Penalties Under ERISA Title I

AUTHORITY: Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note), as amended by section 31001(s) of Pub. L. 104-134, 110 Stat. 1321-373, and section 701 of Pub. L. 114-74, 129 Stat. 584; 29 U.S.C 1059(b), 1132(c), 1135 and 1185d; and Secretary of Labor’s Order 1-2011, 77 FR 1088 (January 9, 2012).

SOURCE: 62 FR 40699, July 29, 1997, unless otherwise noted. Redesignated at 64 FR 42246, Aug. 3, 1999.

§ 2575.1 In general.

In accordance with the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 104-410, 104 Stat. 890, as amended by the section 31001(s) of the Debt Collection Improvement Act of 1996, Pub. L. 104-34, 110 Stat. 1321-373, and section 701 of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-74, 129 Stat. 584, (collectively the Inflation Adjustment Act), the applicable civil monetary penalties of title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA), under the jurisdiction of the U.S. Department of Labor (Department) and listed in 29 CFR 2575.2 are adjusted as set forth in this subpart, effective as of the relevant dates specified in § 2575.2.

[81 FR 43454, July 1, 2016]

§ 2575.2 Catch-up adjustments to civil monetary penalties.

The civil monetary penalties set forth in paragraphs (a) through (m) of this section are adjusted for inflation as required by section 4(b)(1) of the Inflation Adjustment Act and 29 CFR 2575.1 as follows:

(a) The civil monetary penalty of \$10 for each employee established by section 209(b) of ERISA, is adjusted to \$11 for violations occurring after July 29,

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1997, for which a penalty is assessed before August 1, 2016 and to \$28 for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3.

(b) The civil monetary penalty of up to \$1,000 established by Section 502(c)(2) of ERISA is adjusted to \$1,100 for violations occurring after July 29, 1997, for which a penalty is assessed before August 1, 2016, and to \$2,063 for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3.

(c) The civil monetary penalty of up to \$1,000 established by section 502(c)(4) of ERISA is adjusted to \$1,632 for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3.

(d) The civil monetary penalty of up to \$1,000 established by Section 502(c)(5) of ERISA is adjusted to \$1,100 for violations occurring after March 24, 2003, for which a penalty is assessed before August 1, 2016, and to \$1,502 for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3.

(e) The civil monetary penalty of up to \$100 not to exceed \$1,000 per request, established by section 502(c)(6) of ERISA, is adjusted to \$110 not to exceed \$1,100 per request for violations occurring after March 24, 2003, for which a penalty is assessed before August 1, 2016, and to \$147 not to exceed \$1,472 per request for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3.

(f) The civil monetary penalty of up to \$100 established by section 502(c)(7) of ERISA is adjusted to \$131 for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3.

(g) The civil monetary penalty of up to \$1,100 established by section 502(c)(8) of ERISA is adjusted to \$1,296 for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3.

(h) The civil monetary penalty of up to \$100 established by section 502(c)(9)(A) of ERISA is adjusted to \$110 for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3.

(i) The civil monetary penalty of up to \$100 established by section 502(c)(9)(B) of ERISA is adjusted to \$110 for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3.

(j) The civil monetary penalties established by section 502(c)(10) of ERISA are adjusted in accordance with paragraphs (j)(1) through (4) of this section:

(1) The \$100 civil monetary penalty of section 502(c)(10)(B)(i) of ERISA is adjusted to \$110 for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3;

(2) The \$2,500 minimum civil monetary penalty of section 502(c)(10)(C)(i) of ERISA for de minimis uncorrected violations is adjusted to \$2,745 for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3;

(3) The \$15,000 minimum civil monetary penalty of section 502(c)(10)(C)(ii) of ERISA for uncorrected violations that are not de minimis is adjusted to \$16,473 for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3; and

(4) The \$500,000 maximum civil monetary penalty for unintentional failures

set in Section 502 (c)(10)(D)(iii)(II) of ERISA is adjusted to \$549,095, for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3.

(k) The civil monetary penalty of up to \$100 established by section 502(c)(12) of ERISA remains at \$100 for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3.

(l) The maximum civil monetary penalty of \$10,000 established by section 502(m) of ERISA is adjusted to \$15,909 for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3.

(m) The civil monetary penalty of not more than \$1,000, established by Public Health Services Act section 2715(f) and incorporated into ERISA by section 715 of ERISA, is adjusted to \$1,087 for penalties assessed after August 1, 2016, and before the effective date of the next adjustment for inflation made by the Secretary in accordance with the Inflation Adjustment Act and § 2575.3.

[81 FR 43454, July 1, 2016]

**§ 2575.3 Subsequent adjustments to civil monetary penalties.**

No later than January 15, starting in 2017, and each subsequent year, the Secretary shall adjust for inflation, as required by the Inflation Adjustment Act, the civil monetary penalties described in § 2575.2 for violations occurring on or after November 2, 2015, and any future civil monetary penalties enforceable by the Secretary under title I of ERISA. The Secretary shall publish such annual adjustments in the FEDERAL REGISTER notwithstanding section 553 of the Administrative Procedure Act. Future penalties or adjustments to the amount of the penalty that are enacted by statute or regulation (other than an adjustment for inflation under the Inflation Adjustment Act) will not be adjusted for inflation in the first year those penalty levels

take effect. Annual inflation adjustments shall apply to penalties assessed after the date notice of the annual inflation adjustment is published in the FEDERAL REGISTER.

[82 FR 5383, Jan. 18, 2017]

**§ 2575.502c-1 Adjusted civil penalty under section 502(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 July 29, 1997.

**§ 2575.502c-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 July 29, 1997.

**Subparts B–D [Reserved]**

**PART 2578—RULES AND REGULATIONS FOR ABANDONED PLANS**

Sec.

2578.1 Termination of abandoned individual account plans.

APPENDIX A TO PART 2578—MODEL NOTICE OF INTENT TO TERMINATE ABANDONED PLAN

APPENDIX B TO PART 2578—MODEL NOTICE OF PLAN ABANDONMENT AND INTENT TO SERVE AS QUALIFIED TERMINATION ADMINISTRATOR (FOR PLANS FOUND ABANDONED PURSUANT TO 29 CFR 2578.1(B))

APPENDIX C TO PART 2578—MODEL NOTICE OF INTENT TO SERVE AS QUALIFIED TERMINATION ADMINISTRATOR (FOR PLANS DEEMED ABANDONED PURSUANT TO 29 CFR 2578.1(J)(2))

APPENDIX D TO PART 2578—MODEL NOTICE OF PLAN TERMINATION

APPENDIX E TO PART 2578—MODEL ABANDONED PLANS FINAL NOTICE

AUTHORITY: 29 U.S.C. 1135; 1104(a); 1103(d)(1).