

Interpretations, Pension and Welfare Benefits Administration, (202) 219–8515. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Section 31001(s) of the Debt Collection Improvement Act of 1996 (Act), Pub. L. 104–134, 110 Stat. 1321–373, amended section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990 (1990 Act), Pub. L. 101–410, 104 Stat. 890, to require, with certain exceptions, by a regulation published in the **Federal Register**, that each civil monetary penalty (CMP) be adjusted once every four years in accordance with guidelines specified in the amendment. The Act specifies that any such increase in a CMP shall apply only to violations that 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 is for a specific monetary amount as provided by Federal law; or has a maximum amount provided for by

Federal law; and is assessed or enforced by an agency pursuant to Federal law; and 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 first adjustment to the CMPs under title I of ERISA was published in the **Federal Register** on July 29, 1997 (62 FR 40696), for incorporation into subpart E of part 2570 of chapter XXV of title 29 of the Code of Federal Regulations (CFR). These regulatory provisions were redesignated and transferred to subpart A of part 2575 of chapter XXV of title 29 of the CFR on August 3, 1999. See 64 FR 42246.

The table set forth below, entitled “Inflation Adjustment of Civil Monetary Penalties Under Title I of ERISA—2003” (table) contains a list of civil penalties under title I of ERISA for which a

determination must be made as to whether an inflation adjustment is mandated by the 1990 Act, as amended. The statutory citations for each of the CMPs under title I of ERISA that are subject to adjustment are set forth in columns (A) and (B) of the table.¹ Column (C) briefly describes the nature of the violations associated with these citations. Column (D) of the table 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), (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 the table to determine the effect of the dollar amounts of the final penalty adjustments by the rule contained in this document pursuant to the requirements of the 1990 Act, as amended.

INFLATION ADJUSTMENT OF CIVIL MONETARY PENALTIES UNDER TITLE I OF ERISA—2003

(A) U.S. Code Citation	(B) ERISA Title I Section	(C) Nature of Violation	(D) Penalty Amount to be Adjusted	(E) Year Penalty Last Set or Adjusted	(F) CPI–U for Col. E year	(G) Penalty After Raw Adjustment = Col. D × (538.9/Col F)	(H) Unrounded Penalty Increase	(I) Round to the Nearest	(J) Rounded Penalty Increase	(K) New Penalty Amount = Col. (D) + Col. (J)
29 U.S.C. 1059(b)	209(b)	Failure to furnish or maintain records.	\$11 per employee.	1997	480.2	12.34	1.34	\$10	\$0	\$11 per employee.
29 U.S.C. 1132(c)(1)(A).	502(c)(1)(A)	Failure to notify plan participants of group health plan benefits under COBRA.	Up to \$110 a day.	1997	480.2	123.45	13.45	100	0	Up to \$110 a day.
		Failure to notify participants and beneficiaries of asset transfer.	Up to \$110 a day.	1997	480.2	123.45	13.45	100	0	Up to \$110 a day.
29 U.S.C. 1132(c)(1)(B).	502(c)(1)(B)	Refusal to provide required information in a timely manner.	Up to \$110 a day.	1997	480.2	123.45	13.45	100	0	Up to \$110 a day.
29 U.S.C. 1132(c)(2).	502(c)(2)	Failure or refusal to file an annual report.	Up to \$1,100 a day.	1997	480.2	1,234.46	134.46	1,000	0	Up to \$1,100 a day.
29 U.S.C. 1132(c)(3).	502(c)(3)	Failure to notify certain participants and beneficiaries of a failure to meet minimum funding requirements.	Up to \$110 a day.	1997	480.2	123.45	13.45	100	0	Up to \$110 a day.
		Failure to notify certain persons of a transfer of excess pension assets to health account.	Up to \$110 a day.	1997	480.2	123.45	13.45	100	0	Up to \$110 a day.

¹ The section 502(c)(7) civil penalty, that was added to title I of ERISA by the Sarbanes-Oxley Act of 2002 (Pub. L. 107–204, 116 Stat. 745), is not included in the Table. Under this provision, the Secretary may assess a civil penalty of up to \$100

a day from the date of the plan administrator's failure or refusal to provide notice to a participant or beneficiary in accordance with ERISA section 101(i). The methodology of the 1990 Act, as amended, could not result in a cost-of-living

adjustment for CMPs enacted in 2002, for purposes of this final rule, by virtue of how the adjustment is calculated. See the discussion following the table, including footnote 2.