



BENEFIT NEWS BRIEFS

DOL Releases Proposed Regulations On Civil Penalties For Failing to Adopt a Funding Improvement or Rehabilitation Plan

The Department of Labor (DOL) has issued a proposed regulation to assess civil penalties against plan sponsors (Trustees) of multiemployer defined benefit pension plans that are in endangered or critical status and fail to adopt a funding improvement or rehabilitation plan in accordance with the *Employee Retirement Income Security Act (ERISA)* as amended by the *Pension Protection Act (PPA)*.

The *PPA* amended *ERISA* and the Internal Revenue Code to require such defined benefit plans certified to be in endangered or critical status to adopt a funding improvement plan or a rehabilitation plan within 240 days from the required date of the certification. The *PPA* also gave the Labor Department authority to assess civil monetary penalties of up to \$1,100 per day against plan sponsors that fail to timely adopt funding improvement or rehabilitation plans.

The proposed regulation sets forth the administrative procedures for assessing and contesting such penalties.

The proposed regulation is to be published in the September 4 edition of the *Federal Register*. A pre-publication version is available by "[clicking here](#)" or at http://benefitslink.com/erisaregs/2009-21343_PI.pdf.

A copy of just the Proposed Regulation with a Table of Contents added for ease of use is available by "[clicking here](#)."

The amount of the penalty assessed for each separate violation shall be determined by the DOL, taking into consideration the degree or willfulness of the failure or refusal to comply with the listed requirements. However, the amount assessed for each violation shall not exceed \$1,100 a day, computed from the date of the failure or refusal to comply with the requirements to adopt a funding improvement or rehabilitation plan.

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