

Employee Benefits Security Admin., Labor

§ 2571.1

shall be supported by reliable and probative evidence. The decision of the administrative law judge shall become final agency action within the meaning of 5 U.S.C. 704 unless an appeal is made pursuant to the procedures set forth in §§ 2570.169 through 2570.171 of this subpart.

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§ 2570.169 Review by the Secretary.

(a) The Secretary may review a decision of an administrative law judge. Such a review may occur only when a party files a notice of appeal from a decision of an administrative law judge within twenty (20) days of the issuance of such decision. In all other cases, the decision of the administrative law judge shall become final agency action within the meaning of 5 U.S.C. 704.

(b) A notice of appeal to the Secretary shall state with specificity the issue(s) in the decision of the administrative law judge on which the party is seeking review. Such notice of appeal must be served on all parties of record.

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

§ 2570.170 Scope of review.

The review of the Secretary shall not be a de novo proceeding but rather a review of the record established before the administrative law judge. There shall be no opportunity for oral argument.

§ 2570.171 Procedures for review by the Secretary.

(a) Upon receipt of the 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 his or 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

PART 2571—PROCEDURAL REGULATIONS FOR ADMINISTRATION AND ENFORCEMENT UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT

Subpart A—Procedures for Administrative Hearings on the Issuance of Cease and Desist Orders Under ERISA Section 521—Multiple Employer Welfare Arrangements

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Subpart B [Reserved]

AUTHORITY: 29 U.S.C. 1002(40), 1132, 1135; and 1151, Secretary of Labor's Order 1-2011, 77 FR 1088 (January 9, 2012).

SOURCE: 78 FR 13808, Mar. 1, 2013, unless otherwise noted.

Subpart A—Procedures for Administrative Hearings on the Issuance of Cease and Desist Orders Under ERISA Section 521—Multiple Employer Welfare Arrangements

§ 2571.1 Scope of rules.

The rules of practice set forth in this part apply to ex parte cease and desist order proceedings under section 521 of the Employee Retirement Income Security Act of 1974, as amended (ERISA). The rules of procedure for administrative hearings published by the Department's Office of Administrative Law Judges at Part 18 of this Title will apply to matters arising under ERISA section 521 except as modified by this section. These proceedings shall be