

Failure to Act Sanctions

Required Action	Responsible Party	Sanction for Failure to Act
Certification of Endangered or Critical Status	Plan Actuary	<ul style="list-style-type: none"> • Up to \$1,100 per day penalty (on the plan administrator) for failure to complete certification
Adoption of Funding Improvement/Rehabilitation Plan (including schedule of contributions)	Plan Sponsor (Trustees)	<ul style="list-style-type: none"> • Up to \$1,100 per day penalty (personal liability of trustees) • Contributing employers/bargaining representatives can sue to force trustees to act
Implementation of Funding Improvement/Rehabilitation Plan (including required periodic updates to plan and schedule(s))	Plan Sponsor (Trustees)	<ul style="list-style-type: none"> • Up to \$1,100 per day penalty (personal liability of trustees) • Contributing employers/bargaining representatives can sue to force trustees to act • 4971 excise tax/contribution relief no longer applies to critical status plans if fail to follow terms of rehabilitation plan
Adoption, Implementation of Approved Schedule	Bargaining Parties	<ul style="list-style-type: none"> • Failure to adopt acceptable schedule could result in deemed withdrawal from plan • If bargaining parties fail to adopt acceptable schedule for endangered or critical plan, default schedule would be deemed to be in effect • If bargaining parties fail to adopt acceptable schedule (and default schedule is imposed), then failure of employer to make contributions required by default schedule (or failure to contribute any applicable "surcharge" with respect to a critical plan), would trigger an excise tax on the contribution/surcharge shortfall (as well as possible contribution delinquency action by trustees) • 4971 excise tax/contribution relief no longer applies to critical status plans if fail to follow terms of rehabilitation plan