

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 6307. Enforcement**(a) Jurisdiction**

The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this chapter.

(b) Referral to Attorney General

A civil action authorized to be commenced under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by providing a suitable written notice or warning to the person who committed such violation or by administrative action under section 6306 of this title.

(c) Civil penalties and orders**(1) Civil penalties**

Any person who willfully violates any provision of any order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulations, may be assessed—

(A) a civil penalty by the Secretary of not more than \$1,000 for each such violation; and

(B) in the case of a willful failure to pay, collect, or remit an assessment as required by the order or regulation, an additional penalty equal to the amount of such assessment.

Each violation shall be a separate offense.

(2) Cease-and-desist orders

In addition to, or in lieu of, a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing any such violation.

(3) Notice and hearing

No penalty shall be assessed or cease-and-desist order issued by the Secretary under this subsection unless the person against whom the penalty is assessed or the order is issued is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) Finality

The order of the Secretary assessing a penalty or imposing a cease-and-desist order under this subsection shall be final and conclusive unless the affected person files an appeal of the Secretary's order with the appropriate district court of the United States in accordance with subsection (d).

(d) Review by district court**(1) Commencement of action**

Any person who has been determined to be in violation of this chapter, or against whom

a civil penalty has been assessed or a cease-and-desist order issued under subsection (c), may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date the penalty is assessed or order issued, a notice of appeal in—

(i) the district court of the United States for the district in which the person resides or conducts business; or

(ii) the United States District Court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) Record

The Secretary shall file promptly in the appropriate court referred to in paragraph (1), a certified copy of the record on which the Secretary has determined that the person had committed a violation.

(3) Standard of review

A finding of the Secretary under this section shall be set aside only if such finding is found to be unsupported by substantial evidence.

(e) Failure to obey orders

Any person who fails to obey a cease-and-desist order issued under this section after such order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than \$5,000 for each offense. Each day during which such failure continues shall be considered as a separate violation of such order.

(f) Failure to pay penalties

If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court in which the person resides or conducts business. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) Additional remedies

The remedies provided in this chapter shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 101-624, title XIX, §1972, Nov. 28, 1990, 104 Stat. 3901.)

§ 6308. Investigations and power to subpoena**(a) Investigations**

The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this chapter; and

(2) to determine whether any person has engaged or is engaging in any act that constitutes a violation of this chapter, or any order, rule, or regulation issued under this chapter.