

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Section repealed effective Sept. 30, 2027, see section 13 of Pub. L. 109-455, as amended, set out as a Termination Date of 2006 Amendment note under section 44 of this title.

§ 57b-3. Rulemaking process**(a) Definitions**

For purposes of this section:

(1) The term “rule” means any rule promulgated by the Commission under section 46 or section 57a of this title, except that such term does not include interpretive rules, rules involving Commission management or personnel, general statements of policy, or rules relating to Commission organization, procedure, or practice. Such term does not include any amendment to a rule unless the Commission—

(A) estimates that such amendment will have an annual effect on the national economy of \$100,000,000 or more;

(B) estimates that such amendment will cause a substantial change in the cost or price of goods or services which are used extensively by particular industries, which are supplied extensively in particular geographic regions, or which are acquired in significant quantities by the Federal Government, or by State or local governments; or

(C) otherwise determines that such amendment will have a significant impact upon persons subject to regulation under such amendment and upon consumers.

(2) The term “rulemaking” means any Commission process for formulating or amending a rule.

(b) Notice of proposed rulemaking; regulatory analysis; contents; issuance

(1) In any case in which the Commission publishes notice of a proposed rulemaking, the Commission shall issue a preliminary regulatory analysis relating to the proposed rule involved. Each preliminary regulatory analysis shall contain—

(A) a concise statement of the need for, and the objectives of, the proposed rule;

(B) a description of any reasonable alternatives to the proposed rule which may accomplish the stated objective of the rule in a manner consistent with applicable law; and

(C) for the proposed rule, and for each of the alternatives described in the analysis, a preliminary analysis of the projected benefits and any adverse economic effects and any other effects, and of the effectiveness of the proposed rule and each alternative in meeting the stated objectives of the proposed rule.

(2) In any case in which the Commission promulgates a final rule, the Commission shall issue a final regulatory analysis relating to the final rule. Each final regulatory analysis shall contain—

(A) a concise statement of the need for, and the objectives of, the final rule;

(B) a description of any alternatives to the final rule which were considered by the Commission;

(C) an analysis of the projected benefits and any adverse economic effects and any other effects of the final rule;

(D) an explanation of the reasons for the determination of the Commission that the final rule will attain its objectives in a manner consistent with applicable law and the reasons the particular alternative was chosen; and

(E) a summary of any significant issues raised by the comments submitted during the public comment period in response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues.

(3)(A) In order to avoid duplication or waste, the Commission is authorized to—

(i) consider a series of closely related rules as one rule for purposes of this subsection; and

(ii) whenever appropriate, incorporate any data or analysis contained in a regulatory analysis issued under this subsection in the statement of basis and purpose to accompany any rule promulgated under section 57a(a)(1)(B) of this title, and incorporate by reference in any preliminary or final regulatory analysis information contained in a notice of proposed rulemaking or a statement of basis and purpose.

(B) The Commission shall include, in each notice of proposed rulemaking and in each publication of a final rule, a statement of the manner in which the public may obtain copies of the preliminary and final regulatory analyses. The Commission may charge a reasonable fee for the copying and mailing of regulatory analyses. The regulatory analyses shall be furnished without charge or at a reduced charge if the Commission determines that waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the general public.

(4) The Commission is authorized to delay the completion of any of the requirements established in this subsection by publishing in the Federal Register, not later than the date of publication of the final rule involved, a finding that the final rule is being promulgated in response to an emergency which makes timely compliance with the provisions of this subsection impracticable. Such publication shall include a statement of the reasons for such finding.

(5) The requirements of this subsection shall not be construed to alter in any manner the substantive standards applicable to any action by the Commission, or the procedural standards otherwise applicable to such action.

(c) Judicial review

(1) The contents and adequacy of any regulatory analysis prepared or issued by the Commission under this section, including the adequacy of any procedure involved in such preparation or issuance, shall not be subject to any judicial review in any court, except that a court, upon review of a rule pursuant to section 57a(e) of this title, may set aside such rule if the Commission has failed entirely to prepare a regulatory analysis.

(2) Except as specified in paragraph (1), no Commission action may be invalidated, remanded, or otherwise affected by any court on

account of any failure to comply with the requirements of this section.

(3) The provisions of this subsection do not alter the substantive or procedural standards otherwise applicable to judicial review of any action by the Commission.

(d) Regulatory agenda; contents; publication dates in Federal Register

(1) The Commission shall publish at least semiannually a regulatory agenda. Each regulatory agenda shall contain a list of rules which the Commission intends to propose or promulgate during the 12-month period following the publication of the agenda. On the first Monday in October of each year, the Commission shall publish in the Federal Register a schedule showing the dates during the current fiscal year on which the semiannual regulatory agenda of the Commission will be published.

(2) For each rule listed in a regulatory agenda, the Commission shall—

(A) describe the rule;

(B) state the objectives of and the legal basis for the rule; and

(C) specify any dates established or anticipated by the Commission for taking action, including dates for advance notice of proposed rulemaking, notices of proposed rulemaking, and final action by the Commission.

(3) Each regulatory agenda shall state the name, office address, and office telephone number of the Commission officer or employee responsible for responding to any inquiry relating to each rule listed.

(4) The Commission shall not propose or promulgate a rule which was not listed on a regulatory agenda unless the Commission publishes with the rule an explanation of the reasons the rule was omitted from such agenda.

(Sept. 26, 1914, ch. 311, §22, as added Pub. L. 96-252, §15, May 28, 1980, 94 Stat. 388.)

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EFFECTIVE DATE

Section effective May 28, 1980, see section 23 of Pub. L. 96-252, set out as an Effective Date of 1980 Amendment note under section 45 of this title.

§ 57b-4. Good faith reliance on actions of Board of Governors

(a) “Board of Governors” defined

For purposes of this section, the term “Board of Governors” means the Board of Governors” of the Federal Reserve System.

(b) Use as defense

Notwithstanding any other provision of law, if—

(1) any person, partnership, or corporation engages in any conduct or practice which allegedly constitutes a violation of any Federal law with respect to which the Board of Governors of the Federal Reserve System has rulemaking authority; and

(2) such person, partnership, or corporation engaged in such conduct or practice in good faith reliance upon, and in conformity with, any rule, regulation, statement of interpreta-

tion, or statement of approval prescribed or issued by the Board of Governors under such Federal law;

then such good faith reliance shall constitute a defense in any administrative or judicial proceeding commenced against such person, partnership, or corporation by the Commission under this subchapter or in any administrative or judicial proceeding commenced against such person, partnership, or corporation by the Attorney General of the United States, upon request made by the Commission, under any provision of law.

(c) Applicability of subsection (b)

The provisions of subsection (b) shall apply regardless of whether any rule, regulation, statement of interpretation, or statement of approval prescribed or issued by the Board of Governors is amended, rescinded, or held to be invalid by judicial authority or any other authority after a person, partnership, or corporation has engaged in any conduct or practice in good faith reliance upon, and in conformity with, such rule, regulation, statement of interpretation, or statement of approval.

(d) Request for issuance of statement or interpretation concerning conduct or practice

If, in any case in which—

(1) the Board of Governors has rulemaking authority with respect to any Federal law; and

(2) the Commission is authorized to enforce the requirements of such Federal law;

any person, partnership, or corporation submits a request to the Board of Governors for the issuance of any statement of interpretation or statement of approval relating to any conduct or practice of such person, partnership, or corporation which may be subject to the requirements of such Federal law, then the Board of Governors shall dispose of such request as soon as practicable after the receipt of such request.

(Sept. 26, 1914, ch. 311, §23, as added Pub. L. 96-252, §16, May 28, 1980, 94 Stat. 390.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective May 28, 1980, see section 23 of Pub. L. 96-252, set out as an Effective Date of 1980 Amendment note under section 45 of this title.

§ 57b-5. Agricultural cooperatives

(a) The Commission shall not have any authority to conduct any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of sections 291 and 292 of title 7, is not a violation of any of the antitrust Acts or this subchapter.

(b) The Commission shall not have any authority to conduct any study or investigation of any agricultural marketing orders.

(Sept. 26, 1914, ch. 311, §24, as added Pub. L. 103-312, §2, Aug. 26, 1994, 108 Stat. 1691.)

Editorial Notes

PRIOR PROVISIONS

A prior section 24 of act Sept. 26, 1914, was renumbered section 25 and is classified to section 57c of this title.