

(4) Notice and hearing

No order assessing a penalty or cease-and-desist order may be issued under this subsection by the Secretary under this subsection unless the Secretary provides notice and an opportunity for a hearing on the record with respect to the violation.

(5) Finality

An order assessing a penalty or a cease-and-desist order issued under this subsection by the Secretary shall be final and conclusive unless the person against whom the order is issued files an appeal from the order with the United States court of appeals, as provided in subsection (d).

(d) Review by court of appeals**(1) In general**

A person against whom an order is issued under subsection (c) may obtain review of the order by—

(A) filing, not later than 30 days after the person receives notice of the order, a notice of appeal in—

(i) the United States court of appeals for the circuit in which the person resides or carries on business; or

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

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

(2) Record

The Secretary shall file with the court a certified copy of the record on which the Secretary has determined that the person has committed a violation.

(3) Standard of review

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

(e) Failure to obey cease-and-desist orders

A person who fails to obey a valid cease-and-desist order issued by the Secretary under this section, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not less than \$1,000 and not more than \$10,000 for each offense. Each day during which the failure continues shall be considered to be a separate violation of the cease-and-desist order.

(f) Failure to pay penalties

If a person fails to pay a civil penalty imposed under this section by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In the action, the validity and appropriateness of the order imposing the civil penalty shall not be subject to review.

(g) Additional remedies

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

(Pub. L. 104-127, title V, §520, Apr. 4, 1996, 110 Stat. 1045.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsec. (c)(1), was in the original “this Act” and was translated as reading “this subtitle”, meaning subtitle B (§§511-526) of title V of Pub. L. 104-127, Apr. 4, 1996, 110 Stat. 1032, to reflect the probable intent of Congress.

§ 7420. 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 subchapter; or

(2) to determine whether any person subject to this subchapter has engaged, or is about to engage, in any action that constitutes or will constitute a violation of this subchapter or any order or regulation issued under this subchapter.

(b) Subpoenas, oaths, and affirmations

For the purpose of any investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records or documents that are relevant to the inquiry. The attendance of witnesses and the production of records or documents may be required from any place in the United States.

(c) Aid of courts

In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to require the attendance and testimony of the person or the production of records or documents. The court may issue an order requiring the person to appear before the Secretary to produce records or documents or to give testimony regarding the matter under investigation.

(d) Contempt

Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) Process

Process in any case under this section may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

(Pub. L. 104-127, title V, §521, Apr. 4, 1996, 110 Stat. 1047.)

§ 7421. Suspension or termination**(a) Mandatory suspension or termination**

The Secretary shall suspend or terminate an order or a provision of an order if the Secretary finds that an order or a provision of an order obstructs or does not tend to effectuate the purpose of this subchapter, or if the Secretary determines that the order or a provision of an order is not favored by persons voting in a referendum conducted under section 7417 of this title.