

§ 7174. Referral of other rulemaking proceedings to Commission

(a) Notification of Commission of proposed action; public comment

Except as provided in section 7173 of this title, whenever the Secretary proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of any function which is transferred to the Secretary under section 7151 of this title or section 60501 of title 49, he shall notify the Commission of the proposed action. If the Commission, in its discretion, determines within such period as the Secretary may prescribe, that the proposed action may significantly affect any function within the jurisdiction of the Commission pursuant to section 7172(a)(1) and (c)(1) of this title and section 60502 of title 49, the Secretary shall immediately refer the matter to the Commission, which shall provide an opportunity for public comment.

(b) Recommendations of Commission; publication

Following such opportunity for public comment the Commission, after consultation with the Secretary, shall either—

- (1) concur in adoption of the rule or statement as proposed by the Secretary;
- (2) concur in adoption of the rule or statement only with such changes as it may recommend; or
- (3) recommend that the rule or statement not be adopted.

The Commission shall promptly publish its recommendations, adopted under this subsection, along with an explanation of the reason for its actions and an analysis of the major comments, criticisms, and alternatives offered during the comment period.

(c) Options of Secretary; final agency action

Following publication of the Commission's recommendations the Secretary shall have the option of—

- (1) issuing a final rule or statement in the form initially proposed by the Secretary if the Commission has concurred in such rule pursuant to subsection (b)(1);
- (2) issuing a final rule or statement in amended form so that the rule conforms in all respects with the changes proposed by the Commission if the Commission has concurred in such rule or statement pursuant to subsection (b)(2); or
- (3) ordering that the rule shall not be issued.

The action taken by the Secretary pursuant to this subsection shall constitute a final agency action for purposes of section 704 of title 5.

(Pub. L. 95-91, title IV, § 404, Aug. 4, 1977, 91 Stat. 586.)

Editorial Notes

CODIFICATION

In subsec. (a), "section 60501 of title 49" substituted for reference to section 306 of this Act, meaning section 306 of Pub. L. 95-91 [42 U.S.C. 7155], and "section 60502 of title 49" substituted for reference to section 402(b), meaning section 402(b) of Pub. L. 95-91 [42 U.S.C. 7172(b)] on authority of Pub. L. 103-272, § 6(b), July 5,

1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

§ 7175. Right of Secretary to intervene in Commission proceedings

The Secretary may as a matter of right intervene or otherwise participate in any proceeding before the Commission. The Secretary shall comply with rules of procedure of general applicability governing the timing of intervention or participation in such proceeding or activity and, upon intervening or participating therein, shall comply with rules of procedure of general applicability governing the conduct thereof. The intervention or participation of the Secretary in any proceeding or activity shall not affect the obligation of the Commission to assure procedure fairness to all participants.

(Pub. L. 95-91, title IV, § 405, Aug. 4, 1977, 91 Stat. 586.)

§ 7176. Reorganization

For the purposes of chapter 9 of title 5 the Commission shall be deemed to be an independent regulatory agency.

(Pub. L. 95-91, title IV, § 406, Aug. 4, 1977, 91 Stat. 586.)

§ 7177. Access to information

(a) The Secretary, each officer of the Department, and each Federal agency shall provide to the Commission, upon request, such existing information in the possession of the Department or other Federal agency as the Commission determines is necessary to carry out its responsibilities under this chapter.

(b) The Secretary, in formulating the information to be requested in the reports or investigations under section 825c and section 825j of title 16 and section 717i and section 717j of title 15 shall include in such reports and investigations such specific information as requested by the Federal Energy Regulatory Commission and copies of all reports, information, results of investigations and data under said sections shall be furnished by the Secretary to the Federal Energy Regulatory Commission.

(Pub. L. 95-91, title IV, § 407, Aug. 4, 1977, 91 Stat. 587.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, as amended, known as the Department of Energy Organization Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§ 7178. Federal Energy Regulatory Commission fees and annual charges

(a) In general

(1) Except as provided in paragraph (2) and beginning in fiscal year 1987 and in each fiscal year thereafter, the Federal Energy Regulatory Commission shall, using the provisions of this section and authority provided by other laws, as-