

retary on the petition of the person is not in accordance with law, the court shall remand the matter to the Secretary with directions—

- (A) to make such ruling as the court shall determine to be in accordance with law; or
- (B) to take such further action as, in the opinion the court, the law requires.

(c) Enforcement

The pendency of proceedings instituted under this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief under section 7807 of this title.

(Pub. L. 106-387, §1(a) [title XII, §1207], Oct. 28, 2000, 114 Stat. 1549, 1549A-92.)

Editorial Notes

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.

§ 7807. Enforcement

(a) Jurisdiction

A district court of the United States shall have jurisdiction to enforce, and to prevent and restrain any person from violating, this chapter or an order or regulation issued by the Secretary under this chapter.

(b) Referral to Attorney General

A civil action brought under subsection (a) shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this chapter, or an order or regulation issued under this chapter, if the Secretary believes that the administration and enforcement of this chapter would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person who committed or is committing the violation.

(c) Civil penalties and orders

(1) Civil penalties

(A) In general

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

- (i) a civil penalty of not less than \$1,000 nor more than \$10,000 for each violation; and
- (ii) in the case of a willful failure to remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(B) Separate offenses

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 a violation of this chapter, or

an order or regulation issued under this chapter.

(3) Notice and hearing

No penalty shall be assessed, or cease and desist order issued, by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to the violation. Any such hearing shall be conducted in accordance with section 7808(b)(2) of this title and shall be held within the United States judicial district in which the residence or principal place of business of the person is located.

(4) Finality

The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d).

(d) Review by district court

(1) Commencement of action

(A) In general

Any person against whom a violation is found and a civil penalty is assessed or a cease and desist order is issued under subsection (c) may obtain review of the penalty or order by, within the 30-day period beginning on the date the penalty is assessed or the order is issued—

- (i) filing a notice of appeal in the district court of the United States for the district in which the person resides or conducts business, or in the United States District Court for the District of Columbia; and
- (ii) sending a copy of the notice by certified mail to the Secretary.

(B) Copy of record

The Secretary shall promptly file in the court a certified copy of the record on which the Secretary found that the person had committed a violation.

(2) Standard of review

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

(e) Failure to obey an order

(1) In general

A person who fails to obey a cease and desist order issued under subsection (c) after the order has become final and unappealable, or after the appropriate United States district court had entered a final judgment in favor of the Secretary of not more than \$10,000 for each offense, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d).

(2) Separate violations

Each day during which the person fails to obey an order described in paragraph (1) shall be considered as a separate violation of the order.

(f) Failure to pay a penalty**(1) In general**

If a person fails to pay a civil penalty assessed under subsection (c) or (e) after the penalty has become final and unappealable, 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 any United States district court in which the person resides or conducts business.

(2) Scope of review

In an action by the Attorney General under paragraph (1), the validity and appropriateness of a 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. 106-387, §1(a) [title XII, §1208], Oct. 28, 2000, 114 Stat. 1549, 1549A-93.)

§ 7808. Investigations and power to subpoena**(a) Investigations**

The Secretary may conduct such investigations as the Secretary considers necessary for the effective administration of this chapter, or to determine whether any person has engaged or is engaging in any act that constitutes a violation of this chapter or any order or regulation issued under this chapter.

(b) Subpoenas, oaths, and affirmations**(1) Investigations**

For the purpose of conducting an 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 that are relevant to the inquiry. The production of the records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 7806(a)(2) or 7807(c)(3) of this title, the presiding officer may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of the records may be required from any place in the United States.

(c) Aid of courts**(1) In general**

In the case of contumacy by, or refusal to obey a subpoena issued under subsection (b) 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 conducted, or where the person resides or conducts business, in order to enforce a subpoena issued under subsection (b).

(2) Order

The court may issue an order requiring the person referred to in paragraph (1) to comply with a subpoena referred to in paragraph (1).

(3) Failure to obey

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

(4) Process

Process in any proceeding under this subsection may be served in the United States judicial district in which the person being proceeded against resides or conducts business, or wherever the person may be found.

(Pub. L. 106-387, §1(a) [title XII, §1209], Oct. 28, 2000, 114 Stat. 1549, 1549A-95.)

§ 7809. Confidentiality**(a) Prohibition**

No information regarding names of voters or how a person voted in a referendum conducted under this chapter shall be made public.

(b) Penalty

Any person who knowingly violates subsection (a) or the confidentiality terms of an order, as described in section 7804(m)(2) of this title, shall be subject to a fine of not less than \$1,000 nor more than \$10,000 or to imprisonment for not more than 1 year, or both. If the person is an officer or employee of the Department of Agriculture or the Board, the person shall be removed from office.

(c) Additional prohibition

No information obtained under this chapter may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this chapter or an investigatory or enforcement action necessary for the implementation of this chapter.

(d) Withholding information from Congress prohibited

Nothing in this chapter shall be construed to authorize the withholding of information from Congress.

(Pub. L. 106-387, §1(a) [title XII, §1210], Oct. 28, 2000, 114 Stat. 1549, 1549A-96.)

§ 7810. Authority for Secretary to suspend or terminate order**(a) Grounds for suspension or termination**

If the Secretary finds that an order, or any provision of the order, obstructs or does not tend to effectuate the policy of this chapter specified in section 7801(b) of this title, the Secretary shall terminate or suspend the operation of the order or provision under such terms as the Secretary determines are appropriate.

(b) Effect of lack of approval of order

If, as a result of a referendum, the Secretary determines that the order is not approved, the Secretary shall, within 180 days after making the determination, suspend, or terminate, as appropriate, collection of assessments under the order, and suspend or terminate, as appropriate,