

tunity for hearing, that a grantee has failed to comply substantially with any provision of this section and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall—

- (i) reduce the amount of assistance under this section to the grantee by an amount equal to the amount of Capital Magnet Fund grant amounts which were not used in accordance with this section;
- (ii) require the grantee to repay the Secretary any amount of the Capital Magnet Fund grant amounts which were not used in accordance with this section;
- (iii) limit the availability of assistance under this section to the grantee to activities or recipients not affected by such failure to comply; or
- (iv) terminate any assistance under this section to the grantee.

(i) Periodic reports

(1) In general

The Secretary of the Treasury shall submit a report, on a periodic basis, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the activities to be funded under this section.

(2) Reports available to public

The Secretary of the Treasury shall make the reports required under paragraph (1) publicly available.

(j) Regulations

(1) In general

The Secretary of the Treasury shall issue regulations to carry out this section.

(2) Required contents

The regulations issued under this subsection shall include—

- (A) authority for the Secretary to audit, provide for an audit, or otherwise verify an enterprise's activities, to ensure compliance with this section;
- (B) a requirement that the Secretary ensure that the allocation of each enterprise is audited not less than annually to ensure compliance with this section;
- (C) a requirement that, for the purposes of subparagraphs (A) and (B), any financial statement submitted by a grantee to the Secretary shall be reviewed by an independent certified public accountant in accordance with Statements on Standards for Accounting and Review Services, issued by the American Institute of Certified Public Accountants; and
- (D) requirements for a process for application to, and selection by, the Secretary for activities to be funded with amounts from the Capital Magnet Fund, which shall provide that—
 - (i) funds be fairly distributed to urban, suburban, and rural areas; and
 - (ii) selection shall be based upon specific criteria, including a prioritization of funding based upon—
 - (I) the ability to use such funds to generate additional investments;

(II) affordable housing need (taking into account the distinct needs of different regions of the country); and

(III) ability to obligate amounts and undertake activities so funded in a timely manner.

(Pub. L. 102-550, title XIII, §1339, as added Pub. L. 110-289, div. A, title I, §1131(b), July 30, 2008, 122 Stat. 2723.)

SUBPART 3—ENFORCEMENT

§ 4581. Cease and desist proceedings

(a) Grounds for issuance

The Director may issue and serve a notice of charges under this section upon an enterprise if the Director determines that—

- (1) the enterprise has failed to submit a report under section 4547¹ of this title, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;
- (2) the enterprise has failed to submit the information required under subsection (m) or (n) of section 1723a of this title, or subsection (e) or (f) of section 1456 of this title;
- (3) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, the enterprise has failed to submit a housing plan that complies with section 4566(c) of this title within the applicable period; or
- (4) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, the enterprise has failed to comply with a housing plan under section 4566(c) of this title.

(b) Procedure

(1) Notice of charges

Each notice of charges issued under this section shall contain a statement of the facts constituting the alleged conduct and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct should issue.

(2) Issuance of order

If the Director finds on the record made at a hearing described in paragraph (1) that any conduct specified in the notice of charges has been established (or the enterprise consents pursuant to section 4582(a)(4) of this title), the Director may issue and serve upon the enterprise an order requiring the enterprise to—

- (A) submit a report under section 4547¹ of this title;
- (B) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, submit a housing plan in compliance with section 4566(c) of this title;
- (C) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, comply with the housing plan in compliance with section 4566(c) of this title; or

¹ See References in Text note below.

(D) provide the information required under subsection (m) or (n) of section 1723a of this title, or subsection (e) or (f) of section 1456 of this title.

(c) Effective date

An order under this section shall become effective upon the expiration of the 30-day period beginning on the date of service of the order upon the enterprise (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Director or otherwise, as provided in this subpart.

(Pub. L. 102-550, title XIII, §1341, as added Pub. L. 110-289, div. A, title I, §1130(c)(2), July 30, 2008, 122 Stat. 2708.)

Editorial Notes

REFERENCES IN TEXT

Section 4547 of this title, referred to in subsecs. (a)(1) and (b)(2)(A), was repealed by Pub. L. 110-289, div. A, title I, §1104(b), July 30, 2008, 122 Stat. 2667.

PRIOR PROVISIONS

A prior section 4581, Pub. L. 102-550, title XIII, §1341, Oct. 28, 1992, 106 Stat. 3964, related to cease-and-desist proceedings, prior to repeal by Pub. L. 110-289, div. A, title I, §1130(c)(1), July 30, 2008, 122 Stat. 2708.

§ 4582. Hearings

(a) Requirements

(1) Venue and record

Any hearing under section 4581 or 4585 of this title shall be held on the record and in the District of Columbia.

(2) Timing

Any such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice of charges under section 4581(b)(1) of this title or determination to impose a penalty under section 4585(c)(1) of this title, unless an earlier or a later date is set by the hearing officer at the request of the enterprise served.

(3) Procedure

Any such hearing shall be conducted in accordance with chapter 5 of title 5.

(4) Failure to appear

If the enterprise served fails to appear at the hearing through a duly authorized representative, such enterprise shall be deemed to have consented to the issuance of the cease-and-desist order or the imposition of the penalty for which the hearing is held.

(b) Issuance of order

(1) In general

After any such hearing, and within 90 days after the enterprise has been notified that the case has been submitted to the Director for final decision, the Director shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon the enterprise an

order or orders consistent with the provisions of this subpart.

(2) Modification

Judicial review of any such order shall be exclusively as provided in section 4583 of this title. Unless such a petition for review is timely filed as provided in section 4583 of this title, and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Director considers proper. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

(Pub. L. 102-550, title XIII, §1342, Oct. 28, 1992, 106 Stat. 3965; Pub. L. 110-289, div. A, title I, §1130(e)(3)(A), July 30, 2008, 122 Stat. 2711.)

Editorial Notes

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-289 substituted “Director” for “Secretary” wherever appearing.

§ 4583. Judicial review

(a) Commencement

An enterprise that is a party to a proceeding under section 4581 or 4585 of this title may obtain review of any final order issued under such section by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. The clerk of the court shall transmit a copy of the petition to the Director.

(b) Filing of record

Upon receiving a copy of a petition, the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28.

(c) Jurisdiction

Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Director shall (except as provided in the last sentence of section 4582(b)(2) of this title) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director.

(d) Review

Review of such proceedings shall be governed by chapter 7 of title 5.

(e) Order to pay penalty

Such court shall have the authority in any such review to order payment of any penalty imposed by the Director under this subpart.

(f) No automatic stay

The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.

(Pub. L. 102-550, title XIII, §1343, Oct. 28, 1992, 106 Stat. 3966; Pub. L. 110-289, div. A, title I, §1130(e)(3)(B), July 30, 2008, 122 Stat. 2711.)