

(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 (a)(1) and (b)(2)(A), was repealed by Pub.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.)

**Editorial Notes**

**AMENDMENTS**

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

**§ 4584. Enforcement and jurisdiction**

**(a) Enforcement**

The Director may bring a civil action in the United States District Court for the District of Columbia for the enforcement of any effective notice or order issued under section 4581 or 4585 of this title. Such court shall have jurisdiction and power to order and require compliance herewith.

**(b) Limitation on jurisdiction**

Except as otherwise provided in this subpart, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under section 4581 or 4585 of this title, or to review, modify, suspend, terminate, or set aside any such notice or order.

(Pub. L. 102-550, title XIII, §1344, Oct. 28, 1992, 106 Stat. 3966; Pub. L. 110-289, div. A, title I, §1130(e)(1), July 30, 2008, 122 Stat. 2711.)

**Editorial Notes**

**AMENDMENTS**

2008—Subsec. (a). Pub. L. 110-289, which directed substitution of “The Director may bring a civil action” for “The Secretary may request the Attorney General of the United States to bring a civil action”, was executed by making the substitution for “The Secretary may request the Attorney General of the United States to bring an action” to reflect the probable intent of Congress.

**§ 4585. Civil money penalties**

**(a) Authority**

The Director may impose a civil money penalty, in accordance with the provisions of this section, on any enterprise that has failed to—

(1) submit a report under section 4547<sup>1</sup> of this title, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;

(2) 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, submit a housing plan or perform its responsibilities under a remedial order issued pursuant to section 4566(c) of this title within the required period; or

(4) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, comply with a housing plan for the enterprise under section 4566(c) of this title.

**(b) Amount of penalty**

The amount of a penalty under this section, as determined by the Director, may not exceed—

(1) for any failure described in paragraph (1), (5), or (6) of subsection (a), \$100,000 for each day that the failure occurs; and

(2) for any failure described in paragraph (2), (3), or (4) of subsection (a), \$50,000 for each day that the failure occurs.

**(c) Procedures**

**(1) Establishment**

The Director shall establish standards and procedures governing the imposition of civil money penalties under this section. Such standards and procedures—

(A) shall provide for the Director to notify the enterprise in writing of the determination of the Director to impose the penalty, which shall be made on the record;

(B) shall provide for the imposition of a penalty only after the enterprise has been given an opportunity for a hearing on the record pursuant to section 4582 of this title; and

(C) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

**(2) Factors in determining amount of penalty**

In determining the amount of a penalty under this section, the Director shall give consideration to factors including—

(A) the gravity of the offense;

(B) any history of prior offenses;

(C) ability to pay the penalty;

(D) injury to the public;

(E) benefits received;

(F) deterrence of future violations;

(G) the length of time that the enterprise should reasonably take to achieve the goal; and

(H) such other factors as the Director may determine, by regulation, to be appropriate.

**(d) Action to collect penalty**

If an enterprise fails to comply with an order by the Director imposing a civil money penalty under this section, after the order is no longer subject to review, as provided in sections 4582 and 4583 of this title, the Director may bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise, and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order imposing the penalty shall not be subject to review.

**(e) Settlement by Director**

The Director may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

**(f) Deposit of penalties**

The Director shall use any civil money penalties collected under this section to help fund the Housing Trust Fund established under section 4568 of this title.

(Pub. L. 102-550, title XIII, §1345, as added Pub. L. 110-289, div. A, title I, §1130(d)(2), July 30, 2008, 122 Stat. 2709.)

<sup>1</sup> See References in Text note below.