

partment of Energy Organization Act (42 U.S.C. 7191, et seq.) shall not apply with respect to this chapter.

(2) The preceding provisions of this section shall not apply with respect to any exercise of authority under section 8374 of this title.

(3) The procedures applicable under this chapter shall not—

(A) be considered to be modified or affected by any other provision of law unless such other provision specifically amends this chapter (or provisions of law cited herein), or

(B) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to this chapter, and declaring that such provision supersedes, in whole or in part, the procedures of this chapter.

(Pub. L. 95-620, title VII, §701, Nov. 9, 1978, 92 Stat. 3329; Pub. L. 100-42, §1(c)(16), May 21, 1987, 101 Stat. 313.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (c)(1), (d)(1), (f), and (h)(1), (3), was in the original "this Act", meaning Pub. L. 95-620, Nov. 9, 1978, 92 Stat. 3289, known as the Powerplant and Industrial Fuel Use Act of 1978, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8301 of this title and Tables.

The Clean Air Act, referred to in subsec. (f), is Act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

The Department of Energy Organization Act, referred to in subsec. (h)(1), is Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 567. Title V of the Department of Energy Organization Act is classified generally to subchapter V (§7191 et seq.) of chapter 84 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

#### AMENDMENTS

1987—Subsec. (b). Pub. L. 100-42, §1(c)(16)(A), struck out "(other than under section 8372 of this title)" after "this chapter" and "or installation" after "powerplant".

Subsec. (c)(1). Pub. L. 100-42, §1(c)(16)(B)(i), (ii), struck out "or for any permit under section 8375 of this title" after "this chapter" and "or permit" after "such exemption".

Subsec. (c)(2). Pub. L. 100-42, §1(c)(16)(B)(iii), struck out "or, where appropriate, major fuel-burning installation" after "powerplant".

Subsec. (c)(3). Pub. L. 100-42, §1(c)(16)(B)(i), struck out "or permit" after "exemption" in two places.

Subsec. (c)(4). Pub. L. 100-42, §1(c)(16)(B)(iv), struck out par. (4) which read as follows: "Any order for the approval of a system compliance plan under section 8391 of this title, and any petition for such an order, shall be treated for purposes of this subchapter the same as an order (or petition) for an exemption."

Subsec. (d)(1). Pub. L. 100-42, §1(c)(16)(C), struck out "(or permit)" after "an exemption" and "(other than under section 8372 of this title)" after "under this chapter".

Subsec. (f). Pub. L. 100-42, §1(c)(16)(D), struck out "8372 or" after "(other than under section)" in two places.

Subsec. (g). Pub. L. 100-42, §1(c)(16)(E), struck out subsec. (g) which read as follows: "A copy of any proposed rule or order to be prescribed or issued by the Secretary which imposes a prohibition under this chap-

ter (other than under section 8372 or 8374 of this title) with respect to a major fuel-burning installation or a boiler subject to section 8371 of this title or a petition by such installation or boiler for an exemption (or permit) under this chapter (other than under section 8372 or 8374 of this title), shall be transmitted by the Secretary to the Federal Trade Commission and the Secretary shall request such Commission to comment thereon within the period provided to the public. In any such case, the Federal Trade Commission shall be afforded the same opportunity to comment and question as is provided other interested persons under subsection (d) of this section."

#### § 8412. Judicial review

##### (a) Publication and delay of prohibition or exemption to allow for review

Any final rule or order prescribed by the Secretary imposing a prohibition or granting an exemption (or permit) under this chapter shall be published in the Federal Register, and shall not take effect earlier than the 60th calendar day after such rule or order is published.

##### (b) Publication of denial of exemption or permit

Any final order issued by the Secretary denying any petition for an exemption or a permit under this chapter shall be published in the Federal Register, together with the reasons for such action.

##### (c) Judicial review

(1) Any person aggrieved by any final rule or order referred to in subsection (a) of this section or in section 8374 of this title, or by the denial of a petition for an order granting an exemption (or permit) referred to in subsection (b) of this section, may at any time before the 60th day after the date such rule, order, or denial is published under subsection (a) or (b) of this section, file a petition with the United States court of appeals for the circuit wherein such person resides, or has his principal place of business, for judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which the rule or order was based as provided in section 2112 of title 28.

(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule, order, or denial in accordance with chapter 7 of title 5, and to grant appropriate relief as provided in such chapter. No rule or order (or denial thereof) may be affirmed unless supported by substantial evidence.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule, order, or denial shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(4) Subject to the direction and control of the Attorney General, as provided in section 519 of title 28, attorneys appointed by the Secretary may appear for and represent the Secretary in any proceeding instituted under this section in accordance with section 7192(c) of this title.

(Pub. L. 95-620, title VII, §702, Nov. 9, 1978, 92 Stat. 3331.)

## REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original “this Act”, meaning Pub. L. 95-620, Nov. 9, 1978, 92 Stat. 3289, known as the Powerplant and Industrial Fuel Use Act of 1978, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8301 of this title and Tables.

## PART B—INFORMATION AND REPORTING

**§ 8421. Information****(a) Authority of Secretary**

For purposes of carrying out his responsibilities under this chapter, the Secretary may require, under the authority of this chapter or any other authority administered by him, any person owning, operating or controlling any electric powerplant, or any other person otherwise subject to this chapter to submit such information and reports of any kind or nature directly to the Secretary necessary to implement the provisions of this chapter, and insure compliance with the provisions of this chapter, and any rule or order thereunder. The provisions of section 796(d) of title 15 shall apply with respect to information obtained under this section to the same extent and in the same manner as it applies with respect to energy information obtained under section 796 of title 15.

**(b) Authority of President and Federal Energy Regulatory Commission**

In the case of responsibilities expressly given by this chapter to the President or the Federal Energy Regulatory Commission, subsection (a) of this section shall be applied as if the references to the Secretary were references to the President or the Federal Energy Regulatory Commission, as the case may be.

**(c) Natural gas usage by electric utilities**

(1) For purposes of section 8374(b) of this title and other emergency authorities, the Secretary shall obtain data necessary to determine—

(A) within 6 months after August 13, 1981, the total quantities of natural gas used as a primary energy source by each electric utility during calendar year 1977, and

(B) on a semiannual basis, the total quantities of natural gas used as a primary energy source during the previous 6-month period by each electric utility.

(2) Repealed. Pub. L. 104-66, title I, §1051(e), Dec. 21, 1995, 109 Stat. 716.

(Pub. L. 95-620, title VII, §711, Nov. 9, 1978, 92 Stat. 3332; Pub. L. 97-35, title X, §1021(b), Aug. 13, 1981, 95 Stat. 615; Pub. L. 100-42, §1(c)(17), May 21, 1987, 101 Stat. 313; Pub. L. 104-66, title I, §1051(e), Dec. 21, 1995, 109 Stat. 716.)

## REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original “this Act”, meaning Pub. L. 95-620, Nov. 9, 1978, 92 Stat. 3289, known as the Powerplant and Industrial Fuel Use Act of 1978, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8301 of this title and Tables.

## AMENDMENTS

1995—Subsec. (c)(2). Pub. L. 104-66 struck out par. (2) which read as follows: “The Secretary shall include in

each annual report to the Congress under section 8482 of this title a summary of information received by the Secretary under this subsection.”

1987—Subsec. (a). Pub. L. 100-42 struck out “or major fuel-burning installation” after “powerplant”.

1981—Subsec. (c). Pub. L. 97-35 added subsec. (c).

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1038 of Pub. L. 97-35, set out as a note under section 6240 of this title.

**§ 8422. Compliance report****(a) Generally**

Any person owning, operating, or proposing to operate one or more existing electric powerplants required to come into compliance with the prohibitions of this chapter shall on or before January 1, 1980, and annually thereafter, submit to the Secretary a report identifying all such existing electric powerplants owned or operated by such person. Such report shall—

(1) set forth the anticipated schedule for compliance with the applicable requirements and prohibitions by each such electric powerplant;

(2) indicate proposed or existing contracts or other commitments or good faith negotiations for such contracts or commitments for coal or another alternate fuel, equipment, or combinations thereof, which would enable such powerplant to comply with such prohibitions; and

(3) identify those electric powerplants, if any, for which application for temporary or permanent exemption from the prohibitions of this chapter may be filed.

**(b) Report on implementation of section 8484 plan**

Any electric utility required to submit a conservation plan under section 8484 of this title shall annually submit to the Secretary a report identifying the steps taken during the preceding year to implement such plan.

(Pub. L. 95-620, title VII, §712, Nov. 9, 1978, 92 Stat. 3332; Pub. L. 97-35, title X, §1023(b), Aug. 13, 1981, 95 Stat. 617.)

## REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 95-620, Nov. 9, 1978, 92 Stat. 3289, known as the Powerplant and Industrial Fuel Use Act of 1978, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8301 of this title and Tables.

## AMENDMENTS

1981—Pub. L. 97-35 designated existing provisions as subsec. (a) and added subsec. (b).

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1038 of Pub. L. 97-35, set out as a note under section 6240 of this title.

## PART C—ENFORCEMENT

**§ 8431. Notice of violation; other general provisions****(a) Notice of violation**

(1) Whenever, on the basis of any information available, the Secretary finds that any person is