

General may be related or pertinent to such loan.

(f) Default

(1) If there is a default in any payment by the obligor of interest or principal due under a loan entered into by the Secretary under this section and such default has continued for 90 days, the Secretary has the right to demand payment of such unpaid amount, unless the Secretary finds that such default has been remedied, or a satisfactory plan to remedy such default by the obligor has been accepted by the Secretary.

(2) In demanding payment of unpaid interest or principal by the obligor, the Secretary has all rights specified in the loan-related agreements with respect to any security which he held with respect to the loan, including the authority to complete, maintain, operate, lease, sell, or otherwise dispose of any property acquired pursuant to such loan or related agreements.

(3) If there is a default under any loan, the Secretary shall notify the Attorney General who shall take such action against the obligator or other parties liable thereunder as is, in his discretion, necessary to protect the interests of the United States. The holder of such loan shall make available to the United States all records and evidence necessary to prosecute any such suit.

(g) Deposit of receipts

Amounts received by the Secretary as principal, interest, fees, proceeds from security acquired following default, or other amounts received by the Secretary in connection with loans made under this section shall be paid into the Treasury of the United States as miscellaneous receipts.

(h) Authorization of appropriation

There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this section, but not to exceed \$400,000,000 for fiscal year 1979 and \$400,000,000 for fiscal year 1980. Authority granted to the Secretary under subsection (a) may be exercised only to the extent as may be provided in advance in appropriation Acts.

(Pub. L. 95-620, title VI, §602, Nov. 9, 1978, 92 Stat. 3327.)

Editorial Notes

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsecs. (a) and (d)(1)(E), is the effective date of Pub. L. 95-620. See section 901 of Pub. L. 95-620, set out as an Effective Date note under section 8301 of this title.

The Clean Air Act, referred to in subsec. (d)(1)(C), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, 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.

SUBCHAPTER VII—ADMINISTRATION AND ENFORCEMENT

PART A—PROCEDURES

§ 8411. Administrative procedures

(a) General rulemaking

Except to the extent otherwise provided in this section or other provisions of this chapter,

rules prescribed under this chapter shall be made in accordance with the procedures set forth in section 553 of title 5.

(b) Notices of rules and orders imposing prohibitions

Before the Secretary prescribes any rule or issues any order imposing a prohibition under this chapter, he shall publish such proposed rule or order in the Federal Register, together with a statement of the reasons for such rule or order and, in the case of a rule, a detailed statement of any special circumstances or characteristics required to be taken into account in prescribing such rule. A copy shall be transmitted to the person who operates any such powerplant required to be specifically identified in such rule or order.

(c) Petitions for exemptions

(1) Any petition for an exemption from any prohibition under this chapter shall be filed at such time and shall be in such form as the Secretary shall by rule prescribe. The Secretary, upon receipt of such petition, shall publish a notice thereof in the Federal Register together with a statement of the reasons set forth in such a petition for requesting such exemption, and provide a period of public comment of at least 45 days for written comments thereon. Rules required under this paragraph shall be prescribed not later than 120 days after November 9, 1978.

(2) The Secretary, upon receipt of such petition, shall notify the appropriate State agencies having primary authority to permit or regulate the construction or operation of the electric powerplant which is the subject of such petition, and, to the maximum extent practicable, consult with such agencies.

(3) The Secretary, within 6 months after the period for public comment and hearing applicable to any petition for an exemption, shall issue a final order granting or denying the petition for such exemption, except that the Secretary may extend such period to a specified date if he publishes notice thereof in the Federal Register and includes with such notice a statement of the reasons for such extension.

(d) Public comment on prohibitions and exemptions

(1) In the case of any proposed rule or order by the Secretary imposing a prohibition or any petition for any order granting an exemption under this chapter, any interested person shall be afforded an opportunity to present oral data, views, and arguments at a public hearing. At such hearing any interested person shall have an opportunity to question—

(A) other interested persons who make oral presentations,

(B) employees and contractors of the United States who have made written or oral presentations or who have participated in the development of the proposed rule or order or in the consideration of such petition, and

(C) experts and consultants who have provided information to any person who makes an oral presentation and which is contained in or referred to in such presentation,

with respect to disputed issues of material fact, except that the Secretary may restrict ques-

tioning if he determines that such questioning is duplicative or is not likely to result in a timely and effective resolution of such issues. Any oral or documentary evidence may be received, but the Secretary as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

(2) A rule or order subject to this section may not be issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence.

(e) Transcript

A transcript shall be kept of any public hearing made in accordance with this section.

(f) Environmental Protection Agency comment

A copy of any proposed rule or order to be prescribed or issued by the Secretary which imposes a prohibition under this chapter (other than under section 8374 of this title), or a petition for an exemption (or permit) under this chapter (other than under section 8374 of this title), shall be transmitted by the Secretary to the Administrator of the Environmental Protection Agency and the Secretary shall request such agency to comment thereon within the period provided to the public unless a longer period is provided under the Clean Air Act [42 U.S.C. 7401 et seq.]. In any such case, the Administrator of the Environmental Protection Agency shall be afforded the same opportunity to comment and question as is provided other interested persons under subsection (d).

(g) Repealed. Pub. L. 100-42, § 1(c)(16)(E), May 21, 1987, 101 Stat. 313

(h) Coordination with other provisions of law

(1) Except as provided in sections 8412(c)(4), 8433(d)(5), and 8434 of this title, title V of the Department 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.)

Editorial Notes

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 chapter (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).”

§ 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.