

(C) Section 7172(d) of this title shall not apply with respect to the functions of the Secretary under this subsection.

(Pub. L. 95-620, title VII, §723, Nov. 9, 1978, 92 Stat. 3333; Pub. L. 100-42, §1(c)(20), May 21, 1987, 101 Stat. 313.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (d)(1), 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

1987—Subsec. (a). Pub. L. 100-42, §1(c)(20)(A), struck out "(other than section 8372 of this title)" after "this chapter".

Subsec. (b). Pub. L. 100-42, §1(c)(20)(B), (C), struck out "(1)" before "In the case of" and struck out par. (2) which read as follows: "Any person operating a major fuel-burning installation granted an exemption which, for any 12-calendar-month period, uses petroleum or natural gas, or both, in excess of that use allowed by such exemption shall be liable for a civil penalty, which shall be assessed by the Secretary. The amount of such civil penalty may not exceed \$10 per barrel of petroleum or \$3 per Mcf of natural gas which was used in excess of that use allowed by such exemption."

Subsec. (c). Pub. L. 100-42, §1(c)(20)(C), struck out subsec. (c) which set forth civil penalties for violation of section 8372 of this title.

#### § 8434. Injunctions and other equitable relief

Whenever it appears to the Secretary that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of this chapter, or any rule or order thereunder, a civil action,<sup>1</sup> may be brought, in accordance with section 7192(c) of this title, in the appropriate district court of the United States to enjoin such acts or practices, and, upon a proper showing, the court shall grant, without bond, mandatory or prohibitive injunctive relief, including interim equitable relief.

(Pub. L. 95-620, title VII, §724, Nov. 9, 1978, 92 Stat. 3335.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in text, 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.

#### § 8435. Citizens suits

##### (a) General rule

Except as otherwise provided in subsection (b), any aggrieved person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against the Secretary or the head of any Federal agency

which has a responsibility under this chapter if there is an alleged failure of the Secretary or such agency head to perform any act or duty under this chapter which is not discretionary. The United States district courts shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

##### (b) Notice to Secretary or agency head

No action may be commenced under subsection (a) before the 60th calendar day after the date on which the plaintiff has given notice of such action to the Secretary or the agency head involved. Notice under this subsection shall be given in such manner as the Secretary shall prescribe by rule.

##### (c) Authority of Secretary to intervene

In any action brought under subsection (a), the Secretary, if not a party, may intervene as a matter of right.

##### (d) Costs of litigation

The court, in issuing any final order in any action brought under subsection (a), may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

##### (e) Other remedies to remain available

Nothing in this section shall restrict any right which any aggrieved person (or class of aggrieved persons) may have under any statute or common law to seek enforcement of this chapter or any rule thereunder, or to seek any other relief (including relief against the Secretary or the agency head involved).

(Pub. L. 95-620, title VII, §725, Nov. 9, 1978, 92 Stat. 3335.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (e), 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 D—PRESERVATION OF CONTRACTUAL RIGHTS

#### § 8441. Preservation of contractual interest

##### (a) Right to transfer contractual interests

(1) If any person receives natural gas, the use of which is prohibited by the provisions of subchapter III or any rule or order thereunder, and if such natural gas is received pursuant to a contract in effect on April 20, 1977, between such person and any other person, such person receiving such natural gas may transfer all or any portion of such person's contractual interests under such contract and receive consideration from the person to whom such contractual interests are transferred. The consideration authorized by this subsection shall not exceed the maximum consideration established as just compensation under this section.

<sup>1</sup> So in original. The comma probably should not appear.