

(Pub. L. 105-277, div. A, § 101(e) [title II], Oct. 21, 1998, 112 Stat. 2681-231, 2681-278.)

## REFERENCES IN TEXT

The Energy Policy Act of 1992, referred to in text, is Pub. L. 102-486, Oct. 24, 1992, 106 Stat. 2776, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

## CODIFICATION

Section was enacted as part of Department of the Interior and Related Agencies Appropriations Act, 1999, and also as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and not as part of the National Energy Conservation Policy Act which comprises this chapter.

## SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation act:

Pub. L. 105-83, title II, Nov. 14, 1997, 111 Stat. 1582.

## CHAPTER 92—POWERPLANT AND INDUSTRIAL FUEL USE

### SUBCHAPTER I—GENERAL PROVISIONS

Sec.	
8301.	Findings; statement of purposes.
8302.	Definitions.
8303.	Territorial application.

### SUBCHAPTER II—NEW FACILITIES

#### PART A—PROHIBITIONS

8311.	Coal capability of new electric powerplants; certification of compliance.
8312.	Repealed.

#### PART B—EXEMPTIONS

8321.	Temporary exemptions.
8322.	Permanent exemptions.
8323.	General requirements for exemptions.
8324.	Terms and conditions; compliance plans.

### SUBCHAPTER III—EXISTING FACILITIES

#### PART A—PROHIBITIONS

8341.	Existing electric powerplants.
8342.	Repealed.
8343.	Rules relating to case-by-case and category prohibitions.

#### PART B—EXEMPTIONS

8351.	Temporary exemptions.
8352.	Permanent exemptions.
8353.	General requirements for exemptions.
8354.	Terms and conditions; compliance plans.

### SUBCHAPTER IV—ADDITIONAL PROHIBITIONS; EMERGENCY AUTHORITIES

8371, 8372.	Repealed
8373.	Conservation in Federal facilities, contracts, and financial assistance programs.
8374.	Emergency authorities.
8375.	Repealed.

### SUBCHAPTER V—SYSTEM COMPLIANCE OPTION

8391.	Repealed.
-------	-----------

### SUBCHAPTER VI—FINANCIAL ASSISTANCE

8401.	Assistance to areas impacted by increased coal or uranium production.
8401a.	“Local government” defined.
8402.	Loans to assist powerplant acquisitions of air pollution control equipment.

### SUBCHAPTER VII—ADMINISTRATION AND ENFORCEMENT

#### PART A—PROCEDURES

8411.	Administrative procedures.
-------	----------------------------

Sec.	
8412.	Judicial review.

### PART B—INFORMATION AND REPORTING

8421.	Information.
8422.	Compliance report.

### PART C—ENFORCEMENT

8431.	Notice of violation; other general provisions.
8432.	Criminal penalties.
8433.	Civil penalties.
8434.	Injunctions and other equitable relief.
8435.	Citizens suits.

### PART D—PRESERVATION OF CONTRACTUAL RIGHTS

8441.	Preservation of contractual interest.
-------	---------------------------------------

### PART E—STUDIES

8451.	National coal policy study.
8452.	Repealed.
8453.	Impact on employees.
8454.	Study of compliance problem of small electric utility systems.
8455.	Repealed.
8456.	Socioeconomic impacts of increased coal production and other energy development.
8457.	Use of petroleum and natural gas in combustors.

### PART F—APPROPRIATIONS AUTHORIZATION

8461.	Authorization of appropriations.
-------	----------------------------------

### PART G—COORDINATION WITH OTHER PROVISIONS OF LAW

8471.	Effect on environmental requirements.
8472.	Effect of orders under section 792 of title 15.
8473.	Environmental impact statements under section 4332 of this title.

### SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS

8481, 8482.	Repealed.
8483.	Submission of reports.
8484.	Electric utility conservation plan.

### SUBCHAPTER I—GENERAL PROVISIONS

#### § 8301. Findings; statement of purposes

##### (a) Findings

The Congress finds that—

(1) the protection of public health and welfare, the preservation of national security, and the regulation of interstate commerce require the establishment of a program for the expended<sup>1</sup> use, consistent with applicable environmental requirements, of coal and other alternate fuels as primary energy sources for existing and new electric powerplants; and

(2) the purposes of this chapter are furthered in cases in which coal or other alternate fuels are used by electric powerplants, consistent with applicable environmental requirements, as primary energy sources in lieu of natural gas or petroleum.

##### (b) Statement of purposes

The purpose<sup>2</sup> of this chapter, which shall be carried out in a manner consistent with applicable environmental requirements, are—

(1) to reduce the importation of petroleum and increase the Nation's capability to use indigenous energy resources of the United

<sup>1</sup> So in original. Probably should be “expanded”.

<sup>2</sup> So in original. Probably should be “purposes”.

States to the extent such reduction and use further the goal of national energy self-sufficiency and otherwise are in the best interests of the United States;

(2) to encourage and foster the greater use of coal and other alternate fuels, in lieu of natural gas and petroleum, as a primary energy source;

(3) to the extent permitted by this chapter, to encourage the use of synthetic gas derived from coal or other alternate fuels;

(4) to encourage the rehabilitation and upgrading of railroad service and equipment necessary to transport coal to regions or States which can use coal in greater quantities;

(5) to encourage the modernization or replacement of existing and new electric powerplants which utilize natural gas or petroleum as a primary energy source and which cannot utilize coal or other alternate fuels where to do so furthers the conservation of natural gas and petroleum;

(6) to require that existing and new electric powerplants which utilize natural gas, petroleum, or coal or other alternate fuels pursuant to this chapter comply with applicable environmental requirements;

(7) to insure that all Federal agencies utilize their authorities fully in furtherance of the purposes of this chapter by carrying out programs designed to prohibit or discourage the use of natural gas and petroleum as a primary energy source and by taking such actions as lie within their authorities to maximize the efficient use of energy and conserve natural gas and petroleum in programs funded or carried out by such agencies;

(8) to insure that adequate supplies of natural gas are available for essential agricultural uses (including crop drying, seed drying, irrigation, fertilizer production, and production of essential fertilizer ingredients for such uses);

(9) to reduce the vulnerability of the United States to energy supply interruptions; and

(10) to regulate interstate commerce.

(Pub. L. 95-620, title I, §102, Nov. 9, 1978, 92 Stat. 3291; Pub. L. 100-42, §1(c)(1), May 21, 1987, 101 Stat. 310.)

#### 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 below and Tables.

#### AMENDMENTS

1987—Subsec. (a)(1), (2). Pub. L. 100-42, §1(c)(1)(A), struck out "and major fuel-burning installations" after "electric powerplants".

Subsec. (b)(2). Pub. L. 100-42, §1(c)(1)(B), redesignated par. (3) as (2) and struck out former par. (2) relating to conservation of natural gas and petroleum for uses for which there are no alternatives.

Subsec. (b)(3), (4). Pub. L. 100-42, §1(c)(1)(B), redesignated pars. (4) and (5) as (3) and (4), respectively. Former par. (3) redesignated (2).

Subsec. (b)(5). Pub. L. 100-42, §1(c)(1), redesignated par. (7) as (5) and struck out "and major fuel-burning installations" after "electric powerplants". Former par. (5) redesignated (4).

Subsec. (b)(6). Pub. L. 100-42, §1(c)(1), redesignated par. (8) as (6) and struck out "and major fuel-burning

installations" after "electric powerplants", and struck out former par. (6) which related to prohibition or minimization of use of natural gas and petroleum as a primary energy source.

Subsec. (b)(7) to (10). Pub. L. 100-42, §1(c)(1)(B), redesignated former pars. (9) to (12) as (7) to (10), respectively. Former pars. (7) and (8) redesignated (5) and (6), respectively.

#### EFFECTIVE DATE

Pub. L. 95-620, title IX, §901, Nov. 9, 1978, 92 Stat. 3349, provided that: "Unless otherwise provided in this Act [see Short Title note set out below] the provisions of this Act shall take effect 180 days after the date of the enactment of this Act [Nov. 9, 1978], except that the Secretary may issue rules pursuant to such provisions at any time after such date of enactment, which rules may take effect no earlier than 180 days after such date of enactment."

#### SHORT TITLE

Pub. L. 95-620, title I, §101(a), Nov. 9, 1978, 92 Stat. 3289, provided that: "This Act [enacting this chapter, amending sections 6211 and 7193 of this title, section 796 of Title 15, Commerce and Trade, section 1202 of Title 19, Customs Duties, sections 821, 822 and 825 of Title 45, Railroads, and section 26b of former Title 49, Transportation, and enacting provisions set out as notes under this section and section 822 of Title 45] may be cited as the 'Powerplant and Industrial Fuel Use Act of 1978'."

#### EXEMPTION FOR CERTAIN ELECTRIC POWERPLANTS AND TEMPORARY EXEMPTION ISSUED UNDER SECTION 8321(d) AS EFFECTIVE PRIOR TO 180 DAYS AFTER NOVEMBER 9, 1978

Pub. L. 95-620, title IX, §902, Nov. 9, 1978, 92 Stat. 3349, provided that:

"(a) EXEMPTIONS IN THE CASE OF CERTAIN POWERPLANTS.—In the case of—

"(1) any electric powerplant which, as of April 20, 1977, has received a final decision from the appropriate State agency authorizing the construction of such powerplant, and

"(2) any electric powerplant (A) consisting of one or more combined cycle units owned or operated by an electric utility which serves at least 2,000,000 customers and (B) for which an application has been filed for at least one year before the date of the enactment of this Act [Nov. 9, 1978] with the appropriate State agency for authorization to construct such powerplant,

the Secretary may receive, consider, and grant (or deny) any petition for an exemption under title II or III [subchapters II and III of this chapter] notwithstanding section 901 [section 901 of Pub. L. 95-620, set out as a note above] or the fact that all rules related to such petition have not been prescribed at the time.

"(b) EXEMPTIONS UNDER SECTION 211(d).—The Secretary may receive, consider, and grant (or deny) any petition for any exemption under section 211(d) [section 8321(d) of this title] notwithstanding section 901 [section 901 of Pub. L. 95-620, set out as a note above], or the fact that all rules related to such petition have not been prescribed at the time."

#### § 8302. Definitions

##### (a) Generally

Unless otherwise expressly provided, for the purposes of this chapter—

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "person" means any (A) individual, corporation, company, partnership, association, firm, institution, society, trust, joint venture, or joint stock company, (B) any State, the District of Columbia, Puerto Rico, and any territory or possession of the United