

ral gas covered by paragraph (1) which is used by the person during such annual period.

(3) Repealed. Pub. L. 100-42, §1(c)(2)(H), May 21, 1987, 101 Stat. 310.

(4) For purposes of this subsection, the term "pipeline" means any interstate or intrastate pipeline or local distribution company.

(Pub. L. 95-620, title I, §103, Nov. 9, 1978, 92 Stat. 3292; Pub. L. 100-42, §1(c)(2), May 21, 1987, 101 Stat. 310.)

#### REFERENCES IN TEXT

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

The Clean Air Act, referred to in subsec. (a)(17)(B), 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 Federal Water Pollution Control Act, referred to in subsec. (a)(17)(B), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Solid Waste Disposal Act, referred to in subsec. (a)(17)(B), is title II of Pub. L. 89-272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (a)(17)(B), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

#### AMENDMENTS

1987—Subsec. (a)(13)(B)(ii). Pub. L. 100-42, §1(c)(2)(A), inserted "and" at end of subcl. (I), substituted period for "; or" at end of subcl. (II), and struck out subcl. (III) which read as follows: "in the case of a major fuel-burning installation, without incurring significant operational detriment of the unit (as determined by the Secretary)."

Subsec. (a)(15). Pub. L. 100-42, §1(c)(2)(B), struck out "or major fuel-burning installation" after "electric powerplant".

Subsec. (a)(16). Pub. L. 100-42, §1(c)(2)(C), struck out "or installation" after "any powerplant" in introductory provisions and after "such powerplant" in introductory provisions and subpar. (D).

Subsec. (a)(19). Pub. L. 100-42, §1(c)(2)(D), struck out "or a major fuel-burning installation" after "electric powerplant".

Subsec. (a)(20). Pub. L. 100-42, §1(c)(2)(E), struck out "or major fuel-burning installation" after "life of an electric powerplant".

Subsec. (b)(1). Pub. L. 100-42, §1(c)(2)(F), struck out "or major fuel-burning installation" after "used by a powerplant" in introductory provisions.

Subsec. (b)(1)(D). Pub. L. 100-42, §1(c)(2)(G), substituted a period for ".", except that for purposes of the prohibition under section 8311(2) of this title against powerplants being constructed without the capability of using coal or another alternate fuel, only permits, licenses, and approvals for the construction of such syn-

thetic gas facilities shall be required under this subparagraph to be certified and documented."

Subsec. (b)(2). Pub. L. 100-42, §1(c)(2)(F), struck out "or major fuel-burning installation" after "by any powerplant" in introductory provisions.

Subsec. (b)(3). Pub. L. 100-42, §1(c)(2)(H), struck out par. (3) which read as follows: "In the case of any boiler subject to a prohibition under section 8371 of this title, the preceding provisions of this subsection shall apply with respect to such boiler to the same extent and in the same manner as they apply in the case of major fuel-burning installations."

#### TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

### § 8303. Territorial application

The provisions of this chapter shall only apply within the contiguous 48 States and the District of Columbia.

(Pub. L. 95-620, title I, §104, Nov. 9, 1978, 92 Stat. 3298; Pub. L. 100-42, §1(c)(3), May 21, 1987, 101 Stat. 311.)

#### 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.

#### AMENDMENTS

1987—Pub. L. 100-42 amended section generally. Prior to amendment, section read as follows: "The provisions of this chapter shall apply in all the States, Puerto Rico, and the territories and possessions of the United States, except that—

"(1) the provisions of subchapters II and III of this chapter (other than section 8341 of this title) shall only apply to powerplants and installations situated within the contiguous 48 States, Alaska, and the District of Columbia; and

"(2) the provisions of section 8341 of this title shall only apply to powerplants situated within the contiguous 48 States and the District of Columbia."

### SUBCHAPTER II—NEW FACILITIES

#### PART A—PROHIBITIONS

### § 8311. Coal capability of new electric powerplants; certification of compliance

#### (a) General prohibition

Except to such extent as may be authorized under part B, no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source.

#### (b) Capability to use coal or alternate fuel

An electric powerplant has the capability to use coal or another alternate fuel for purposes of this section if such electric powerplant—

(1) has sufficient inherent design characteristics to permit the addition of equipment (including all necessary pollution devices) necessary to render such electric powerplant capable of using coal or another alternate fuel as its primary energy source; and