

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

(2) is not physically, structurally, or technologically precluded from using coal or another alternate fuel as its primary energy source.

Capability to use coal or another alternate fuel shall not be interpreted to require any such powerplant to be immediately able to use coal or another alternate fuel as its primary energy source on its initial day of operation.

#### (c) Applicability to base load powerplants

(1) This section shall apply only to base load powerplants, and shall not apply to peakload powerplants or intermediate load powerplants.

(2) For the purposes of this section, hours of electrical generation pursuant to emergency situations, as defined by the Secretary and reported to the Secretary, shall not be included in a determination of whether a powerplant is being operated as a base load powerplant.

#### (d) Self-certification

(1) In order to meet the requirement of subsection (a) of this section, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary prior to construction, or prior to operation as a base load powerplant in the case of a new electric powerplant operated as a peakload powerplant or intermediate load powerplant, that such powerplant has capability to use coal or another alternate fuel, within the meaning of subsection (b) of this section. Such certification shall be effective to establish compliance with the requirement of subsection (a) of this section as of the date it is filed with the Secretary. Within 15 days after receipt of a certification submitted pursuant to this paragraph, the Secretary shall publish in the Federal Register a notice reciting that the certification has been filed.

(2) The Secretary, within 60 days after the filing of a certification under paragraph (1), may require the owner or operator of such powerplant to provide such supporting documents as may be necessary to verify the certification.

(Pub. L. 95-620, title II, §201, Nov. 9, 1978, 92 Stat. 3298; Pub. L. 100-42, §1(c)(4)(A), May 21, 1987, 101 Stat. 311.)

#### AMENDMENTS

1987—Pub. L. 100-42 substituted “Coal capability of new electric powerplants; certification of compliance” for “New electric powerplants” in section catchline and amended text generally. Prior to amendment, text read as follows: “Except to such extent as may be authorized under part B—

“(1) natural gas or petroleum shall not be used as a primary energy source in any new electric powerplant; and

“(2) no new electric powerplant may be constructed without the capability to use coal or any other alternate fuel as a primary energy source.”

### § 8312. Repealed. Pub. L. 100-42, §1(a)(1), May 21, 1987, 101 Stat. 310

Section, Pub. L. 95-620, title II, §202, Nov. 9, 1978, 92 Stat. 3298, prohibited, except to extent authorized under part B, use of natural gas or petroleum as primary energy source in new major fuel-burning installation consisting of a boiler, and authorized Secretary to prohibit nonboilers from using natural gas or petroleum.