

- Sec.
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 Repealed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 Repealed.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 Repealed.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.
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 Repealed.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 elec-
tric utility systems.
8455. Repealed.
8456. Socioeconomic impacts of increased coal pro-
duction and other energy development.
8457. Use of petroleum and natural gas in combus-
tors.

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 sec-
tion 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 Repealed.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 wel-
fare, the preservation of national security, and

the regulation of interstate commerce require
the establishment of a program for the ex-
pended¹ use, consistent with applicable envi-
ronmental requirements, of coal and other al-
ternate fuels as primary energy sources for ex-
isting 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 purpose² of this chapter, which shall be
carried out in a manner consistent with applica-
ble environmental requirements, are—

(1) to reduce the importation of petroleum
and increase the Nation's capability to use in-
digenous energy resources of the United
States to the extent such reduction and use
further the goal of national energy self-suffi-
ciency 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 natu-
ral 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 up-
grading of railroad service and equipment nec-
essary to transport coal to regions or States
which can use coal in greater quantities;

(5) to encourage the modernization or re-
placement of existing and new electric power-
plants 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, petro-
leum, or coal or other alternate fuels pursuant
to this chapter comply with applicable envi-
ronmental requirements;

(7) to insure that all Federal agencies utilize
their authorities fully in furtherance of the
purposes of this chapter by carrying out pro-
grams 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 car-
ried out by such agencies;

(8) to insure that adequate supplies of natu-
ral gas are available for essential agricultural
uses (including crop drying, seed drying, irri-
gation, 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.)

¹ So in original. Probably should be "expanded".

² So in original. Probably should be "purposes".

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 States, or (C) any agency or instrumentality (including any municipality) thereof.

(3)(A) Except as provided in subparagraph (B), the term "natural gas" means any fuel consisting in whole or in part of—

- (i) natural gas;
- (ii) liquid petroleum gas;
- (iii) synthetic gas derived from petroleum or natural gas liquids; or
- (iv) any mixture of natural gas and synthetic gas.

(B) The term "natural gas" does not include—

(i) natural gas which is commercially unmarketable (either by reason of quality or quantity), as determined under rules prescribed by the Secretary;

(ii) natural gas produced by the user from a well the maximum efficient production rate of which is less than 250 million Btu's per day;

(iii) natural gas to the extent the exclusion of such gas is provided for in subsection (b) of this section; or

(iv) synthetic gas, derived from coal or other alternate fuel, the heat content of which is less than 600 Btu's per cubic foot at 14.73 pounds per square inch (absolute) and 60 degrees Fahrenheit.

(4) The term "petroleum" means crude oil and products derived from crude oil, other than—

- (A) synthetic gas derived from crude oil;
- (B) liquid petroleum gas;
- (C) liquid, solid, or gaseous waste byproducts of refinery operations which are commercially unmarketable, either by reason of quality or quantity, as determined under rules prescribed by the Secretary; or
- (D) petroleum coke or waste gases from industrial operations.

(5) The term "coal" means anthracite and bituminous coal, lignite, and any fuel derivative thereof.

(6) The term "alternate fuel" means electricity or any fuel, other than natural gas or petroleum, and includes—