

without the capability of using coal or another alternate fuel, shall not take effect until all approvals required by such State regulatory authority which relate to construction have been obtained; and

“(2) to the extent it applies to the prohibition under section 8311(1) of this title against the use of natural gas or petroleum as a primary energy source, shall not take effect until all approvals required by such State regulatory authority which relate to construction or operation have been obtained.”

Subsec. (c)(1). Pub. L. 100-42, §1(c)(7)(A), in introductory provisions struck out “or (g)” after “section 8322(c)”.

**EXEMPTION FOR CERTAIN ELECTRIC POWERPLANTS AS EFFECTIVE PRIOR TO 180 DAYS AFTER NOVEMBER 9, 1978**

For effectiveness of exemption for certain electric powerplants as prior to 180 days after Nov. 9, 1978, see section 902(a) of Pub. L. 95-620, set out as a note under section 8301 of this title.

**§ 8324. Terms and conditions; compliance plans**

**(a) Terms and conditions generally**

Any exemption from any prohibition under this part shall be on such terms and conditions as the Secretary determines appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of this chapter. In the case of any temporary exemption, the terms and conditions (which may include a compliance plan meeting the requirements of subsection (b) of this section) shall be designed to insure that upon the expiration of such exemption, the persons and powerplant covered by such exemption will comply with the applicable prohibitions.

**(b) Compliance plans**

A compliance plan meets the requirements of this subsection if it is approved by the Secretary and—

(1) contains (A) a schedule indicating how compliance with applicable prohibitions of this chapter will occur and (B) evidence of binding contracts for fuel, or facilities for the production of fuel, which would allow or<sup>1</sup> such compliance; and

(2) is revised at such times and to such extent as the Secretary may require to reflect changes in circumstances.

(Pub. L. 95-620, title II, §214, Nov. 9, 1978, 92 Stat. 3304; Pub. L. 100-42, §1(c)(8), May 21, 1987, 101 Stat. 312.)

**REFERENCES IN TEXT**

This chapter, referred to in subsecs. (a) and (b)(1)(A), 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 struck out “or installation” after “powerplant”.

**EXEMPTION FOR CERTAIN ELECTRIC POWERPLANTS AS EFFECTIVE PRIOR TO 180 DAYS AFTER NOVEMBER 9, 1978**

For effectiveness of exemption for certain electric powerplants as prior to 180 days after Nov. 9, 1978, see

section 902(a) of Pub. L. 95-620, set out as a note under section 8301 of this title.

**SUBCHAPTER III—EXISTING FACILITIES**

**PART A—PROHIBITIONS**

**§ 8341. Existing electric powerplants**

**(a) Certification by powerplants of coal capability**

At any time, the owner or operator of an existing electric powerplant may certify to the Secretary, for purposes of subsection (b) of this section—

(1) whether or not such powerplant has or previously had the technical capability to use coal or another alternate fuel as a primary energy source;

(2) whether or not such powerplant could have the technical capability to use coal or another alternate fuel as a primary energy source without having—

(A) substantial physical modification of the powerplant, or

(B) substantial reduction in the rated capacity of the powerplant; and

(3) whether or not it is financially feasible to use coal or another alternate fuel as a primary energy source in such a powerplant.

**(b) Authority of Secretary to prohibit where coal or alternate fuel capability exists**

The Secretary may prohibit, in accordance with section 8343(a) or (b) of this title, the use of petroleum or natural gas, or both, as a primary energy source in any existing electric powerplant, if an affirmative certification under subsection (a)(1), (2), and (3) of this section is in effect with respect to such powerplant and if, after examining the basis for the certification, the Secretary concurs with the certification.

**(c) Authority of Secretary to prohibit excessive use in mixtures**

At any time, the owner or operator of an existing electric powerplant may certify to the Secretary for purposes of this subsection whether or not it is technically and financially feasible to use a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source in that powerplant. If an affirmative certification under this subsection is in effect with respect to such powerplant and if, after examining the basis for the certification, the Secretary concurs with the certification, the Secretary may prohibit, in accordance with section 8343(a) of this title, the use of petroleum or natural gas, or both, in such powerplant in amounts in excess of the minimum amount necessary to maintain reliability of operation of the unit consistent with maintaining reasonable fuel efficiency of such mixture.

**(d) Amendment of subsection (a) and (c) certifications**

The owner or operator of any such powerplant may at any time amend any certification under subsection (a) or (c) of this section in order to take into account changes in relevant facts and circumstances; except that no such amendment to such a certification may be made after the date of any final prohibition under subsection

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