

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) 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) 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 (b) or (c) based on that certification.

(Pub. L. 95-620, title III, §301, as added Pub. L. 97-35, title X, §1021(a), Aug. 13, 1981, 95 Stat. 614.)

PRIOR PROVISIONS

A prior section 8341, Pub. L. 95-620, title III, §301, Nov. 9, 1978, 92 Stat. 3305, related to existing electric powerplants, prior to repeal by Pub. L. 97-35, title X, §1021(a), Aug. 13, 1981, 95 Stat. 614.

EFFECTIVE DATE

Section effective Aug. 13, 1981, see section 1038 of Pub. L. 97-35, set out as an Effective Date of 1981 Amendment note under section 6240 of this title.

VALIDITY OF ORDERS UNDER FORMER PROVISIONS OF THIS SECTION

Pub. L. 97-35, title X, §1022, Aug. 13, 1981, 95 Stat. 616, provided that:

“(a) The amendments made by section 1021 to section 301(b) and (c) of the Powerplant and Industrial Fuel Use Act of 1978 [subsecs. (b) and (c) of this section] shall not apply to any electric powerplant for which a final order was issued pursuant to section 301(b) or (c) of such Act before the date of the enactment of this Act [Aug. 13, 1981].

“(b) Any electric powerplant issued a proposed order under section 301(b) or (c) of such Act which is pending on the date of the enactment of this Act may elect not to have the amendments made by section 1021 to such section 301(b) or (c) apply with respect to that powerplant. Such an election shall be irrevocable and shall be made in such form and manner as the Secretary of Energy shall, within 45 days after the date of the enactment of this Act, prescribe. Such an election shall be made not later than 60 days after the date on which the Secretary of Energy prescribes the form and manner of making such election.

“(c)(1) The amendments made by section 1021 shall not affect the validity of any final order issued under section 301(b) or (c) of the Powerplant and Industrial Fuel Use Act of 1978 before the date of the enactment of this Act.

“(2) The validity of any proposed order issued under such section 301(b) or (c) shall not be affected in the case of powerplants covered by elections made under subsection (b).

“(3) The authority of the Secretary of Energy to amend, repeal, rescind, modify, or enforce any order referred to in paragraph (1) or (2), or rules applicable thereto, shall remain in effect notwithstanding any such amendments.”

§ 8342. Repealed. Pub. L. 100-42, § 1(a)(2), May 21, 1987, 101 Stat. 310

Section, Pub. L. 95-620, title III, §302, Nov. 9, 1978, 92 Stat. 3306, authorized Secretary to prohibit use of petroleum or natural gas as primary energy source in existing major fuel-burning installations having coal or alternate fuel capability and, in installations in which mixtures of petroleum or natural gas and coal or other alternate fuels are found feasible, to prohibit excessive use of petroleum or natural gas in such mixtures.

§ 8343. Rules relating to case-by-case and category prohibitions

(a) Case-by-case prohibitions

(1) Except to the extent authorized by subsection (b), the Secretary shall prohibit any powerplant from using natural gas or petroleum under the authority granted him under section 8341(b) or (c) of this title only by means of a final order issued by him which shall be limited to the particular powerplant involved.

(2) The Secretary may issue such a final order only with respect to a powerplant which is not, at the time the proposed order is issued, covered by a final rule issued under section¹ (b).

(b) Prohibitions applicable to categories of facilities

(1) The Secretary may prohibit, by rule, the use of natural gas or petroleum under section 8341(b) of this title in existing electric powerplants.

(2) Each powerplant to be covered by any final rule issued under this subsection shall be specifically identified in the proposed rule published under section 8411(b) of this title.

¹ So in original. Probably should be “subsection”.