

Public Law 100-42
100th Congress

An Act

May 21, 1987

[H.R. 1941]

To repeal and amend certain sections of the Powerplant and Industrial Fuel Use Act of 1978.

Energy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF CERTAIN SECTIONS OF THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978.

(a) **IN GENERAL.**—The following provisions of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) are repealed:

- (1) Section 202 (42 U.S.C. 8312).
- (2) Section 302 (42 U.S.C. 8342).
- (3) Section 401 (42 U.S.C. 8371).
- (4) Section 402 (42 U.S.C. 8372).
- (5) Section 405 (42 U.S.C. 8375).
- (6) Title V (42 U.S.C. 8391).
- (7) Section 801 (42 U.S.C. 8481).

(b) **CLERICAL AMENDMENT.**—The table of contents in section 101(b) of the Powerplant and Industrial Fuel Use Act of 1978 is amended by striking the items relating to the provisions repealed by subsection (a) of this section.

(c) **CONFORMING AMENDMENTS.**—(1) Section 102 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301) is amended—

(A) by striking “and major fuel-burning installations” wherever it appears; and

(B) in subsection (b), by striking paragraphs (2) and (6) and redesignating paragraphs (3), (4), (5), (7), (8), (9), (10), (11), and (12) as paragraphs (2), (3), (4), (5), (6), (7), (8), (9), and (10), respectively.

(2) Section 103 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8302) is amended—

(A) in subsection (a)(13)(B)—

(i) by striking clause (ii)(III);

(ii) by striking “; or” at the end of clause (ii)(II) and inserting a period; and

(iii) by inserting “and” at the end of clause (ii)(I);

(B) in subsection (a)(15), by striking “or major fuel-burning installation”;

(C) in subsection (a)(16), by striking “or installation” each place it appears;

(D) in subsection (a)(19), by striking “or a major fuel-burning installation”;

(E) in subsection (a)(20), by striking “or major fuel-burning installation”;

(F) in subsection (b), by striking “or major fuel-burning installation” wherever it appears;

(G) in subsection (b)(1)(D), by striking all after “synthetic gas involved” and inserting a period; and

(H) by striking subsection (b)(3).

(3) Section 104 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8303) is amended to read as follows:

"SEC. 104. TERRITORIAL APPLICATION.

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

(4)(A) Section 201 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8311) is amended to read as follows:

"SEC. 201. COAL CAPABILITY OF NEW ELECTRIC POWERPLANTS; CERTIFICATION OF COMPLIANCE.

"(a) **GENERAL PROHIBITION.**—Except to such extent as may be authorized under subtitle 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), 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). Such certification shall be effective to establish compliance with the requirement of subsection (a) 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."

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publication.

(B) The item relating to section 201 in the table of contents in section 101(b) of the Powerplant and Industrial Fuel Use Act of 1978 is amended to read as follows:

"Sec. 201. Coal capability of new electric powerplants; certification of compliance."

(5) Section 211 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8321) is amended—

(A) by striking "or installation from one or more of" and inserting "from" each place it appears;

(B) by striking "or installation" wherever it appears;

(C) in subsection (a)(1), by striking "using imported petroleum" and inserting "the fuel that would be used";

(D) in subsection (a)(3), by striking "or 202"; and

(E) by striking subsections (c) and (d).

(6) Section 212 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8322) is amended—

(A) by striking "or installation from one or more of" each place it appears and inserting "from";

(B) by striking "or installation" each place it appears;

(C) in subsection (a)(1)(A), by striking "using imported petroleum" and inserting "the fuel that would be used";

(D) in subsection (a)(2), by striking all that follows "paragraph (1) shall" through "new electric powerplant,";

(E) by striking subsection (a)(3);

(F) in subsection (b)(2), by striking "in the case of a powerplant,";

(G) in subsection (d)—

(i) by striking "(1)" after the subsection heading;

(ii) by striking paragraph (2); and

(iii) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(H) by striking subsections (g), (h), (i), and (j).

(7) Section 213 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8323) is amended—

(A) in subsections (a) and (c)(1), by striking "or (g)";

(B) in subsection (a), by striking "or installation"; and

(C) by amending subsection (b) to read as follows:

"(b) STATE APPROVAL REQUIRED FOR POWERPLANT.—If the appropriate State regulatory authority has not approved a powerplant for which a petition has been filed, such exemption, to the extent it applies to the prohibition under section 201 against construction 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."

(8) Section 214(a) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8324(a)) is amended by striking "or installation".

(9) Section 303 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8343) is amended—

(A) by striking "or installation" and "or installations" wherever they appear;

(B) in subsection (a)(1) by striking "or 302";

(C) by striking subsection (a)(3);

(D) by amending subsection (b)(1) to read as follows:

"(1) The Secretary may prohibit, by rule, the use of natural gas or petroleum under section 301(b) in existing electric powerplants."; and

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(E) by amending the last sentence of subsection (b)(3) to read as follows: "Any such rules shall not apply in the case of any existing electric powerplant with respect to which a comparable prohibition was issued by order."

(10) Subtitle B of title III of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8351-8354) is amended by striking "or installation" each place it appears.

(11) Section 311(a)(3) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8351(a)(3)) is amended by striking "or 302".

(12) Section 312 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8352) is amended—

(A) by striking subsection (d)(2);

(B) in subsection (d)(3), by striking "In the case of an existing electric powerplant, the" and inserting "The"; and

(C) by striking subsections (j), (k), and (l).

(13) Section 313(a) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8353(a)) is amended by striking "(i), or (j)" and inserting "or (i)".

(14) Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8373) is amended—

(A) in subsection (a)(1), by striking ", major fuel-burning installation, or other unit" and ", installation, or unit";

(B) in subsection (a)(2), by striking ", installation, or other unit" and ", installation, or unit";

(C) in subsection (a)(2), by striking the last sentence; and

(D) by striking subsection (a)(3).

(15) Section 404 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8374) is amended by striking subsection (g).

(16) Section 701 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8411) is amended—

(A) in subsection (b), by striking "(other than under section 402)" and "or installation";

(B) in subsection (c)—

(i) by striking "or permit" each place it appears;

(ii) by striking "or for any permit under section 405," in paragraph (1);

(iii) by striking "or, where appropriate, major fuel-burning installation" in paragraph (2); and

(iv) by striking paragraph (4);

(C) in the first sentence of subsection (d)(1)—

(i) by striking "(or permit)"; and

(ii) by striking "(other than under section 402)";

(D) in subsection (f), by striking "402 or" both places it appears; and

(E) by striking subsection (g).

(17) Section 711 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8421) is amended by striking in the first sentence of subsection (a), "or major fuel-burning installation".

(18) Section 721 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8431) is amended by striking subsection (c).

(19) Section 722 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8432) is amended by striking "(other than section 402)".

(20) Section 723 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8433) is amended—

(A) in subsection (a), by striking "(other than section 402)";

(B) in subsection (b), by striking "(1)"; and

(C) by striking subsections (b)(2) and (c).

(21) Section 731 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8441) is amended—

(A) in subsections (a)(1) and (g)(3), by striking “title II or”; and

(B) in subsection (e)(1), by striking “or major fuel-burning installation” and “or major fuel burning installation”.

(22) Section 745 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8455) is amended by striking in the first sentence of subsection (a) “and major fuel-burning installations”.

(23) Section 761(a) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8471(a)) is amended by striking “or major fuel-burning installation”.

(24) Section 763 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8473) is amended—

(A) by striking “or major fuel-burning installation” each place it appears; and

(B) by striking paragraph (2)(B).

Natural gas.

SEC. 2. REPEAL OF INCREMENTAL PRICING REQUIREMENTS.

(a) **REPEAL.**—Subject to subsections (b) and (c) of this section, title II of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341-3348) is repealed, and the items relating to title II are stricken from the table of contents of that Act.

15 USC 3341
note.

(b) **LIMITED CONTINUING EFFECT OF RULES.**—A rule promulgated by the Federal Energy Regulatory Commission, under title II of the Natural Gas Policy Act of 1978 shall continue in effect only with respect to the flowthrough of costs incurred before the enactment of this section, including any surcharges based on such costs.

15 USC 3341
note.

(c) **IMPLEMENTATION.**—The Federal Energy Regulatory Commission may take appropriate action to implement this section.

Approved May 21, 1987.

LEGISLATIVE HISTORY—H.R. 1941 (S. 85):

HOUSE REPORTS: No. 100-78 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 100-30 accompanying S. 85 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 133 (1987):

May 4, considered and passed House.

May 7, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):

May 21, Presidential remarks.