

**§ 8353. General requirements for exemptions****(a) Use of mixtures or fluidized bed combustion not feasible**

Except in the case of an exemption under section 8352(b), (f), or (i) of this title, the Secretary may grant a permanent exemption for a powerplant under this part only—

(1) if the applicant has demonstrated that the use of a mixture of natural gas or petroleum and coal (or other alternate fuels), for which an exemption under section 8352(b) of this title would be available, is not economically or technically feasible; and

(2) if the Secretary has not made a finding that the use of a method of fluidized bed combustion of coal or an alternate fuel is economically and technically feasible.

**(b) No alternative power supply in case of a powerplant**

(1) In the case of an exemption under section 8352(b) or (g) of this title, the Secretary may not grant an exemption for an existing powerplant unless he finds that the petitioner has demonstrated that there is no alternative supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service and which can be obtained by the petitioner, despite reasonable good faith efforts.

(2) The Secretary shall forward a copy of any such petition to the Federal Energy Regulatory Commission promptly after it is filed with the Secretary and shall consult with the Commission before making any finding on such petition under paragraph (1).

(Pub. L. 95-620, title III, §313, Nov. 9, 1978, 92 Stat. 3313; Pub. L. 100-42, §1(c)(10), (13), May 21, 1987, 101 Stat. 313.)

**Editorial Notes**

## AMENDMENTS

1987—Subsec. (a). Pub. L. 100-42, §1(c)(13), struck out “or installation” after “powerplant” in introductory provisions.

Pub. L. 100-42, §1(c)(10), which directed the substitution of “or (i)” for “(i), or (j)” was executed by making the substitution for “(i) or (j)” to reflect the probable intent of Congress.

**Statutory Notes and Related Subsidiaries**

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.

**§ 8354. 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)) 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 prohibition of this chapter will occur and (B) evidence of binding contracts for fuel, or facilities for the production of fuel, which would allow for 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 III, §314, Nov. 9, 1978, 92 Stat. 3314; Pub. L. 100-42, §1(c)(10), May 21, 1987, 101 Stat. 313.)

**Editorial Notes**

## 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”.

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**SUBCHAPTER IV—ADDITIONAL PROHIBITIONS; EMERGENCY AUTHORITIES****§§ 8371, 8372. Repealed. Pub. L. 100-42, §1(a)(3), (4), May 21, 1987, 101 Stat. 310**

Section 8371, Pub. L. 95-620, title IV, §401, Nov. 9, 1978, 92 Stat. 3314, authorized Secretary to prohibit by order the use of natural gas as primary energy source in existing boilers used for space heating purposes which consume 300 Mcf or more natural gas per day and have capability to use petroleum as primary energy source, and in new boilers to be used for space heating purposes which would be capable of consuming 300 Mcf or more of natural gas per day.

Section 8372, Pub. L. 95-620, title IV, §402, Nov. 9, 1978, 92 Stat. 3315; Pub. L. 97-35, title X, §1024, Aug. 13, 1981, 95 Stat. 617, prohibited installation of outdoor lighting fixtures using natural gas before Nov. 9, 1978, phased out distribution of natural gas to be used in outdoor lighting other than that installed for residential use before Nov. 9, 1978, and required distributors of natural gas to disseminate information to customers to discourage use of natural gas for outdoor lighting.