

Department of Energy

§ 504.9

petroleum or natural gas, or both, in amounts exceeding the minimum amount necessary to maintain reliability of operation consistent with maintaining reasonable fuel efficiency of the mixture.

(b) In making the technical feasibility finding required by former section 301 (b) and (c) of the Act and paragraph (a) of this section, OFP may weigh “physical modification” or “de-rating of the unit,” but these considerations, by themselves, will not control the technical feasibility finding. A technical feasibility finding might be made notwithstanding the need for substantial physical modification. The economic consequences of a substantial physical modification are taken into account in determining financial feasibility.

(Energy Supply and Environmental Coordination Act of 1974, Pub. L. 93-319, as amended by Pub. L. 94-163, Pub. L. 95-70, and 15 U.S.C. 719 *et seq.*; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3269 (42 U.S.C. 8301 *et seq.*); Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35); E.O. 12009, 42 FR 46267, Sept. 15, 1977)

[47 FR 17045, Apr. 21, 1982, and 47 FR 50850, Nov. 10, 1982]

§ 504.8 Prohibitions against excessive use of petroleum or natural gas in mixtures—certifying powerplants.

(a) In the case of certifying powerplants, OFP may prohibit the use of petroleum or natural gas in such powerplant in amounts exceeding the minimum amount necessary to maintain reliability of operation consistent with maintaining the reasonable fuel efficiency of the mixture. This authority is contained in section 301(c) of the Act, as amended. The owner or operator of the powerplant may certify at any time to OFP that it is technically capable and financially feasible for the unit to use a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source. In assessing whether the unit is technically capable of using a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source, for purposes of this section, the extent of any physical modification necessary to convert the unit

and any concomitant reduction in rated capacity are not relevant factors. So long as a unit as proposed to be modified would be technically capable of using the mixture as a primary energy source under § 504.6(c), this certification requirement shall be deemed met. The criteria for certification of financial feasibility are found at § 504.6(f). In addition, the powerplant's owner or operator must submit a prohibition compliance schedule, which meets the requirements of § 504.5(d).

(b) If OFP concurs with the certification, a prohibition order against the unit's excessive use of petroleum or natural gas in the mixture will be issued following the procedure outlined in § 501.52 of these regulations.

(c) The petitioner may seek to amend its certification in order to take into account changes in relevant facts and circumstances by following the procedure contained in § 501.52(d).

NOTE: The authority of OFP implemented under this section should not be confused with the other two fuel mixture provisions of these regulations. One is the general requirement that petitioners for permanent exemptions demonstrate that the use of a mixture of natural gas or petroleum and an alternate fuel is not economically or technically feasible (See § 504.15). The second is the permanent fuel mixtures exemption itself (See § 504.56).

(Approved by the Office of Management and Budget under control number 1903-0077)

(Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 *et seq.*); Energy Supply and Environmental Coordination Act of 1974, Pub. L. 93-319, as amended by Pub. L. 94-163, Pub. L. 95-70, and Pub. L. 95-620 (15 U.S.C. 719 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, as amended by Pub. L. 97-35 (42 U.S.C. 8301 *et seq.*); Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35)

[47 FR 17045, Apr. 21, 1982]

§ 504.9 Environmental requirements for certifying powerplants.

Under §§ 501.52, 504.5 and 504.6 of these regulations, OFP may prohibit, in accordance with section 301 and section 303 (a) or (b) of FUA, as amended, the use of natural gas or petroleum, or both, as a primary energy source in any certifying powerplant. Under sections 301(c) and 303(a) of FUA, as amended, and §§ 501.52, 504.6, and 504.8 of