

§ 8235b. Applications for approval of plans for prototype residential energy efficiency programs

Each application for the approval of a plan under section 8235a(a) of this title for the establishment of a prototype residential energy efficiency program shall be submitted by a State or local government and shall include, at least—

(1) a description of the plan, including the provisions of the plan specified in section 8235a(a) of this title and a description of the portion of the service area of the public utility proposing to enter into a contract under section 8235a(a)(1) of this title which is designated under the contract;

(2) a description of the manner in which the provisions of the plan specified in section 8235a(a) of this title are to be met;

(3) a description of the contract to be entered into pursuant to section 8235a(a)(1) of this title and the manner in which the requirements of the contract contained in section 8235a(b) of this title are to be met;

(4) the record of the public hearing conducted pursuant to section 8235c(a)(2) of this title; and

(5) any other information determined by the Secretary to be necessary to carry out this part.

(Pub. L. 95-619, title II, §263, as added Pub. L. 96-294, title V, §562, June 30, 1980, 94 Stat. 748.)

§ 8235c. Approval of applications for plans for prototype residential energy efficiency programs

(a) Approval requirements

The Secretary may approve an application submitted under section 8235b of this title for a plan establishing a prototype residential energy efficiency program only if—

(1) the application is approved in writing—

(A) by the public utility which is to enter into the contract under the plan;

(B) by the State regulatory authority having ratemaking authority over such public utility, in the case of a regulated utility; and

(C) by the Governor (or any State agency specifically authorized under State law to approve such plans) of the State whose government is submitting the application (if the application is submitted by a State government) or of the State in which the local government is located (if the application is submitted by a local government); and

(2) the application has been published, a public hearing on the application has been conducted, after notice to the public, at which representatives of the public utility which is to enter into the contract under the plan, persons engaged in the supply or installation of residential energy conservation measures, and members of the public (including ratepayers of such public utility and other interested individuals) had an opportunity to provide comment on the application, and any amendments to the application, which may be made to take into account the proceedings of the hearing, are made.

(b) Factors in approving applications

The Secretary shall take into consideration in approving an application under subsection (a) of this section for a plan establishing a prototype residential energy efficiency program—

(1) the potential for energy savings from the demonstration of the program;

(2) the likelihood that the value of the energy saved by public utilities under the program will be sufficient to cover the estimated cost of the energy conservation measures to be supplied and installed under the program;

(3) the anticipated effects of the program on competition in the portion of the service area of the public utility designated in the contract entered into under the plan; and

(4) such other factors as the Secretary determines are appropriate.

(Pub. L. 95-619, title II, §264, as added Pub. L. 96-294, title V, §562, June 30, 1980, 94 Stat. 748.)

§ 8235d. Rules and regulations

(a) Proposed rules and regulations

The Secretary shall issue proposed rules and regulations to carry out this part not later than 120 days after June 30, 1980.

(b) Final rules and regulations

The Secretary shall issue final rules and regulations to carry out this part not later than 90 days after the issuance of proposed rules and regulations under subsection (a) of this section.

(Pub. L. 95-619, title II, §265, as added Pub. L. 96-294, title V, §562, June 30, 1980, 94 Stat. 749.)

§ 8235e. Authority of Federal Energy Regulatory Commission to exempt application of certain laws

The Federal Energy Regulatory Commission may exempt from any provisions in sections 4, 5, and 7 of the Natural Gas Act (15 U.S.C. 717c, 717d, and 717f) and titles II and IV of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341 through 3348 and 3391 through 3394) the sale or transportation, by any public utility, local distribution company, interstate or intrastate pipeline, or any other person, of any natural gas which is determined (in the case of a regulated utility, company, pipeline, or person) by the State regulatory authority having rate-making authority over such utility, company, pipeline, or person, or (in the case of a nonregulated utility, company, pipeline, or person) by such utility, company, pipeline, or person, to have been conserved because of a prototype residential energy efficiency program which is established under a plan approved under section 8235a(a) of this title, if the Commission determines that such exemption is necessary to make feasible the demonstration of such prototype residential energy efficiency program.

(Pub. L. 95-619, title II, §266, as added Pub. L. 96-294, title V, §562, June 30, 1980, 94 Stat. 749; amended Pub. L. 105-388, §5(c)(4), Nov. 13, 1998, 112 Stat. 3479.)

REFERENCES IN TEXT

The Natural Gas Policy Act of 1978, referred to in text, is Pub. L. 95-621, Nov. 9, 1978, 92 Stat. 3350, as

amended. Title II of the Natural Gas Policy Act of 1978 was classified generally to subchapter II (§3341 et seq.) of chapter 60 of Title 15, Commerce and Trade, prior to its repeal by Pub. L. 100-42, §2(a), May 21, 1987, 101 Stat. 314. Title IV of the Natural Gas Policy Act of 1978 is classified generally to subchapter IV (§3391 et seq.) of chapter 60 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of Title 15 and Tables.

AMENDMENTS

1998—Pub. L. 105-388 substituted “(15 U.S.C. 717c” for “(17 U.S.C. 717c”.

§ 8235f. Application of other laws

(a) Lack of immunity

No provision contained in this part—

(1) shall restrict any agency of the United States or any State from exercising its powers under any law to prevent unfair methods of competition and unfair or deceptive acts or practices;

(2) shall provide to any person any immunity from civil or criminal liability;

(3) shall create any defenses to actions brought under the antitrust laws; or

(4) shall modify or abridge any private right of action under the antitrust laws.

(b) Utility programs under part A

Any public utility entering into a contract under a plan for the establishment of a prototype residential energy efficiency program approved under section 8235a(a) of this title shall not be required to carry out, with respect to any residential building located in the portion of the utility's service area designated in the contract, the actions required to be contained in such utility's program by subsections (a) and (b) of section 8216¹ of this title, if the contract requires such actions (or equivalent actions as determined by the Secretary) to be taken.

(c) “Antitrust laws” defined

For purposes of this section, the term “antitrust laws” means—

(1) the Sherman Act (15 U.S.C. 1 et seq.);

(2) the Clayton Act (15 U.S.C. 12 et seq.);

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9); and

(5) sections 2, 3, and 4 of the Act entitled “An Act to amend section 2 of the Act entitled ‘An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes’, approved October 15, 1914, as amended (U.S.C., title 15, sec. 13), and for other purposes” approved June 19, 1936 (15 U.S.C. 21a, 13a, and 13b, commonly known as the Robinson-Patman Antidiscrimination Act).

(Pub. L. 95-619, title II, §267, as added Pub. L. 96-294, title V, §562, June 30, 1980, 94 Stat. 749.)

REFERENCES IN TEXT

Section 8216 of this title, referred to in subsec. (b), was omitted from the Code pursuant to section 8229 of this title, which terminated authority under that section June 30, 1989.

¹ See References in Text note below.

The Sherman Act (15 U.S.C. 1 et seq.), referred to in subsec. (c)(1), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Clayton Act (15 U.S.C. 12 et seq.), referred to in subsec. (c)(2), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.), referred to in subsec. (c)(3), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

§ 8235g. Records and reports

(a) Records

Each State and local government submitting any application for a plan which is approved under section 8235a(a) of this title, and each public utility and person or persons entering into a contract under such a plan, shall keep such records and make such reports as the Secretary may require. The Secretary and the Comptroller General of the United States shall have access, at reasonable times and under reasonable conditions, to any books, documents, papers, records, and reports of each such State and local government, utility, and person or persons which the Secretary determines, in consultation with the Comptroller General of the United States, are pertinent to this part.

(b) Reports

The Secretary shall make an annual report to the President on the activities carried out under this part which shall be submitted to the Congress with the annual report on the activities of the Department of Energy required by section 7267 of this title and which shall contain—

(1) an estimate of the total amount of energy saved as a result of the activities carried out under this part;

(2) an estimate of the annual savings in energy anticipated as a result of each prototype residential energy efficiency program established under a plan approved under section 8235a(a) of this title;

(3) an analysis, developed in consultation with the Federal Trade Commission and the Department of Justice, of the impact on competition of each prototype residential energy efficiency program established under a plan approved under section 8235a(a) of this title; and

(4) if the Secretary determines that it is appropriate, an analysis of the impact of expanding the approval of plans under section 8235a(a) of this title to establish prototype residential energy efficiency programs, and the provision of financial assistance to such programs, on a national basis and an assessment of the alternative methods by which such an expansion could be accomplished.

(Pub. L. 95-619, title II, §268, as added Pub. L. 96-294, title V, §562, June 30, 1980, 94 Stat. 750.)