

**(b) Wage rates; work limitations of reservoir projects employees**

Any person employed in any reservoir project enacted and funded pursuant to the implementation of section 3116(c)(1) of this title, or in any other job created pursuant to implementation of this chapter, shall, subject to any limitations on maximum annual compensation as may be provided in the law authorizing such programs, be paid not less than the pay received by others performing the same type of work for the same employer, and in no case less than the minimum wage under the Fair Labor Standards Act of 1938 [29 U.S.C. 201 et seq.]. No person employed in any reservoir project enacted and funded pursuant to implementation of section 3116(c)(1) of this title shall perform work of the type to which sections 3141–3144, 3146, and 3147 of title 40 apply, except as otherwise may be specifically authorized by law.

**(c) Recommendations of President**

Any recommendation by the President for legislation to implement any program enacted pursuant to the provisions of this chapter, requiring the use of funds under this chapter, and submitted pursuant to the requirements of this chapter, shall contain appropriate wage provisions based upon existing wage standard legislation.

(Pub. L. 95–523, title IV, §402, Oct. 27, 1978, 92 Stat. 1908.)

## REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see References in Text note set out under section 3102 of this title.

The Fair Labor Standards Act, referred to in subsec. (b), is act June 25, 1938, ch. 676. 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29, and Tables.

## CODIFICATION

“Sections 3141–3144, 3146, and 3147 of title 40 apply” substituted in subsec. (b) for “the Davis-Bacon Act (40 U.S.C. 276a–276a–5) applies” on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

**CHAPTER 59—RETAIL POLICIES FOR NATURAL GAS UTILITIES**

Sec.	
3201.	Purposes; coverage.
3202.	Definitions.
3203.	Adoption of certain standards.
3204.	Special rules for standards.
3205.	Federal participation.
3206.	Gas utility rate design proposals.
3207.	Judicial review and enforcement.
3208.	Relationship to other applicable law.
3209.	Reports respecting standards.
3210.	Prior and pending proceedings.
3211.	Relationship to other authority.

**§ 3201. Purposes; coverage****(a) Purposes**

The purposes of this chapter are to encourage—

- (1) conservation of energy supplied by gas utilities;

- (2) the optimization of the efficiency of use of facilities and resources by gas utility systems; and

- (3) equitable rates to gas consumers of natural gas.

**(b) Volume of total retail sales**

This chapter applies to each gas utility in any calendar year, and to each proceeding relating to each gas utility in such year, if the total sales of natural gas by such utility for purposes other than resale exceeded 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

**(c) Exclusion of wholesale sales**

The requirements of this chapter do not apply to the operations of a gas utility, or to proceedings respecting such operations, to the extent that such operations or proceedings relate to sales of natural gas for purposes of resale.

**(d) List of covered utilities**

Before the beginning of each calendar year, the Secretary shall publish a list identifying each gas utility to which this chapter applies during such calendar year. Promptly after publication of such list, each State regulatory authority shall notify the Secretary of each gas utility on the list for which such State regulatory authority has ratemaking authority.

(Pub. L. 95–617, title III, §301, Nov. 9, 1978, 92 Stat. 3149.)

## DEFINITIONS

The definition of Secretary in section 2602 of Title 16, Conservation, applies to this section.

**§ 3202. Definitions**

For purposes of this chapter—

- (1) The term “gas consumer” means any person, State agency, or Federal agency, to which natural gas is sold other than for purposes of resale.

- (2) The term “gas utility” means any person, State agency, or Federal agency, engaged in the local distribution of natural gas, and the sale of natural gas to any ultimate consumer of natural gas.

- (3) The term “State regulated gas utility” means any gas utility with respect to which a State regulatory authority has ratemaking authority.

- (4) The term “nonregulated gas utility” means any gas utility other than a State regulated gas utility.

- (5) The term “rate” means any (A) price, rate, charge, or classification made, demanded, observed, or received with respect to sale of natural gas to a gas consumer, (B) any rule, regulation, or practice respecting any such rate, charge, or classification, and (C) any contract pertaining to the sale of natural gas to a gas consumer.

- (6) The term “ratemaking authority” means authority to fix, modify, approve, or disapprove rates.

- (7) The term “sale” when used with respect to natural gas, includes an exchange of natural gas.

(8) The term “State regulatory authority” means any State agency which has rate-making authority with respect to the sale of natural gas by any gas utility (other than by such State agency).

(9) The term “integrated resource planning” means, in the case of a gas utility, planning by the use of any standard, regulation, practice, or policy to undertake a systematic comparison between demand-side management measures and the supply of gas by a gas utility to minimize life-cycle costs of adequate and reliable utility services to gas consumers. Integrated resource planning shall take into account necessary features for system operation such as diversity, reliability, dispatchability, and other factors of risk and shall treat demand and supply to gas consumers on a consistent and integrated basis.

(10) The term “demand-side management” includes energy conservation, energy efficiency, and load management techniques.

(Pub. L. 95-617, title III, §302, Nov. 9, 1978, 92 Stat. 3150; Pub. L. 102-486, title I, §115(a), Oct. 24, 1992, 106 Stat. 2803.)

#### AMENDMENTS

1992—Pars. (9), (10). Pub. L. 102-486 added pars. (9) and (10).

#### ADDITIONAL DEFINITIONS

Except as otherwise specifically provided, the definitions in section 2602 of Title 16, Conservation, apply to this chapter.

### § 3203. Adoption of certain standards

#### (a) Adoption of standards

Not later than 2 years after November 9, 1978 (or after October 24, 1992, in the case of standards under paragraphs (3),<sup>1</sup> and (4) of subsection (b)), each State regulatory authority (with respect to each gas utility for which it has rate-making authority) and each nonregulated gas utility shall provide public notice and conduct a hearing respecting the standards established by subsection (b), and, on the basis of such hearing, shall—

(1) adopt the standard established by subsection (b)(1), if, and to the extent, such authority or nonregulated utility determines that such adoption is appropriate and is consistent with otherwise applicable State law, and

(2) adopt the standards established by paragraphs (2), (3)<sup>2</sup> (4), (5), and (6) of subsection (b), if, and to the extent, such authority or nonregulated utility determines that such adoption is appropriate to carry out the purposes of this chapter, is otherwise appropriate, and is consistent with otherwise applicable State law.

For purposes of any determination under paragraphs (1) and (2) and any review of such determination in any court under section 3207 of this title, the purposes of this chapter supplement State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated

utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

#### (b) Establishment

The following Federal standards are hereby established:

##### (1) Procedures for termination of natural gas service

No gas utility may terminate natural gas service to any gas consumer except pursuant to procedures described in section 3204(a) of this title.

##### (2) Advertising

No gas utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 3204(b) of this title.

##### (3) Integrated resource planning

Each gas utility shall employ, in order to provide adequate and reliable service to its gas customers at the lowest system cost. All plans or filings of a State regulated gas utility before a State regulatory authority to meet the requirements of this paragraph shall (A) be updated on a regular basis, (B) provide the opportunity for public participation and comment, (C) provide for methods of validating predicted performance, and (D) contain a requirement that the plan be implemented after approval of the State regulatory authority. Subsection (c) shall not apply to this paragraph to the extent that it could be construed to require the State regulatory authority to extend the record of a State proceeding in submitting reports to the Federal Government.

##### (4) Investments in conservation and demand management

The rates charged by any State regulated gas utility shall be such that the utility's prudent investments in, and expenditures for, energy conservation and load shifting programs and for other demand-side management measures which are consistent with the findings and purposes of the Energy Policy Act of 1992 are at least as profitable (taking into account the income lost due to reduced sales resulting from such programs) as prudent investments in, and expenditures for, the acquisition or construction of supplies and facilities. This objective requires that (A) regulators link the utility's net revenues, at least in part, to the utility's performance in implementing cost-effective programs promoted by this section; and (B) regulators ensure that, for purposes of recovering fixed costs, including its authorized return, the utility's performance is not affected by reductions in its retail sales volumes.

##### (5) Energy efficiency

Each natural gas utility shall—

(A) integrate energy efficiency resources into the plans and planning processes of the natural gas utility; and

(B) adopt policies that establish energy efficiency as a priority resource in the plans

<sup>1</sup> So in original. The comma probably should not appear.

<sup>2</sup> So in original. A comma probably should appear.