

(4) the term “odorized propane” means propane which has had odorant added to it;

(5) the term “producer” means the owner of propane at the time it is recovered at a gas processing plant or refinery;

(6) the term “propane” means a hydrocarbon whose chemical composition is predominantly C³H⁸, whether recovered from natural gas or crude oil, and includes liquefied petroleum gases and mixtures thereof;

(7) the term “public member” means a member of the Council, other than a representative of producers or retail marketers, representing significant users of propane, public safety officials, academia, the propane research community, or other groups knowledgeable about propane;

(8) the term “qualified industry organization” means the National Propane Gas Association, the Gas Processors Association, a successor association of such associations, or a group of retail marketers or producers who collectively represent at least 25 percent of the volume of propane sold or produced in the United States;

(9) the term “retail marketer” means a person engaged primarily in the sale of odorized propane to the ultimate consumer or to retail propane dispensers;

(10) the term “retail propane dispenser” means a person who sells odorized propane to the ultimate consumer but is not engaged primarily in the business of such sales; and

(11) the term “Secretary” means the Secretary of Energy.

(Pub. L. 104-284, §3, Oct. 11, 1996, 110 Stat. 3370.)

§ 6403. Referenda

(a) Creation of program

The qualified industry organizations may conduct, at their own expense, a referendum among producers and retail marketers for the creation of a Propane Education and Research Council. The Council, if established, shall reimburse the qualified industry organizations for the cost of the referendum accounting and documentation. Such referendum shall be conducted by an independent auditing firm agreed to by the qualified industry organizations. Voting rights in such referendum shall be based on the volume of propane produced or odorized propane sold in the previous calendar year or other representative period. Upon approval of those persons representing two-thirds of the total volume of propane voted in the retail marketer class and two-thirds of all propane voted in the producer class, the Council shall be established, and shall be authorized to levy an assessment on odorized propane in accordance with section 6405 of this title. All persons voting in the referendum shall certify to the independent auditing firm the volume of propane represented by their vote.

(b) Termination

On the Council’s own initiative, or on petition to the Council by producers and retail marketers representing 35 percent of the volume of propane in each class, the Council shall, at its own expense, hold a referendum, to be conducted by an independent auditing firm selected by the

Council, to determine whether the industry favors termination or suspension of the Council. Termination or suspension shall not take effect unless it is approved by persons representing more than one-half of the total volume of odorized propane in the retail marketer class and more than one-half of the total volume of propane in the producer class, or is approved by persons representing more than two-thirds of the total volume of propane in either such class.

(Pub. L. 104-284, §4, Oct. 11, 1996, 110 Stat. 3371.)

§ 6404. Propane Education and Research Council

(a) Selection of members

The qualified industry organizations shall select all retail marketer, public, and producer members of the Council. The producer organizations shall select the producer members of the Council, the retail marketer organizations shall select retail marketer members, and all qualified industry organizations shall jointly select the public members. Vacancies in unfinished terms of Council members shall be filled in the same manner as were the original appointments.

(b) Representation

In selecting members of the Council, the qualified industry organizations shall give due regard to selecting a Council that is representative of the industry, including representation of—

- (1) gas processors and oil refiners among producers;
- (2) interstate and intrastate operators among retail marketers;
- (3) large and small companies among producers and retail marketers, including agricultural cooperatives; and
- (4) diverse geographic regions of the country.

(c) Membership

The Council shall consist of 21 members, with 9 members representing retail marketers, 9 members representing producers, and 3 public members. Other than the public members, Council members shall be full-time employees or owners of businesses in the industry or representatives of agricultural cooperatives. No employee of a qualified industry organization or other industry trade association shall serve as a member of the Council, and no member of the Council may serve concurrently as an officer of the Board of Directors of a qualified industry organization or other industry trade association. Only one person at a time from any company or its affiliate may serve on the Council.

(d) Compensation

Council members shall receive no compensation for their services, nor shall Council members be reimbursed for expenses relating to their service, except that public members, upon request, may be reimbursed for reasonable expenses directly related to their participation in Council meetings.

(e) Terms

Council members shall serve terms of 3 years and may serve not more than 2 full consecutive terms. Members filling unexpired terms may serve not more than a total of 7 consecutive