

years. Former members of the Council may be returned to the Council if they have not been members for a period of 2 years. Initial appointments to the Council shall be for terms of 1, 2, and 3 years, staggered to provide for the selection of 7 members each year.

(f) Functions

The Council shall develop programs and projects and enter into contracts or agreements for implementing this chapter, including programs to enhance consumer and employee safety and training, to train propane distributors and consumers in strategies to mitigate negative effects of future propane price spikes, to provide for research and development of clean and efficient propane utilization equipment, to inform and educate the public about safety and other issues associated with the use of propane, and to provide for the payment of the costs thereof with funds collected pursuant to this chapter. The Council shall coordinate its activities with industry trade association and others as appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities.

(g) Use of funds

Not less than 5 percent of the funds collected through assessments pursuant to this chapter shall be used for programs and projects intended to benefit the agriculture industry in the United States. The Council shall coordinate its activities in this regard with agriculture industry trade associations and other organizations representing the agriculture industry. The percentage of funds collected through assessments pursuant to this chapter to be used for projects relating to the use of propane as an over-the-road motor fuel shall not exceed the percentage of the total market for odorized propane that is used as a motor vehicle fuel, based on the historical average of such use over the previous 3-year period.

(h) Priorities

Issues related to research and development, safety, education, and training shall be given priority by the Council in the development of its programs and projects.

(i) Administration

The Council shall select from among its members a Chairman and other officers as necessary, may establish committees and subcommittees of the Council, and shall adopt rules and bylaws for the conduct of business and the implementation of this chapter. The Council shall establish procedures for the solicitation of industry comment and recommendations on any significant plans, programs, and projects to be funded by the Council. The Council may establish advisory committees of persons other than Council members.

(j) Administrative expenses

(1) The administrative expenses of operating the Council (not including costs incurred in the collection of the assessment pursuant to section 6406 of this title) plus amounts paid under paragraph (2) shall not exceed 10 percent of the funds collected in any fiscal year.

(2) The Council shall annually reimburse the Secretary for costs incurred by the Federal Gov-

ernment relating to the Council, except that such reimbursement for any fiscal year shall not exceed the amount that the Secretary determines is the average annual salary of two employees of the Department of Energy.

(k) Budget

Before August 1 each year, the Council shall publish for public review and comment a budget plan for the next calendar year, including the probable costs of all programs, projects, and contracts and a recommended rate of assessment sufficient to cover such costs. Following this review and comment, the Council shall submit the proposed budget to the Secretary and to the Congress. The Secretary may recommend programs and activities the Secretary considers appropriate.

(l) Records; audits

The Council shall keep minutes, books, and records that clearly reflect all of the acts and transactions of the Council and make public such information. The books of the Council shall be audited by a certified public accountant at least once each fiscal year and at such other times as the Council may designate. Copies of such audit shall be provided to all members of the Council, all qualified industry organizations, and to other members of the industry upon request. The Secretary shall receive notice of meetings and may require reports on the activities of the Council, as well as reports on compliance, violations, and complaints regarding the implementation of this chapter.

(m) Public access to Council proceedings

(1) All meetings of the Council shall be open to the public after at least 30 days advance public notice.

(2) The minutes of all meetings of the Council shall be made available to and readily accessible by the public.

(n) Annual report

Each year the Council shall prepare and make publicly available a report which includes an identification and description of all programs and projects undertaken by the Council during the previous year as well as those planned for the coming year. Such report shall also detail the allocation or planned allocation of Council resources for each such program and project.

(Pub. L. 104-284, §5, Oct. 11, 1996, 110 Stat. 3371; Pub. L. 113-269, §2(a), Dec. 18, 2014, 128 Stat. 2947.)

AMENDMENTS

2014—Subsec. (f). Pub. L. 113-269 inserted “to train propane distributors and consumers in strategies to mitigate negative effects of future propane price spikes,” after “to enhance consumer and employee safety and training.”.

§ 6405. Assessments

(a) Amount

The Council shall set the initial assessment at no greater than one tenth of 1 cent per gallon of odorized propane. Thereafter, annual assessments shall be sufficient to cover the costs of the plans and programs developed by the Council. The assessment shall not be greater than

one-half cent per gallon of odorized propane, unless approved by a majority of those voting in a referendum in both the producer and the retail marketer class. In no case may the assessment be raised by more than one tenth of 1 cent per gallon of odorized propane annually.

(b) Ownership

The owner of odorized propane at the time of odorization, or the time of import of odorized propane, shall make the assessment based on the volume of odorized propane sold and placed into commerce. Assessments collected are payable to the Council on a monthly basis by the 25th of the month following the month of such collection. Propane exported from the United States to another country is not subject to the assessment.

(c) Alternative collection rules

The Council may establish an alternative means of collecting the assessment if another means is found to be more efficient and effective. The Council may establish a late payment charge and rate of interest to be imposed on any person who fails to remit or pay to the Council any amount due under this chapter.

(d) Investment of funds

Pending disbursement pursuant to a program, plan, or project, the Council may invest funds collected through assessments, and any other funds received by the Council, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(e) State programs

The Council shall establish a program coordinating the operation of the Council with those of any State propane education and research council created by State law or regulation, or similar entity. Such coordination shall include a joint or coordinated assessment collection process, a reduced assessment, or an assessment rebate. A reduced assessment or rebate shall be 20 percent of the regular assessment collected in that State under this section. Assessment rebates shall be paid only to—

- (1) a State propane education and research council created by State law or regulation that meets requirements established by the Council for specific programs approved by the Council; or
- (2) a similar entity, such as a foundation established by the retail propane gas industry in that State, that meets requirements established by the Council for specific programs approved by the Council.

(Pub. L. 104-284, §6, Oct. 11, 1996, 110 Stat. 3374.)

§ 6406. Compliance

The Council may bring suit in Federal court to compel compliance with an assessment levied by the Council under this chapter. A successful action for compliance under this section may also require payment by the defendant of the costs incurred by the Council in bringing such action.

(Pub. L. 104-284, §7, Oct. 11, 1996, 110 Stat. 3374.)

§ 6407. Lobbying restrictions

No funds collected by the Council shall be used in any manner for influencing legislation or elections, except that the Council may recommend to the Secretary changes in this chapter or other statutes that would further the purposes of this chapter.

(Pub. L. 104-284, §8, Oct. 11, 1996, 110 Stat. 3375.)

§ 6408. Market survey and consumer protection

(a) Price analysis

Beginning 2 years after establishment of the Council and annually thereafter, the Secretary of Commerce, using the refiner price to end users of consumer grade propane, as published by the Energy Information Administration and other public sources, shall prepare and make available to the Council, the Secretary of Energy, and the public an analysis of changes in the price of propane relative to other energy sources. The propane price analysis shall compare indexed changes in the price of consumer grade propane to a composite of indexed changes in the price of residential electricity, residential natural gas, and refiner price to end users of No. 2 fuel oil on an annual national average basis. For purposes of indexing changes in consumer grade propane, residential electricity, residential natural gas, and end user No. 2 fuel oil prices, the Secretary of Commerce shall use a 5-year rolling average price beginning with the year 4 years prior to the establishment of the Council.

(b) Authority to restrict activities

If in any year the 5-year average rolling price index of consumer grade propane exceeds the 5-year rolling average price composite index of residential electricity, residential natural gas, and refiner price to end users of No. 2 fuel oil in an amount greater than 10.1 percent, the activities of the Council shall be restricted to research and development, training, and safety matters. The Council shall inform the Secretary of Energy and the Congress of any restriction of activities under this subsection. Upon expiration of 180 days after the beginning of any such restriction of activities, the Secretary of Commerce shall again conduct the propane price analysis described in subsection (a). Activities of the Council shall continue to be restricted under this subsection until the price index excess is 10.1 percent or less.

(Pub. L. 104-284, §9, Oct. 11, 1996, 110 Stat. 3375; Pub. L. 113-269, §2(b), Dec. 18, 2014, 128 Stat. 2947.)

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-269 substituted “the refiner price to end users of consumer grade propane, as published by the Energy Information Administration” for “only data provided by the Energy Information Administration”.

§ 6409. Pricing

In all cases, the price of propane shall be determined by market forces. Consistent with the antitrust laws, the Council may take no action,