

CHAPTER 1
IOWA PROPANE EDUCATION AND RESEARCH COUNCIL

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

599—1.1(101C) Definitions. As used in these rules, unless the context otherwise requires:

“*Council*” means the Iowa propane education and research council established pursuant to Iowa Code Supplement section 101C.3.

“*Education*” means any activity designed to provide consumers and members of the propane industry information regarding propane, propane equipment, mechanical and technical practices, and uses of propane.

“*Energy star certification*” means meeting energy efficiency standards and guidelines pursuant to the Energy Star Program developed and jointly administered by the United States Environmental Protection Agency and United States Department of Energy.

“*Fire marshal*” means the state fire marshal as provided in Iowa Code section 100.1.

“*Odorized propane*” means propane to which an odorant has been added.

“*Propane*” means a hydrocarbon with a chemical composition that is predominately C₃H₈, whether recovered from natural gas or crude oil, and includes liquefied petroleum gases and mixtures.

“*Propane industry*” means those persons involved in the production, transportation, and sale of propane, and in the manufacture and distribution of propane utilization equipment.

“*Propane industry trade association*” means an organization exempt from tax under Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code that represents the propane industry.

“*Qualified propane industry organization*” means the Iowa Propane Gas Association or any other similarly constituted industry trade association that represents at least 35 percent of the total volume of odorized propane sold at retail in this state.

“*Research*” means any type of study, investigation, program, or other activity designed to advance the image, desirability, usage, marketability, efficiency, or safety of propane or to further the development of information related to such activities.

“*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.

“*Retail propane marketer*” means a person engaged primarily in the sale of odorized propane to the ultimate consumer or to a retail propane dispenser.

“*Weatherization*” means activities designed to promote or enhance energy efficiency in a residence or other building including but not limited to the installation of attic, wall, foundation, crawlspace, water heater, and pipe insulation; air sealing including caulking and weather-stripping of windows and doors; installation of windows and doors that qualify for energy star certification; the performance of home energy audits; programmable thermostat installation; and carbon monoxide and radon inspection and detection system installation.

[ARC 8350B, IAB 12/2/09, effective 1/6/10]

599—1.2(101C) Organization and operation.

1.2(1) The council shall consist of ten voting members appointed by the fire marshal, nine of whom represent retail propane marketers and one of whom shall be the administrator of the division of community action agencies of the department of human rights. Qualified propane industry organizations shall together nominate all members of the council other than the administrator. A vacancy in the unfinished term of a council member shall be filled for the remainder of the term in the same manner as the original appointment was made.

1.2(2) Other than the administrator, council members shall be full-time employees or owners of a propane industry business or representatives of an agricultural cooperative actively engaged in the propane industry. An employee of a qualified propane industry organization shall not serve as a member of the council. An officer of the board of directors of a qualified propane industry organization or propane industry trade association shall not serve concurrently as a member of the council.

1.2(3) In nominating members of the council, qualified propane industry organizations shall give due consideration to nominating council members who are representative of the propane industry, including representation of all of the following:

- a. Interstate and intrastate retail propane marketers.
- b. Large and small retail propane marketers, including agricultural cooperatives.
- c. Diverse geographic regions of the state.

1.2(4) The fire marshal or a designee may serve as an ex officio, nonvoting member of the council.

1.2(5) The following persons shall be ex officio, nonvoting members of the council designated for three-year terms as follows:

- a. A professional firefighter designated by the Iowa Association of Professional Fire Chiefs.
- b. A volunteer firefighter designated by the Iowa Firemen's Association.
- c. An experienced plumber involved in plumbing training programs designated by the Iowa State Building and Construction Trades Council.
- d. A heating, ventilation, and air conditioning professional involved in heating, ventilation, and air conditioning training programs designated by the Iowa State Building and Construction Trades Council.
- e. A community college instructor with experience in conducting fire safety programs designated by the Iowa Association of Community College Presidents.
- f. A representative of a property and casualty insurance company with experience in insuring sellers of propane gas designated by the Iowa Insurance Institute.

1.2(6) A council member, other than the administrator, shall not receive compensation for the council member's service and shall not be reimbursed for expenses relating to the council member's service.

1.2(7) A member of the council shall not be a salaried employee of the council or of any organization or agency which receives funds from the council.

1.2(8) A council member shall serve a term of three years and shall not serve more than two full consecutive terms. A council member filling an unexpired term may serve not more than a total of seven consecutive years. A former council member may be appointed to the council if the former member has not been a member of the council for a period of at least two years.

1.2(9) Initial appointments to the council shall be for terms of one, two, and three years that are staggered to provide for the future appointment of at least two members each year.

1.2(10) The voting members of the council shall select a chairperson and other officers as necessary from the voting members and shall adopt rules and bylaws for the conduct of business and the implementation of this chapter. The council may establish committees and subcommittees comprised of members of the council and may establish advisory committees comprised of persons other than council members. The council shall establish procedures for the solicitation of propane industry comments and recommendations regarding any significant plans, programs, or projects to be funded by the council.

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599—1.3(101C) Program and project development and implementation.

1.3(1) The council shall develop programs and projects, including programs to enhance consumer and employee safety and training, and enter into agreements for administering such programs and projects as provided in this chapter; provide for research and development of clean and efficient propane utilization equipment; inform and educate the public about safety and other issues associated with the use of propane; and develop programs and projects that provide assistance to persons who are eligible for the low-income home energy assistance program.

1.3(2) The council may develop energy efficiency programs dedicated to weatherization, acquisition and installation of energy-efficient customer appliances that qualify for energy star certification, installation of low-flow faucets and showerheads, and energy efficiency education. The council may by rule establish quality standards in relation to weatherization and appliance installation.

1.3(3) The programs and projects shall be developed to attain equitable geographic distribution of their benefits to the fullest extent practicable. The council shall coordinate its programs and projects with propane industry trade associations and others as the council deems appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities. The council shall give priority to the development of programs and projects related to research and development, safety, education, and training.

1.3(4) At the beginning of each fiscal year, the council shall prepare a budget plan for the next fiscal year, including the probable cost of all programs, projects, and contracts to be undertaken. The council shall submit the proposed budget to the fire marshal for review and comment. The fire marshal may recommend appropriate programs, projects, and activities to be undertaken by the council.

1.3(5) The council shall also perform the functions required of a state organization under the federal Propane Education and Research Act of 1996, be the repository of funds received under that Act, and separately account for those funds. The council shall coordinate the operation of the program with the federal council as contemplated by 15 U.S.C. Section 6405. These rules shall be administered and construed as complementary to the federal Propane Education and Research Act of 1996, 15 U.S.C. Section 6401 et seq. These rules shall not be construed to preempt or supersede any other program relating to propane education and research organized and operated under the laws of this state.

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599—1.4(101C) Records, audits and public access to information.

1.4(1) The council shall keep minutes, books, and records that clearly reflect all of the acts and transactions of the council which are public records open to public inspection. The books and records shall indicate the geographic areas where benefits were conferred by each individual program or project in detail sufficient to reflect the degree to which each program or project attained equitable geographic distribution of its benefits. 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. The cost of the audit shall be paid by the council. Copies of the audit shall be provided to all council members, to all qualified propane industry organizations, and to other members of the propane industry upon request. In addition, a copy of the audit and a report detailing the programs and projects conducted by the council and containing information reflecting the degree to which equitable geographic distribution of the benefits of each program or project was attained shall be submitted each fiscal year to the chief clerk of the house of representatives and the secretary of the senate.

1.4(2) The council shall prepare and submit an annual report to the fire marshal and the auditor of state summarizing the activities of the council conducted pursuant to this chapter. The report shall show all income, expenses, and other relevant information concerning assessments collected and expended under these rules. The report shall also include a summary of energy efficiency programs if developed by the council.

1.4(3) The council is subject to the open meeting requirements of Iowa Code chapter 21.

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599—1.5(101C) Funding, assessments collection and investment procedures.

1.5(1) The council and its activities shall be funded by an annual assessment of one-tenth of one cent on each gallon of odorized propane sold.

1.5(2) The owner of odorized propane at the time of odorization or at the time of import shall calculate the amount of the assessment based on the volume of odorized propane sold for use in this state.

1.5(3) The assessment, when made, shall be listed as a separate line item on the bill of sale for the odorized propane and titled "Iowa propane education and research assessment."

1.5(4) Assessments shall be collected by the owner from purchasers of the odorized propane and shall be paid by the owner to the council on a monthly basis by the twenty-fifth day of the month following the month the assessment was collected.

1.5(5) If payment is not made to the council by the due date as required by this subrule, an interest penalty of 1 percent of any amount unpaid shall be imposed against the owner for each month or fraction of a month after the due date, until final payment is made.

1.5(6) Assessments shall be remitted payable to the Iowa Propane Education and Research Council at P.O. Box 57188, Des Moines, Iowa 50317. A completed form for remission, provided by the council upon request, shall accompany the remittance.

1.5(7) Pending the disbursement of assessments collected, the council shall invest moneys collected through assessments and any other moneys received by the council in any of the following:

- a. Obligations of the United States or any agency of the United States.

- b. General obligations of any state or political subdivision of any state.
- c. Any interest-bearing account or certificate of deposit of a bank that is a member of the federal reserve system.
- d. Obligations that are fully guaranteed as to principal and interest by the United States.

599—1.6(101C) Termination of the council. On the council's own initiative or on petition to the council by retail propane marketers representing 35 percent of the volume of odorized propane sold in this state, the council shall, at its own expense, arrange for a referendum to be conducted by an independent auditing firm agreed upon by the retail propane marketers, to determine whether the council should be terminated or suspended. Voting rights in the referendum shall be based on the volume of odorized propane sold in this state by each retail propane marketer during the previous calendar year. Each retail propane marketer voting in the referendum shall certify to the independent auditing firm the volume of odorized propane sold by that person as represented by that person's vote. Upon the approval of those retail propane marketers representing more than one-half of the total volume of odorized propane sold in this state, the council shall be terminated or suspended and the general assembly shall consider the repeal of this chapter during its next regular session.

599—1.7(101C) Enforcement, restricted activities and bonding.

1.7(1) The district court is vested with the jurisdiction specifically to enforce this chapter and to prevent or restrain any person from violating this chapter. A successful action for compliance may also require payment by the defendant of the costs incurred by the council in bringing the action.

1.7(2) Moneys collected by the council shall not be used in any manner for influencing legislation or elections, except that the council may recommend statutory changes that would further the purposes of these rules to the general assembly.

1.7(3) In all cases, the price of propane shall be determined by market forces. Consistent with antitrust laws, the council shall not take any action regarding, and this chapter shall not be interpreted as establishing, an agreement to pass along to consumers the cost of the assessment provided for in Iowa Code Supplement section 101C.4.

1.7(4) Any person occupying a position of trust under any provision of these rules shall provide a bond in an amount required by the council. The costs of obtaining the bond shall be paid out of council funds.

599—1.8(101C) Not a state agency. The Iowa propane education and research council is not a state agency.

599—1.9(101C) Penalty. A person who willfully violates the provisions of these rules or willfully renders or furnishes a false or fraudulent report, statement, or record required by the fire marshal pursuant to this chapter is guilty of a simple misdemeanor.

These rules are intended to implement Iowa Code Supplement chapter 101C.

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