

PROPANE EDUCATION AND RESEARCH ACT OF 1996

JUNE 27, 1996.—Ordered to be printed

Mr. BLILEY, from the Committee on Commerce,
submitted the following

R E P O R T

[To accompany H.R. 1514]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 1514) to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Propane Education and Research Act of 1996”.

SEC. 2. FINDINGS.

The Congress finds that—

- (1) propane gas, or liquefied petroleum gas, is an essential energy commodity providing heat, hot water, cooking fuel, and motor fuel among its many uses to millions of Americans;
- (2) the use of propane is especially important to rural citizens and farmers, offering an efficient and economical source of gas energy;
- (3) propane has been recognized as a clean fuel and can contribute in many ways to reducing the pollution in our cities and towns; and
- (4) propane is primarily domestically produced and its use provides energy security and jobs for Americans.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

- (1) the term “Council” means a Propane Education and Research Council created pursuant to section 4 of this Act;
- (2) the term “industry” means those persons involved in the production, transportation, and sale of propane, and in the manufacture and distribution of propane utilization equipment, in the United States;
- (3) the term “industry trade association” means an organization exempt from tax, under section 501(c)(3) or (6) of the Internal Revenue Code of 1986, representing the propane industry;
- (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 C^3H^8 , 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.

SEC. 4. 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 6. 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.

SEC. 5. 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 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 Act, including programs to enhance consumer and employee safety and training, 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 Act. 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 Act 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 Act 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 Act. 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 7) 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 Government 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 Act.

(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.

SEC. 6. 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 Act.

(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.

SEC. 7. COMPLIANCE.

The Council may bring suit in Federal court to compel compliance with an assessment levied by the Council under this Act. 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.

SEC. 8. 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 Act or other statutes that would further the purposes of this Act.

SEC. 9. MARKET SURVEY AND CONSUMER PROTECTION.

(a) **PRICE ANALYSIS.**—Beginning 2 years after establishment of the Council and annually thereafter, the Secretary of Commerce, using only data provided 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.

SEC. 10. 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, nor may any provision of this Act be interpreted as establishing an agreement to pass along to consumers the cost of the assessment provided for in section 6.

SEC. 11. RELATION TO OTHER PROGRAMS.

Nothing in this Act may be construed to preempt or supersede any other program relating to propane education and research organized and operated under the laws of the United States or any State.

SEC. 12. REPORTS.

Within 2 years after the date of enactment of this Act, and at least once every 2 years thereafter, the Secretary of Commerce shall prepare and submit to the Congress and the Secretary a report examining whether operation of the Council, in conjunction with the cumulative effects of market changes and Federal programs, has had an effect on propane consumers, including residential, agriculture, process, and nonfuel users of propane. The Secretary of Commerce shall consider and, to the extent practicable, shall include in the report submissions by propane consumers, and shall consider whether there have been long-term and short-term effects on propane prices as a result of Council activities and Federal programs, and whether there have been changes in the proportion of propane demand attributable to various market segments. To the extent that the report demonstrates that there has been an adverse effect, the Secretary of Commerce shall include recommendations

for correcting the situation. Upon petition by affected parties or upon request by the Secretary of Energy, the Secretary of Commerce may prepare and submit the report required by this section at less than 2-year intervals.

PURPOSE AND SUMMARY

H.R. 1514 authorizes the Secretary of Energy to establish a propane check-off program similar to agriculture check-off programs. The purpose of the check-off program is to create and provide funding for the Propane Education and Research Council (PERC). Under the bill, PERC would be authorized to spend the money on propane education, research and development of propane utilization equipment, and to inform and educate the public about safety and other issues associated with the use of propane. The bill provides for 21 Council members, consisting of nine representing retail marketers, nine representing producers, and three members of the public.

The check-off program and the Council cannot be established unless a majority of the propane industry votes to create the Council. Specifically, the bill directs qualified industry organizations to conduct a referendum among propane producers and retail marketers to determine if such a program is wanted by the industry. Two-thirds of both the producers and marketers must vote in favor of this program in order for the program to be established. A majority vote by both groups or a two-thirds vote by the combined groups could terminate the program.

Once the program is established, the Council is allowed to assess a fee from owners of odorized propane at the time of odorization or at the time of import based on the volume of odorized propane sold and placed into commerce. The initial amount of fees to be collected is 1/10 of one cent per gallon. However, this amount can rise 1/10 of one cent per year until the fee collects up to 1/2 cent per gallon. Thus, within five years, this assessment could be 1/2 cent per gallon.

Funds collected through the assessment may be used to fund consumer and employee propane safety and training programs, research and development of propane utilization equipment and for public education (including advertising) on safety and other issues associated with the use of propane. The bill requires that not less than five percent of the funds collected shall be used for programs designed to benefit the agriculture industry. In addition, funds for projects relating to the use of propane as an alternative motor vehicle fuel shall not exceed the percentage of total market for odorized propane that is used as a motor vehicle fuel for the prior three years.

Importantly, no funds collected through the fee can be used to lobby Congress. The bill also prohibits use of the funds for advertising if the price of propane goes up a disproportionate amount relative to other energy sources. The Secretary of Commerce is also directed to prepare a report for Congress every two years examining the effect the operation of the Council is having on propane consumers.

Finally, the Council may bring suit in Federal court to compel compliance with the Act.

BACKGROUND AND NEED FOR LEGISLATION

Propane is a fuel source derived primarily from natural gas. It is used in a variety of ways including: (1) as a feedstock in chemical processes; (2) as an alternative motor fuel; (3) for recreational uses; and (4) as an energy source for millions of homes and farms. Propane is the fourth most-used fuel in America and is one of the most clean-burning fossil fuels. The bulk of the propane currently used in the U.S. is domestically produced. However, almost no Federal funds are spent on researching alternative uses for propane. Thus, the propane check-off program established by this bill allows the industry to join together to conduct education, research and development, and safety and advertising programs which most individual propane businesses cannot afford to support on their own.

HEARINGS

The Subcommittee on Energy and Power held a hearing on H.R. 1514 on October 26, 1995. Three witnesses testified at the hearing: Mr. Charles R. Revere, Revere Gas and Appliance, on behalf of the National Propane Gas Association; Mr. William A. Haliburton, Jr., Gas Processors Association; and Mr. Paul Culver, Farmland Industries, Incorporated.

COMMITTEE CONSIDERATION

On March 15, 1996, the Subcommittee on Energy and Power met in open markup session and approved H.R. 1514, the Propane Research and Education Act, for Full Committee consideration, without amendment, by a voice vote.

On April 16, 1996, the Full Committee met in open markup session and ordered H.R. 1514 reported to the House, as amended, by a voice vote.

ROLLCALL VOTES

Clause 2(l)(2)(B) of rule XI of the Rules of the House requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. There were no recorded votes taken in connection with ordering H.R. 1514 reported or in adopting the amendment. The voice votes taken in Committee are as follows:

Bill: H.R. 1514, Propane Education and Research Act.

Amendment: Amendment by Mr. Tauzin re: technical amendment to provide adequate reimbursement of costs to the Federal government for oversight and administration of the program.

Disposition: Agreed to, by a voice vote.

Motion: Motion by Mr. Bliley to order H.R. 1514, as amended, reported to the House.

Disposition: Agreed to, by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee held a legislative hearing and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform and Oversight.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee finds that H.R. 1514 would result in no new or increased budget authority or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 3, 1996.

Hon. THOMAS J. BLILEY, Jr.,
*Chairman, Committee on Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1514, the Propane Education and Research Act of 1995, as ordered reported by the House Committee on Commerce on April 16, 1996. Based on information from the Natural Gas Processors Association and the National Propane Gas Association, we estimate that enacting this bill would result in no net budget impact. However, enacting this bill would affect both direct spending and receipts; therefore, pay-as-you-go procedures would apply.

This bill does not contain any intergovernmental mandates as defined by Public Law 104-4. The bill would impose a private sector mandate on owners and importers of odorized propane sold for commercial use.

Bill purpose.—H.R. 1514 would authorize propane industry organizations to conduct a referendum among producers and retail marketers to determine if a Propane Education and Research Council should be established. If there is sufficient industry support, this Council would be established to promote enhanced safety, training, research and development, and safety education in the propane gas industry. The Council would be funded through an assessment of up to one-tenth of 1 cent per gallon of propane sold in the retail market. Funds collected through this assessment would be available to fund the Council's programs without further appropriation by the Congress. The bill would allow the propane assessment to be changed or terminated if there is sufficient industry support.

Federal budgetary impact.—For purposes of this estimate, we assume that the industry will vote to establish the Propane Education and Research Council, and that the propane assessment will be set at one-tenth of 1 cent per gallon of propane sold. CBO believes that the cash flows related to the Propane Education and Research Council should appear on budget as governmental receipts and direct spending because the payments between companies would stem from exercise of the sovereign power of the federal government. Based on recent industry data on the amount of propane sold in the United States retail market, we estimate this assessment would result in governmental receipts of about \$9 million annually. We assume the Council would expend these same funds annually, so that enactment of this bill would have no net budget impact for each year.

Mandates statement.—The bill does not contain any intergovernmental mandates as defined by Public Law 104–4, and might result in increased funding for state propane education and research councils. If approved by the propane industry, the Council could opt to transfer a portion of the assessment it collects to these state-level councils.

This bill would impose a private sector mandate on owners and importers of odorized propane sold for commercial use. The mandate would be imposed if the propane producers and retail marketers vote favorably on a referendum to establish a Propane Education and Research Council. The Council would establish an assessment not greater than one-tenth of 1 cent per gallon of propane sold. Based on an estimate of 9 million gallons of odorized propane sold annually for commercial use, the annual direct cost of the mandate would be approximately \$9 million, well below the annual \$100 million threshold established by Public Law 104–4.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kim Cawley (for federal costs), Stephanie Weiner (for revenues), Pepper Santalucia (for the state and local impact), and Jean Wooster (for the private sector impact).

Sincerely,

JUNE E. O'NEILL, *Director*.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee finds that the bill would have no inflationary impact.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 of the bill establishes the short title of the bill as the Propane Education and Research Act of 1996.

Section 2. Findings

Section 2 sets forth the findings of the bill.

Section 3. Definitions

Section 3 defines terms used in the Act.

Section 4. Referenda

Section 4 provides for a referendum among producers and retail marketers for the creation of a Propane Education and Research Council (Council). A two-thirds vote by members of qualified producer and retail marketer industry organizations, whose members vote based on their sales volume, are required to establish the Council. Costs of conducting the referenda can be reimbursed by the Council once it is established.

Section 4 also allows for termination of the Council through a similar referendum process. The process can be started 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. Termination will occur if members representing more than one-half the total volume of propane in the retail marketer class and more than one-half of the total volume of the producer class approve. Termination can also be approved by members representing two-thirds of the total volume of propane in either class.

Section 5. Propane Education and Research Council

Section 5 provides for the selection of members for the Council. The bill provides for 21 Council members, consisting of nine representing retail marketers, nine representing producers, and three members of the public. Each industry group will select its own representatives and the public members will be selected jointly. Representation on the Council should include gas processors and oil refiners, interstate and intrastate retail marketers, large and small companies, and represent regional diversity. Members of the Council shall receive no salary. Council members shall serve not more than two consecutive three-year terms. The Council shall select a Chairman and other officers and may establish advisory panels of persons other than Council members. The Council shall adopt by-laws and procedures for the solicitation of industry comment. The administrative expenses of operating the Council shall not exceed 10 percent of the funds collected in any fiscal year. The Council shall also reimburse the Department of Energy annually for any costs incurred by the Federal government relating to the Council.

Section 5 also provides for the Council to develop programs and projects to enhance consumer and employee safety and training, to provide for research and development of clean and efficient propane utilization equipment, and to inform and educate the public about safety and other issues associated with the use of propane. Not less than five percent of the funds collected by the fee shall be used for programs intended to benefit the agricultural industry. In addition, the percentage of funds used for projects related to using propane as an alternative 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 previous three-year historical average. Research

and development, safety, education and training shall be given priority by the Council in the development of programs.

In addition, Section 5 requires the Council to publish a prospective budget plan for the next calendar year before August 1 of each year. The plan shall include the probable costs of all programs, projects, and contracts, and a recommended rate of assessment to cover their costs. The budget proposal shall be submitted to the Secretary of Energy and the Congress. The Secretary of Energy can recommend programs and activities for the Council. Council meetings shall be open to the public after at least 30 days notice. The Council is also required to keep public, its minutes, books and records reflective of its activities. These records shall be subject to an annual audit, the results of which shall be provided to the Council members and other interested industry members upon request. The Secretary of Energy shall receive notice of meetings, and may receive reports on the Council's activities as well as reports on compliance, violations, and complaints regarding the implementation of the Act. The Council is also required to make a public report of all of its programs and projects for the previous and upcoming year as well as the planned allocations for such projects.

Section 6. Assessments

Section 6 provides that the initial assessment to fund the program shall not be greater than one-tenth of one cent per gallon of odorized propane. The annual assessment can rise one-tenth of one cent per year until the fee collects up to one-half cent per gallon. Thus, within five years, this assessment could be one-half cent per gallon. The annual assessment shall be sufficient to cover the costs of the plans and programs developed by the Council. The fees are collected from the owners of odorized propane at the time of odorization or import. Propane which is exported to another country is not subject to the assessment. The Council is permitted to establish an alternative collection plan and charge late fees if necessary. The Council is also given a limited ability to invest funds collected by the fee pending their disbursement. Section 6 also provides for coordination with propane councils established under State law.

Section 7. Compliance

Section 7 allows the Council to bring suit in Federal court to collect the fee. If the Council is successful, it can also recover its costs of the suit from the defendant.

Section 8. Lobbying restrictions

Section 8 prohibits the use of any funds to lobby Congress.

Section 9. Market survey and consumer protection

Section 9 requires the Department of Commerce to conduct an annual analysis of the changes of the price of propane relative to other energy sources. Activities of the Council shall be restricted to research and development, training, and safety matters (i.e., no advertising), if the price of propane as calculated under a formula set in the bill exceeds a composite price of other specified fuels.

Section 10. Pricing

Section 10 clarifies that the price of propane shall be determined by market forces and that the Council cannot take any action to pass the cost of the assessment along to consumers.

Section 11. Relation to other programs

Section 11 clarifies that the Act does not preempt or supersede any other propane research or education programs.

Section 12. Reports

Section 12 sets forth a bi-annual reporting requirement for the Secretary of Commerce. The Secretary's report, which is submitted to the Congress and the Secretary of Energy, analyzes the impact the program has on propane prices and propane demand in various market segments. To the extent the program has had adverse impacts, the Secretary of Commerce is required to make recommendations to correct the situation. The Council may petition, or the Secretary of Energy or the Secretary of Commerce can request, that the report be prepared less frequently.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

