



**Rules of
Department of Economic
Development**

**Division 340—Division of Energy
Chapter 6—Missouri Propane Education and
Research Program**

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**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT**

Division 340—Division of Energy

**Chapter 6—Missouri Propane Education
and Research Program**

**4 CSR 340-6.010 Definitions and General
Provisions—Membership**

PURPOSE: This rule establishes procedures to operate the Missouri Propane Education and Research Program.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) Definitions. The following terms used in this rule shall mean:

(A) Council—the Missouri Propane Education and Research Council created pursuant to section 414.530, RSMo;

(B) Director—the director of the Division of Energy, Department of Natural Resources or the director's designee;

(C) Education—any action to provide information on propane, propane use equipment, mechanical and technical practices, and propane uses to consumers and to members of the propane industry;

(D) Manufacturers and distributors of liquefied petroleum (LP) gas use equipment—any person or firm engaged in the manufacturing, assembling and marketing of appliances, containers and products, used in the LP-gas industry, and those persons and firms in the wholesale marketing of appliances, containers and products used in the LP-gas industry;

(E) Marketing—any action taken by the council to present positive information about propane to the public including paid promotional advertising;

(F) Person—any individual, group of individuals, partnership, association, cooperative, corporation or any other entity;

(G) Producer—the owner of the LP at the time it is recovered at a manufacturing facili-

ty, irrespective of the state where production occurs;

(H) Propane—includes propane, butane, mixtures and LP as defined by the National Fire Protection Association 58 *Standard for the Storage and Handling of Liquefied Petroleum Gases*;

(I) Public member—a member of the council selected from among significant users of odorized propane, organizations representing significant users of odorized propane, public safety officials, state propane gas regulatory officials or voluntary standard setting organizations;

(J) Qualified industry organization—the National Propane Gas Association, the Missouri Propane Gas Association, the Gas Processors Association or a successor association;

(K) Research—any type of study, investigation or other activity designed to advance the image, desirability, usage, marketability, efficiency and safety of propane and propane use equipment and to further the development of information and products;

(L) Retail marketer—a business engaged primarily in the selling of propane gas, its appliances and equipment to the ultimate consumer or to retail propane dispensers;

(M) Transporter—any person involved in the commercial transportation of propane by pipeline, truck, rail or water; and

(N) Wholesaler or reseller—a seller of propane who is not a producer and who does not sell propane to the ultimate consumer.

(2) Missouri Propane Education and Research Council.

(A) The director will conduct a referendum within sixty (60) days of the effective date of this rule among producers and Missouri retail marketers of propane to authorize the creation of the Missouri Propane Education and Research Council and the levying of an assessment on odorized propane.

1. All persons voting in the referendum shall certify to the director the number of gallons represented by their vote.

2. The referendum will be adopted only after approval by two-thirds (2/3) of the total gallonage of odorized propane voted in the retail marketer class and two-thirds (2/3) of all propane voted in the producer class.

3. Gallonage will be based on the amount of propane sold or produced in the previous calendar year or other representative year as determined by the director.

4. The director shall issue an order establishing the council and call for nominations to the council from qualified industry organizations.

(B) On the director's own initiative, upon petition of the council or of producers and marketers representing thirty-five percent (35%) of the gallons in each class, the director shall hold a referendum to determine whether the industry favors termination or suspension of the order.

(C) The termination or suspension shall not take effect unless it is approved by those persons representing more than one-half (1/2) of the total gallonage of odorized propane in the marketer class and one-half (1/2) of all propane in the producer class.

(D) The director may require reports or other documents to support the referendum process and the nomination process for members of the council.

1. The director shall protect the confidentiality of all documentation provided by industry members.

2. Information regarding propane produced or marketed by persons voting shall be a closed record.

(3) Enforcement and Penalties. The director shall enforce sections 414.500–414.590, RSMo and these rules as provided in section 414.540, RSMo.

(4) Investigations. The director may conduct investigations to carry out the requirements of this rule or to determine whether a person is in violation of these rules and sections 414.500–414.590, RSMo.

(A) The director is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any documents related to the inquiry.

(B) Attendance of witnesses or the production of any records may be required from any place in the state.

(C) The director may seek enforcement in the circuit court of proper venue for any defiance or refusal to obey a subpoena issued to any person.

(5) Membership.

(A) The director shall select all members of the council from a list of nominees submitted by qualified industry organizations.

(B) The qualified industry organizations and the director will select a council that is representative of the industry and the geographic regions of the state.

(C) The council shall consist of fifteen (15) members, with nine (9) members representing retail marketers of propane; three (3) members representing wholesalers or resellers of propane; two (2) members representing manufacturers and distributors of gas use equipment, wholesalers or resellers, or



transporters; and one (1) public member. Other than the public member, council members shall be full-time employees or owners of businesses in the industry.

(D) Council members shall not receive compensation for their services, but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

(E) Council members shall serve terms of three (3) years; except that of the initial members appointed, five (5) shall be appointed for terms of one (1) year, five (5) shall be appointed for terms of two (2) years and five (5) shall be appointed for terms of three (3) years.

1. Members may be appointed to a maximum of two (2) consecutive full terms.

2. Members filling unexpired terms will not have any partial term of service count against the two (2)-term limitation.

3. Former members of the council may be reappointed to the council if they have not been members for a period of one (1) year.

(F) The council shall select a chairperson and other officers, establish committees and subcommittees of the council and, with the assistance of the director, adopt rules and bylaws for the conduct of business. The council may establish advisory committees of persons other than council members.

(G) The council may employ a president to serve as chief executive officer and other employees as it deems necessary.

1. The council may enter into contracts with, use facilities and equipment of, or employ personnel of a qualified industry organization in carrying out its responsibilities under this rule and section 414.560, RSMo.

2. The council shall determine the compensation and duties of each employee, and protect the handling of council funds through fidelity bonds.

(H) At the beginning of each fiscal period, the council shall prepare and submit to the director a budget plan including estimated costs of all programs, projects and contracts and a recommended rate of assessment sufficient to cover those costs. The director shall approve or recommend changes to the budget after an opportunity for public comment.

(I) The council shall develop research, development, education and marketing programs and projects and enter into contracts or agreements to administer these activities, including collection and payment of program costs. The council will coordinate its activities with industry trade associations to provide efficient delivery of services and to avoid unnecessary duplication of activities.

(J) The council will maintain minutes, books and records that reflect all of the acts

and transactions of the council and regularly report the information to the director along with any other information the director may require.

1. The records of the council shall be audited by a certified public accountant at least once each fiscal year and at other times designated by the council.

2. Copies of the audit shall be provided to the director, all members of the council, all qualified industry organizations and to other members of the industry upon request.

3. The director shall receive notice of meetings and reports on the activities of the council, and reports on compliance, violations and complaints.

(K) From assessments collected, the council shall annually reimburse the director for costs incurred in holding the referendum, making appointments to the council and other expenses directly related to the council.

(6) Assessments.

(A) The council shall set the initial assessment at no more than one-tenth (1/10) of one cent (1¢) per gallon of odorized propane.

1. Following the first year, assessments shall be sufficient to cover the costs of plans and programs developed by the council and approved by the director.

2. During any given year, the assessment shall not be greater than one-half cent (1/2¢) per gallon of odorized propane.

3. The assessment will not be raised by more than one-tenth (1/10) of one cent (1¢) per gallon of odorized propane annually.

(B) The owner of propane prior to odorization in this state or at the time of import into the state of odorized propane shall be responsible for the payment of the assessment on the volume of propane at the time of import or odorization, whichever is later.

1. Assessments shall be remitted to the council on a monthly basis by the twenty-fifth of the month following the collection.

2. Propane shall not be subject to assessment until odorized.

(C) Pending dispersement to a program, plan or project, the council may invest funds collected through assessments and any other funds received through the following:

1. Obligations of the United States or its agencies;

2. General obligations of any state or its political subdivisions;

3. Any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

4. Obligations fully guaranteed as to principal and interest by the United States.

(D) The National Propane Education and Research Council, in conjunction with the

United States Secretary of Energy may establish a program coordinating the operation of its council with the Missouri Propane and Education Council.

1. This may include an assessment rebate, if adopted, of an amount up to twenty-five percent (25%) of the National Propane Education and Research Council assessment collected on Missouri odorized propane as described in section nine of the federal Propane Education and Research Act of 1992.

2. All funds recovered through this rebate shall be the property of the Missouri council and their use shall be determined by the council for purposes outlined by this rule consistent with sections 414.500–414.590, RSMo.

(7) Restrictions. No funds collected by the council shall be used in any manner for influencing legislation or for campaign contributions. The council may recommend to the director changes to sections 414.500–414.590, RSMo or other statutes, that would further the purposes of this rule and statutes.

AUTHORITY: sections 414.500, 414.510, 414.520, 414.530, 414.540, 414.550, 414.570, 414.580 and 414.590, RSMo 2000 and 414.560, RSMo Supp. 2006. This rule originally filed as 10 CSR 140-6.010. Original rule filed Feb. 2, 1994, effective July 30, 1994. Amended: Filed March 23, 2007, effective Oct. 30, 2007. Moved to 4 CSR 340-6.010, effective Aug. 28, 2013.*

**Original authority: 414.500, RSMo 1993; 414.510, RSMo 1993; 414.520, RSMo 1993; 414.530, RSMo 1993; 414.540, RSMo 1993; 414.550, RSMo 1993; 414.560, RSMo 1993, amended 2004; 414.570, RSMo 1993; 414.580, RSMo 1993; and 414.590, RSMo 1993.*