



1 5. "INDUSTRY TRADE ASSOCIATION" MEANS AN ORGANIZATION EXEMPT FROM TAX,  
2 UNDER SECTION 501(C)(3) OR 501(C)(6) OF THE INTERNAL REVENUE CODE OF  
3 1986, REPRESENTING THE PROPANE INDUSTRY;

4 6. "NYSERDA" MEANS THE NEW YORK STATE ENERGY AND RESEARCH DEVELOPMENT  
5 AUTHORITY;

6 7. "ODORIZED PROPANE" MEANS PROPANE WHICH HAS AN ODORANT ADDED TO IT;

7 8. "PRODUCER" MEANS THE OWNER OF PROPANE AT THE TIME IT IS RECOVERED  
8 AT A GAS PROCESSING PLANT OR REFINERY; IRRESPECTIVE OF THE STATE WHERE  
9 PRODUCTION OCCURS;

10 9. "PROPANE" MEANS A HYDROCARBON WHOSE CHEMICAL COMPOSITION IS PREDOMINATELY  
11 C<sub>3</sub>H<sub>8</sub>, WHETHER RECOVERED FROM NATURAL GAS OR CRUDE OIL, AND  
12 INCLUDES LIQUIFIED PETROLEUM GASES AND MIXTURES THEREOF;

13 10. "PUBLIC MEMBER" MEANS A DESIGNEE OF THE PRESIDENT OF THE NEW YORK  
14 STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY;

15 11. "QUALIFIED INDUSTRY ORGANIZATION" MEANS THE NEW YORK PROPANE GAS  
16 ASSOCIATION, THE NATIONAL PROPANE GAS ASSOCIATION, A SUCCESSOR ASSOCIATION  
17 OF THESE ASSOCIATIONS, OR ANY OTHER PROPANE INDUSTRY ORGANIZATION;

18 12. "RESEARCH" MEANS ANY TYPE OF STUDY, INVESTIGATION OR OTHER ACTIVITIES  
19 DESIGNED TO ADVANCE THE IMAGE, DESIRABILITY, USAGE, MARKETABILITY,  
20 EFFICIENCY, AND SAFETY OF PROPANE AND TO FURTHER THE DEVELOPMENT OF SUCH  
21 INFORMATION;

22 13. "RETAIL MARKETER" MEANS A PERSON ENGAGED PRIMARILY IN THE SALE OF  
23 ODORIZED PROPANE TO THE ULTIMATE CONSUMER OR TO RETAIL PROPANE DISPENSERS;  
24 AND

25 14. "RETAIL PROPANE DISPENSER" MEANS A PERSON WHO SELLS ODORIZED  
26 PROPANE TO THE ULTIMATE CONSUMER BUT IS NOT ENGAGED PRIMARILY IN THE  
27 BUSINESS OF SUCH SALES.

28 S 14-103. REFERENDUM; CREATION AND TERMINATION OF A PROGRAM. 1. QUALIFIED  
29 INDUSTRY ORGANIZATIONS SHALL CONDUCT AT THEIR OWN EXPENSE, A  
30 REFERENDUM AMONG PRODUCERS AND RETAIL MARKETERS FOR THE CREATION OF AN  
31 EMPIRE PROPANE EDUCATION AND RESEARCH COUNCIL. THE COUNCIL, IF ESTABLISHED,  
32 SHALL REIMBURSE THE QUALIFIED INDUSTRY ORGANIZATIONS FOR THE  
33 COST OF THE REFERENDUM ACCOUNTING AND DOCUMENTATION. THE REFERENDUM  
34 SHALL BE CONDUCTED BY AN INDEPENDENT AUDITING FIRM AGREED TO BY THE  
35 QUALIFIED INDUSTRY ORGANIZATIONS. THE RESULTS, AS CERTIFIED BY AN INDEPENDENT  
36 AUDITING FIRM, SHALL BE SUBMITTED TO THE PRESIDENT WITHIN THIRTY  
37 DAYS OF CERTIFICATION. VOTING RIGHTS IN THE REFERENDUM SHALL BE BASED ON  
38 THE VOLUME OF PROPANE PRODUCED OR ODORIZED PROPANE SOLD IN THE PREVIOUS  
39 CALENDAR YEAR. UPON APPROVAL OF THOSE PERSONS REPRESENTING TWO-THIRDS OF  
40 THE TOTAL VALUE OF PROPANE VOTED IN THE RETAIL MARKETER CLASS AND  
41 TWO-THIRDS OF ALL PROPANE VOTED IN THE PRODUCER CLASS, THE COUNCIL SHALL  
42 BE ESTABLISHED, AND SHALL BE AUTHORIZED TO LEVY AN ASSESSMENT ON ODORIZED  
43 PROPANE IN ACCORDANCE WITH SECTION 14-105 OF THIS ARTICLE. ALL  
44 PERSONS VOTING IN THE REFERENDUM SHALL CERTIFY TO THE INDEPENDENT AUDITING  
45 FIRM THE VOLUME OF PROPANE REPRESENTED BY THEIR VOTE.

46 2. ON THE COUNCIL'S OWN INITIATIVE, OR ON PETITION TO THE COUNCIL BY  
47 PRODUCERS AND RETAIL MARKETERS REPRESENTING THIRTY-FIVE PERCENT OF THE  
48 VOLUME OF PROPANE IN EACH CLASS, THE COUNCIL SHALL, AT ITS OWN EXPENSE,  
49 HOLD A REFERENDUM TO BE CONDUCTED BY AN INDEPENDENT AUDITING FIRM  
50 SELECTED BY THE COUNCIL, TO DETERMINE WHETHER THE INDUSTRY FAVORS TERMINATION  
51 OR SUSPENSION OF THE COUNCIL. TERMINATION OR SUSPENSION SHALL NOT  
52 TAKE EFFECT UNLESS IT IS APPROVED BY PERSONS REPRESENTING MORE THAN  
53 ONE-HALF OF THE TOTAL VOLUME OF ODORIZED PROPANE IN THE RETAIL MARKETER  
54 CLASS AND MORE THAN ONE-HALF THE TOTAL VOLUME OF PROPANE IN THE PRODUCER  
55 CLASS.

1 S 14-104. EMPIRE PROPANE EDUCATION AND RESEARCH COUNCIL. 1. THE QUALI-  
2 FIED INDUSTRY ORGANIZATIONS SHALL SELECT ALL RETAIL MARKETERS MEMBERS  
3 AND PRODUCER MEMBERS OF THE COUNCIL. THE PRESIDENT SHALL DESIGNATE ONE  
4 PUBLIC MEMBER. VACANCIES IN THE UNFINISHED TERMS OF COUNCIL MEMBERS  
5 SHALL BE FILLED IN THE SAME MANNER AS WERE THE ORIGINAL APPOINTMENTS.

6 2. IN SELECTING MEMBERS OF THE COUNCIL, THE QUALIFIED INDUSTRY ORGAN-  
7 IZATIONS SHALL GIVE DUE REGARD TO SELECTING A COUNCIL THAT IS REPRESENTATIVE OF THE INDUSTRY, INCLUDING REPRESENTATION OF:

8 (A) GAS PROCESSORS AND OIL REFINERS AMONG PRODUCERS;

9 (B) INTERSTATE AND INTRASTATE OPERATORS AMONG RETAIL MARKETERS;

10 (C) LARGE AND SMALL COMPANIES AMONG PRODUCERS AND RETAIL MARKETERS,  
11 INCLUDING AGRICULTURAL COOPERATIVES; AND

12 (D) DIVERSE GEOGRAPHIC REGIONS OF THE STATE.

13 3. THE COUNCIL SHALL CONSIST OF NO LESS THAN FIVE AND UP TO SEVEN  
14 MEMBERS, WITH NO LESS THAN FOUR AND UP TO SIX MEMBERS REPRESENTING  
15 RETAIL MARKETERS AND PRODUCERS, AND ONE PUBLIC MEMBER. OTHER THAN THE  
16 PUBLIC MEMBER, COUNCIL MEMBERS SHALL BE FULL-TIME EMPLOYEES OR OWNERS OF  
17 BUSINESSES IN THE INDUSTRY OR REPRESENTATIVES OF AGRICULTURAL COOPER-  
18 ATIVES. NO EMPLOYEE OF A QUALIFIED INDUSTRY ORGANIZATION SHALL SERVE AS  
19 A MEMBER OF THE COUNCIL, AND NO MEMBER OF THE COUNCIL MAY SERVE CONCUR-  
20 RENTLY AS AN OFFICER OF THE BOARD OF DIRECTORS OF A QUALIFIED INDUSTRY  
21 ORGANIZATION OR OTHER TRADE ASSOCIATION. ONLY ONE PERSON AT A TIME FROM  
22 ANY COMPANY OR ITS AFFILIATE MAY SERVE ON THE COUNCIL. THE PRESIDENT MAY  
23 SERVE AS AN EX-OFFICIO NON-VOTING MEMBER OF THE COUNCIL.

24 4. COUNCIL MEMBERS SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES,  
25 NOR SHALL COUNCIL MEMBERS BE REIMBURSED FOR EXPENSES RELATING TO THEIR  
26 SERVICE, EXCEPT THAT PUBLIC MEMBERS, UPON REQUEST, MAY BE REIMBURSED FOR  
27 REASONABLE EXPENSES DIRECTLY RELATED TO THEIR PARTICIPATION IN COUNCIL  
28 MEETINGS.

29 5. COUNCIL MEMBERS SHALL SERVE TERMS OF THREE YEARS AND MAY NOT SERVE  
30 MORE THAN TWO FULL CONSECUTIVE TERMS. MEMBERS FILLING UNEXPIRED TERMS  
31 MAY SERVE NOT MORE THAN A TOTAL OF SEVEN CONSECUTIVE YEARS. FORMER  
32 MEMBERS OF THE COUNCIL MAY BE RETURNED TO THE COUNCIL IF THEY HAVE NOT  
33 BEEN MEMBERS FOR A PERIOD OF TWO YEARS. INITIAL APPOINTMENTS TO THE  
34 COUNCIL SHALL BE FOR TERMS OF ONE, TWO, AND THREE YEARS STAGGERED TO  
35 PROVIDE FOR THE SELECTION OF FOUR MEMBERS EACH YEAR. THE COUNCIL SHALL  
36 NOTIFY THE PRESIDENT OF THE NAME, ADDRESS, AND PROPANE-RELATED AFFIL-  
37 IATION, IF ANY, OF A COUNCIL MEMBER WITHIN THIRTY DAYS AFTER THE  
38 APPOINTMENT OF THE MEMBER TO THE COUNCIL.

39 6. THE COUNCIL SHALL DEVELOP PROGRAMS AND PROJECTS AND ENTER INTO  
40 CONTRACTS OR AGREEMENTS FOR IMPLEMENTING THIS ARTICLE, INCLUDING  
41 PROGRAMS TO ENHANCE CONSUMER AND EMPLOYEE SAFETY AND TRAINING, TO  
42 PROVIDE FOR RESEARCH AND DEVELOPMENT OF CLEAN AND EFFICIENT PROPANE  
43 UTILIZATION EQUIPMENT, TO INFORM AND EDUCATE THE PUBLIC ABOUT SAFETY AND  
44 OTHER ISSUES ASSOCIATED WITH THE USE OF PROPANE, AND TO PROVIDE FOR THE  
45 PAYMENT OF THE COSTS THEREOF WITH FUNDS COLLECTED PURSUANT TO THIS ARTI-  
46 CLE. THE COUNCIL SHALL COORDINATE ITS ACTIVITIES WITH INDUSTRY TRADE  
47 ASSOCIATIONS, HUDSON VALLEY COMMUNITY COLLEGE, OTHER COMMUNITY COLLEGES  
48 AND OTHERS AS APPROPRIATE TO PROVIDE EFFICIENT DELIVERY OF SERVICES AND  
49 TO AVOID UNNECESSARY DUPLICATION OF ACTIVITIES.

50 7. ISSUES RELATED TO RESEARCH AND DEVELOPMENT, SAFETY, EDUCATION, AND  
51 TRAINING SHALL BE GIVEN PRIORITY BY THE COUNCIL IN THE DEVELOPMENT OF  
52 ITS PROGRAMS AND PROJECTS.

53 8. THE COUNCIL SHALL SELECT FROM AMONG ITS MEMBERS A CHAIRPERSON AND  
54 OTHER OFFICERS AS NECESSARY, MAY ESTABLISH COMMITTEES AND SUBCOMMITTEES  
55 OF THE COUNCIL, AND SHALL ADOPT RULES AND BYLAWS FOR THE CONDUCT OF  
56

1 BUSINESS AND THE IMPLEMENTATION OF THIS ARTICLE. THE COUNCIL SHALL  
2 ESTABLISH PROCEDURES FOR THE SOLICITATION OF INDUSTRY COMMENT AND RECOM-  
3 MENDATIONS ON ANY SIGNIFICANT PLANS, PROGRAMS, AND PROJECTS TO BE FUNDED  
4 BY THE COUNCIL. THE COUNCIL MAY ESTABLISH ADVISORY COMMITTEES OF PERSONS  
5 OTHER THAN COUNCIL MEMBERS.

6 9. AT THE BEGINNING OF EACH FISCAL PERIOD, THE COUNCIL SHALL PREPARE A  
7 BUDGET PLAN FOR THE NEXT FISCAL PERIOD, INCLUDING THE PROBABLE COST OF  
8 ALL PROGRAMS, PROJECTS, AND CONTRACTS AND A RECOMMENDED RATE OF ASSESS-  
9 MENT SUFFICIENT TO COVER SUCH COSTS. THE COUNCIL SHALL SUBMIT THE  
10 PROPOSED BUDGET TO THE PRESIDENT FOR REVIEW AND COMMENT. THE PRESIDENT  
11 MAY RECOMMEND PROGRAMS AND ACTIVITIES CONSIDERED APPROPRIATE.

12 10. THE COUNCIL SHALL KEEP MINUTES, BOOKS, AND RECORDS THAT CLEARLY  
13 REFLECT ALL OF THE ACTS AND TRANSACTIONS OF THE COUNCIL AND MAKE PUBLIC  
14 SUCH INFORMATION. THE BOOKS OF THE COUNCIL SHALL BE AUDITED BY A CERTI-  
15 FIED PUBLIC ACCOUNTANT AT LEAST ONCE EACH FISCAL YEAR AND AT SUCH OTHER  
16 TIMES AS THE COUNCIL MAY DESIGNATE. THE EXPENSE OF THE AUDIT SHALL BE  
17 THE RESPONSIBILITY OF THE COUNCIL. COPIES OF SUCH AUDIT SHALL BE  
18 PROVIDED TO ALL MEMBERS OF THE COUNCIL, ALL QUALIFIED INDUSTRY ORGANIZA-  
19 TIONS, AND TO OTHER MEMBERS OF THE INDUSTRY UPON REQUEST.

20 S 14-105. ASSESSMENTS. 1. THE COUNCIL SHALL SET THE ASSESSMENT AT NO  
21 GREATER THAN ONE-TENTH OF ONE CENT PER GALLON OF ODORIZED PROPANE.

22 2. THE OWNER OF ODORIZED PROPANE AT THE TIME OF ODORIZATION, OR THE  
23 TIME OF IMPORT OF ODORIZED PROPANE SHALL MAKE THE ASSESSMENT BASED ON  
24 THE VOLUME OF ODORIZED PROPANE SOLD. THE ASSESSMENT, WHEN MADE, SHALL BE  
25 LISTED AS A SEPARATE LINE ITEM ON THE BILL LABELED "EMPIRE PROPANE  
26 EDUCATION AND RESEARCH ASSESSMENT". ASSESSMENTS COLLECTED FROM PURCHAS-  
27 ERS OF PROPANE ARE PAYABLE TO THE COUNCIL ON A MONTHLY BASIS BY THE  
28 TWENTY-FIFTH OF THE MONTH FOLLOWING THE MONTH OF COLLECTION.

29 IF PAYMENT IS NOT MADE TO THE COUNCIL BY THE DUE DATE UNDER THIS  
30 SUBDIVISION, AN INTEREST PENALTY OF ONE PERCENT OF ANY AMOUNT UNPAID  
31 SHALL BE ADDED FOR EACH MONTH OR FRACTION OF A MONTH AFTER THE DUE DATE,  
32 UNTIL FINAL PAYMENT IS MADE.

33 3. THE COUNCIL MAY ESTABLISH AN ALTERNATIVE MEANS OF COLLECTING THE  
34 ASSESSMENT IF ANOTHER MEANS IS FOUND TO BE MORE EFFICIENT AND EFFECTIVE.  
35 THE COUNCIL MAY ESTABLISH A LATE PAYMENT CHARGE AND RATE OF INTEREST TO  
36 BE IMPOSED ON ANY PERSON WHO FAILS TO REMIT OR PAY TO THE COUNCIL ANY  
37 AMOUNT DUE UNDER THIS ARTICLE.

38 4. PENDING DISBURSEMENT PURSUANT TO A PROGRAM, PLAN, OR PROJECT, THE  
39 COUNCIL SHALL INVEST FUNDS COLLECTED THROUGH ASSESSMENTS, AND ANY OTHER  
40 FUNDS RECEIVED BY THE COUNCIL, ONLY IN OBLIGATIONS OF THE UNITED STATES  
41 OR ANY AGENCY THEREOF, IN GENERAL OBLIGATIONS OF ANY STATE OR POLITICAL  
42 SUBDIVISION THEREOF, IN ANY INTEREST-BEARING ACCOUNT OR CERTIFICATE OF  
43 DEPOSIT OF A BANK THAT IS A MEMBER OF THE FEDERAL RESERVE SYSTEM, OR IN  
44 OBLIGATIONS FULLY GUARANTEED AS TO PRINCIPAL AND INTEREST BY THE UNITED  
45 STATES.

46 S 14-106. COMPLIANCE. THE SUPREME COURT IS VESTED WITH THE JURISDIC-  
47 TION SPECIFICALLY TO ENFORCE THE PROVISIONS OF THIS ARTICLE, AND PREVENT  
48 OR RESTRAIN ANY PERSON FROM VIOLATING ANY SUCH PROVISION. A SUCCESSFUL  
49 ACTION FOR COMPLIANCE UNDER THIS SECTION MAY ALSO REQUIRE PAYMENT BY THE  
50 DEFENDANT OF THE COSTS INCURRED BY THE COUNCIL IN BRINGING THE ACTION.

51 S 14-107. LOBBYING RESTRICTIONS. NO FUNDS COLLECTED BY THE COUNCIL  
52 SHALL BE USED IN ANY MANNER FOR INFLUENCING LEGISLATION OR ELECTIONS,  
53 EXCEPT THAT THE COUNCIL MAY RECOMMEND TO THE PRESIDENT CHANGES IN THIS  
54 ARTICLE OR OTHER STATUTES THAT WOULD FURTHER THE PURPOSE OF THIS ARTI-  
55 CLE.

1 S 14-108. PRICING. IN ALL CASES, THE PRICE OF PROPANE SHALL BE DETER-  
2 MINED BY MARKET FORCES. CONSISTENT WITH THE ANTITRUST LAWS, THE COUNCIL  
3 MAY TAKE NO ACTION, NOR MAY ANY PROVISION OF THIS ARTICLE BE INTERPRETED  
4 AS ESTABLISHING AN AGREEMENT TO PASS ALONG TO CONSUMERS THE COST OF THE  
5 ASSESSMENT PROVIDED FOR IN SECTION 14-105 OF THIS ARTICLE.  
6 S 14-109. RELATION TO OTHER PROGRAMS. NOTHING IN THIS ARTICLE MAY BE  
7 CONSTRUED TO PREEMPT OR SUPERSEDE ANY OTHER PROGRAM RELATING TO PROPANE  
8 EDUCATION AND RESEARCH ORGANIZED AND OPERATED UNDER THE LAWS OF THE  
9 STATE OF NEW YORK.  
10 S 2. This act shall take effect immediately.