

# **FLORIDA PROPANE GAS EDUCATION, SAFETY, AND RESEARCH ACT MARKETING ORDER PURSUANT TO CHAPTER 527, F.S.**

## **1. AUTHORITY**

This Marketing Order is issued by the Florida Department of Agriculture and Consumer Services ("Department") pursuant to the Florida Propane Gas Education, Safety, and Research Act, Sections 527.20-527.23, Florida Statutes, hereinafter referred to as the Act.

## **2. PURPOSES**

This Marketing Order sets forth the responsibilities, activities and allowable expenditures in regard to the assessments collected by the Department pursuant to the Act, which are levied pursuant to referendum conducted in accordance with Section 527.23, Florida Statutes, and the provisions of Rule 5J-20.071, Florida Administrative Code.

## **3. ADMINISTRATION**

- A. The Department administers and enforces the provisions of this Marketing Order in a manner consistent with the Act. This administration is conducted upon the recommendation of the Florida Propane Gas Education, Safety, and Research Council, appointed pursuant to Section 527.22, Florida Statutes, hereinafter referred to as the Council.
- B. Upon recommendation of the Council, the Department has contracted and may continue to contract with or employ the professional or technical services of others as reasonable and necessary to accomplish the objectives and purposes of the Act, and has and may continue to incur expenses to be paid from the assessments collected as herein provided. Any agency, unit of government, academia, private firm, or individual may qualify to conduct activities on behalf of the Department and the Council in furtherance of the purposes of this Marketing Order. Any contractual agreement entered into by the Department on behalf of the council shall be executed in accordance with statutory requirements and the rules and regulations governing expenditures of state funds; however, the Department is not subject to the provisions found in Section 287.057, Florida Statutes, in the expenditure of these funds.

## **4. BUDGET AND EXPENDITURES**

The Council has developed and shall continue to develop for approval, a business plan and a budget plan at the beginning of each fiscal year, pursuant to Section 527.22, Florida Statutes. The Council has submitted and shall continue to submit to the

Commissioner of Agriculture for approval, the business plan and a budget plan at the beginning of each fiscal year, pursuant to Section 527.22, Florida Statutes. This plan has included and shall continue to include the estimated costs of all recommended programs and projects. Assessment monies have been and may continue to be expended only upon receiving spending authority from the Florida Legislature through the legislative budget process. No monies have been expended or committed and no monies may be expended or committed by any council member or department employee without spending authority and approval of the expenditure by the council membership. With the exception of Section 287.057, Florida Statutes, all expenditures or commitments for expenditures have and must continue to comply with state laws governing contracts and purchasing.

## 5. ASSESSMENT

To provide funding for the activities authorized and mandated by the Act, the Department has collected<sup>1</sup> and shall continue to collect an assessment to cover the costs of plans and programs developed by the Council and approved by the Commissioner of Agriculture. The rate of assessment has been approved by a ballot of persons representing two-thirds of the total gallonage of odorized propane gas voting in the retail marketer class. Balloting was conducted in accordance with the requirements of the Act. Unless hereafter amended,

- A. The assessment shall not be greater than one-half of 1 cent per gallon of odorized propane gas sold in the state.
- B. The assessment may not be raised by more than one-tenth of 1 cent per gallon annually.
- C. The initial assessment was set at one-tenth of 1 cent per gallon of odorized gas sold, pursuant to Section 527.23, Florida Statutes. This rate was approved by referendum conducted in 1998 and adopted in Rule 5F-11.071, Florida Administrative Code.
- D. The assessment was then set at two-tenths of 1 cent per gallon of odorized gas sold, pursuant to Section 527.23, Florida Statutes. This rate was approved by referendum conducted in 2013 and adopted in Rule 5F-11.071, Florida Administrative Code.
- E. The assessment shall be set at three-tenths of 1 cent per gallon of odorized gas sold in the state, pursuant to Section 527.23, Florida

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<sup>1</sup> Since July 8, 1998, assessments have been collected as authorized pursuant to marketing order. The Department was unable to locate the original marketing order. As a consequence, the Commissioner issued **FLORIDA PROPANE GAS SAFETY, EDUCATION AND RESEARCH MARKETING ORDER NUNC PRO TUNC PURSUANT TO CHAPTER 527, F.S.**

Statutes, and shall be adopted by amendment of Rule 5J-20.071, Florida Administrative Code.

- F. Collected assessments have been and shall continue to be deposited into the General Inspection Trust Fund.

## **6. FLORIDA PROPANE GAS EDUCATION, SAFETY, AND RESEARCH COUNCIL**

A Council, to be known as the Florida Propane Gas Education, Safety, and Research Council, was and is hereby established to advise the Department in the administration of this Marketing Order. The Council has consisted and shall consist of 15 members, as follows: ten members representing dealers of propane gas, but not more than two dealer members may be from any one company; two members representing producers of propane gas; two members representing manufacturers and distributors of propane gas use equipment, wholesalers or resellers, and transporters; and one public member. Except for the public member, Council members must be full-time employees or owners of propane gas producers or dealers doing business in this state. Members shall be appointed and serve terms in accordance with Section 527.22, Florida Statutes. Unless Amended,

- A. The Council shall elect from among its members a chair, a vice chair, and a secretary, and shall use accepted rules of procedure. The terms of such officers shall be for 1 year.
- B. The Council shall meet at least annually. The Council shall meet at the call of its chair, at the request of a majority of its membership, at the request of the Department, or at such times as may be prescribed by its rules of procedure. The Commissioner shall receive notice of all meetings.
- C. A majority of the members of the Council constitutes a quorum for all purposes, and an act by a majority of a quorum at any meeting constitutes an official act of the Council.
- D. The Council shall keep minutes, accounting records, and other records as necessary to clearly reflect all of the acts and transactions of the Council and regularly report such information to the Commissioner, along with such other information as the Commissioner requires.

## **7. ADMINISTRATIVE RULES**

The Department adopted rules, effective July 8, 1998, necessary for administering, collecting, reporting, and the payment of assessments collected under the Act. Said

rules have, from time-to-time, been amended in accordance with Chapter 120, Florida Statutes, and are set forth in Rule Chapter 5J-20, Florida Administrative Code.

## **8. AMENDMENTS AND TERMINATION**

Before any suspension, amendment or termination of this Marketing Order is issued, the Department shall provide notice to the producers and dealers affected by this Marketing Order pursuant to Section 527.23, Florida Statutes. Suspension or termination of an order levying an assessment shall be in accordance with Section 527.23(10), Florida Statutes.

## **9. CONFIRMATION**

In accordance with the Act, as codified in Sections 527.20-527.23, Florida Statutes, the Florida Propane Gas Education, Safety, and Research Council has recommended, since adoption of administrative rules on July 8, 1998, plans and programs to advance the safety, efficiency, desirability, usage, and marketability of propane gas and propane gas use equipment. The Department has administered such plans and programs as recommended by the Council in accordance with its statutory and rule authority and prior Marketing Order. All assessments collected in support of the Council's plans and programs have been established pursuant to lawfully conducted referendum, and have been and will continue to be levied, collected, and expended in accordance with the recommendations of the Council, the provisions of the Act and adopted administrative rules, and this Marketing Order.

**APPROVED AND ADOPTED:**

**ADAM H. PUTNAM  
COMMISSIONER OF AGRICULTURE  
DEPARTMENT OF AGRICULTURE AND  
CONSUMER SERVICES**



Date: 1/24/18