Rules and Regulations of the State of Georgia

Department 42 AGRICULTURAL COMMODITY COMMISSION FOR PROPANE

Current through Rules and Regulations filed through November 6, 2026

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ADMINISTRATIVE HISTORY

The **Administrative History** following each Rule gives the date on which the Rule was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date. Principal abbreviations used in the Administrative History are as follows:

f. - filed

eff. - effective

R. - Rule (Abbreviated only at the beginning of the control number)

Ch. - Chapter (Abbreviated only at the beginning of the control number)

ER. - Emergency Rule

Rev. - Revised

Note: Emergency Rules are listed in each Rule's Administrative History by Emergency Rule number, date filed and effective date. The Emergency Rule will be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency.

Chapter 42-1 entitled "Rules of Commission" adopted. Filed Aug. 31, 2020; effective Sep. 20, 2020.

Note: Rule 42-1-4-.03, correction of non-substantive typographical error in History, *"ntitled "Hearing" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020."* deleted. Effective October 13, 2020.

Rule 42-1-1-.04 amended. F. May 3, 2021; eff. May 23, 2021.

Cite as Ga. Comp. R. & Regs. R. dept. 42, ADMINISTRATIVE HISTORY

Chapter 42-1. RULES OF COMMISSION.

Subject 42-1-1. GENERAL.

Rule 42-1-1-.01. Administration.

All rules regarding the administration of the Agricultural Commodity Commission for Propane will be promulgated by the Georgia Department of Agriculture. The Commissioner will have the authority to exercise supervisory jurisdiction over the administration and enforcement of these Rules.

Cite as Ga. Comp. R. & Regs. R. 42-1-1-.01
Authority: O.C.G.A. §§ 2-8-12, 2-8-219.
History. Original Rule entitled "Administration" adopted. F. Aug. 31, 2020; eff. Sept. 20, 2020.

Rule 42-1-1-.02. Definitions.

As used in these Rules, the term:

(1) "Act" means the Georgia Agricultural Commodities Promotion Act.

(2) "Commission" means the Agricultural Commodity Commission for Propane created under the Act.

(3) "Commissioner" means the Georgia Commissioner of Agriculture.

(4) "Dealer" means any person to whom the office of the Commissioner of Insurance issues a liquid propane license. The term will not include any person who offers for retail sale propane in containers of less than 50 pounds water capacity and whose business does not involve the filling or transportation of such containers.

(5) "Department" means the Georgia Department of Agriculture.

(6) "Distributor" means any person engaged in the business of selling propane to a dealer in the state.

(7) "Marketing order" means an order issued pursuant to the Act and these Rules establishing an assessment for financing the programs established under the Act and these Rules.

(8) "Person" means an individual, sole proprietorship, partnership, limited partnership, firm, corporation, limited liability company, association, or any other business entity, or combination thereof.

Cite as Ga. Comp. R. & Regs. R. 42-1-1-.02
Authority: O.C.G.A. §§ 2-8-200, 2-8-219.
History. Original Rule entitled "Definitions" adopted. F. Aug. 31, 2020; eff. Sept. 20, 2020.

Rule 42-1-1-.03. Meetings.

Robert's Rules of Order will govern the parliamentary procedures during all Commission meetings.

Cite as Ga. Comp. R. & Regs. R. 42-1-1-.03
Authority: O.C.G.A. § 2-8-219.
History. Original Rule entitled "Meetings" adopted. F. Aug. 31, 2020; eff. Sept. 20, 2020.

Rule 42-1-1-.04. Office of the Commission.

The office address of the Commission is posted on the Commission's website, www.gapropanecommission.org.

Cite as Ga. Comp. R. & Regs. R. 42-1-1-.04
Authority: O.C.G.A. § 2-8-219.
History. Original Rule entitled "Office of the Commission" adopted. F. Aug. 31, 2020; eff. Sept. 20, 2020.
Amended: F. May 3, 2021; eff. May 23, 2021.

Subject 42-1-2. ORGANIZATION.

Rule 42-1-2-.01. Creation and Structure.

(1) The Commission will be composed of seven members. Three members will be elected by the House Committee on Agriculture and Consumer Affairs; three members will be elected by the Senate Committee on Agriculture and Consumer Affairs; and one member will be elected by a majority of the members of the Commission. Each member must be a dealer or distributor and must not be a member of the General Assembly.

(2) The Commission will name its chairperson and determine a quorum for conducting business.

(3) A majority of the number of members will constitute a quorum. If less than a majority is present at a meeting, then a majority of the members present may adjourn the meeting without further notice.

(4) The officers of the Commission will be a chairperson, vice-chairperson, secretary, and treasurer. Each officer will hold office until his or her qualified successor is chosen. A vacancy in an office will be filled by a member elected by a majority of the members.

(5) The term of office for members is three years beginning on January 1, 2020. A member may serve a maximum of six continuous years; following which time, the member must vacate office for one year before being reconsidered for office. Initial members will serve one term of office, which will be staggered to provide rotation during each successive year; and these initial members may be considered for a full second term.

(6) Members will be divided into the following three classes: Class A, Class B, and Class C. Class A members will serve one year; Class B members will serve two years; and Class C members will serve three years. The member appointed by the other Commission members will be considered a Class C member, while the six remaining members will be divided evenly between the three classes.

(7) A member may resign at any time by mailing or delivering written notice to the Commission chairperson. Any member who ceases to be eligible will be deemed to resign upon the loss of eligibility.

(8) A member may be removed for good cause by a majority vote of the disinterested members at a meeting for which notice of a vote to remove the member was properly given.

(9) A membership vacancy will be filled in the same manner as that of the original election of the member. Any person selected to fill a vacancy will serve for the remainder of the unexpired term.

(10) A referendum must be held once every five years to vote on the continuation of the Commission. For the results to be valid, at least 50 percent of the eligible dealers in this state must vote, and if more than 50 percent of the dealers voting vote in favor of continuing the Commission, then the Commission will continue for another five years.

Cite as Ga. Comp. R. & Regs. R. 42-1-2-.01
Authority: O.C.G.A. §§ 2-8-201, 2-8-202, 2-8-213, 2-8-219.
History. Original Rule entitled "Creation and Structure" adopted. F. Aug. 31, 2020; eff. Sept. 20, 2020.

Rule 42-1-2-.02. Powers.

The Commission may:

(1) Accept donations, gifts, and other property and use these for Commission purposes;

(2) Acquire, lease as lessee, purchase, hold, own, and use any franchise or real or personal property, whether tangible or intangible, or any interest therein and, whenever the same is

no longer required for purposes of the Commission, to sell, lease as lessor, transfer, or dispose thereof or exchange the same for other property or rights which are useful for its purposes;

(3) Appoint advisory boards, special committees, and individuals, including technical and clerical personnel, to advise, aid, and assist the Commission in the performance of its duties. Compensation for these services will be fixed by the Commission and must be paid from the funds of the Commission; and

(4) Issue, administer, and enforce marketing orders whenever it has reason to believe that the issuance of a marketing order will tend to effectuate the declared policy of the Act.

Cite as Ga. Comp. R. & Regs. R. 42-1-2-.02
Authority: O.C.G.A. §§ 2-8-203, 2-8-209, 2-8-219.
History. Original Rule entitled "Powers" adopted. F. Aug. 31, 2020; eff. Sept. 20, 2020.

Subject 42-1-3. FUNDS AND EXPENSES.

Rule 42-1-3-.01. Funds.

(1) The Commission is authorized, and it will be its duty to receive, collect, and disperse the funds of the Commission.

(2) Funds received by the Commission must be held in trust for the Commission. Such funds must be deposited, accounted for, and disbursed in the same manner as that of the funds of this state but will not be required to be deposited in and appropriated from the state treasury.

(3) Any persons who handle funds on behalf of the Commission must be bonded with good and sufficient surety in an amount determined by the Commission for the accounting of such funds.

(4) All checks, drafts, and negotiable instruments which are drawn on or payable from the funds of the Commission must be signed by the chairperson of the Commission.

Cite as Ga. Comp. R. & Regs. R. 42-1-3-.01
Authority: O.C.G.A. §§ 2-8-205, 2-8-206, 2-8-219.
History. Original Rule entitled "Funds" adopted. F. Aug. 31, 2020; eff. Sept. 20, 2020.

Rule 42-1-3-.02. Administrative Expense Exclusions.

The following are administrative expenses excluded from the percentage restrictions:

(1) Marketing order program and project costs;

(2) Referendum costs;

(3) Costs to compel compliance with an assessment;

(4) Determination and imposition of late payment charges;

(5) Management of investment of funds pending disbursement; and

(6) Start-up costs.

Cite as Ga. Comp. R. & Regs. R. 42-1-3-.02
Authority: O.C.G.A. §§ 2-8-210, 2-8-219.
History. Original Rule entitled "Administrative Expense Exclusions" adopted. F. Aug. 31, 2020; eff. Sep. 20, 2020.

Subject 42-1-4. MARKETING ORDERS.

Rule 42-1-4-.01. Issuance of Marketing Order.

(1) If the Commission determines that the issuance of a marketing order will tend to effectuate the intent and purpose of the Act and these Rules, the Commission may recommend the promulgation of a marketing order with respect to the matters specified in the hearing notice and supported by the record.

(2) A marketing order must account for provisions to promote propane education; training; safety compliance; equipment replacement for low-income customers; marketing; advertising; promotion; and customer rebates to encourage energy-efficient appliance and equipment purchases by residential, commercial, industrial, motor fuel, or agricultural customers.

(3) No more than 10 percent of the funds collected and no less than the actual administrative expense incurred pursuant to the Act and these Rules shall be used for administrative expenses relating to the expenditure of the funds.

(4) The Commission may advance costs of conducting referenda pursuant to Georgia law and Rules and reimburse those costs from the assessment funds.

Cite as Ga. Comp. R. & Regs. R. 42-1-4-.01
Authority: O.C.G.A. §§ 2-8-209, 2-8-210, 2-8-219.
History. Original Rule entitled "Issuance of Marketing Order" adopted. F. Aug. 31, 2020; eff. Sept. 20, 2020.

Rule 42-1-4-.02. Referendum.

(1) To issue an effective marketing order pursuant to the Act and these Rules, the Commission must hold a referendum on the issuance of the marketing order.

(2) The Commission will determine:

(a) The amount of the proposed assessment established by the marketing order;

(b) The time and place of the referendum;

(c) Procedures for conducting the referendum and the counting of votes;

(d) The proposed effective date for the imposition of the assessment established by the marketing order, which shall be no less than 90 days from the date the referendum ballot is required to be returned to the Commission in order to be considered on the question presented; and

(e) Any other matters pertaining to the referendum.

(3) The amount of the proposed assessment established by the marketing order must be stated on the referendum ballot. The amount may not exceed four-tenths of one cent for each gallon of propane sold in the state by distributors to dealers.

(4) The Commission must make reasonable efforts to provide all dealers with notice of the referendum and an opportunity to vote.

(5) All dealers may vote in the referendum. Each dealer will have one vote. Any dispute over eligibility to vote or any other matter relating to the referendum will be resolved by the Commission.

(6) A proposed assessment will become effective if more than 50 percent of the eligible dealers in the state vote and more than 50 percent of the eligible votes cast by the dealers are cast in favor of the assessment.

(7) If the assessment is approved by the referendum, then the Commission must notify the Department of the amount and the effective date of the assessment. The Department will notify all dealers of the assessment.

Cite as Ga. Comp. R. & Regs. R. 42-1-4-.02
Authority: O.C.G.A. §§ 2-8-211, 2-8-219.
History. Original Rule entitled "Referendum" adopted. F. Aug. 31, 2020; eff. Sept. 20, 2020.

Rule 42-1-4-.03. Opt-Out Provisions.

(1) A dealer may opt out of participating with the marketing orders established by the Commission only once per year between September 1 and September 30.

(2) Any dealer who opts out in accordance with the Act and these Rules will not be eligible to receive the benefit of any marketing order for a period of one year following the date of his or her request to opt out and will not be entitled to the payment of any interest by the Commission on the amount refunded.

(3) Any dealer who opts out must notify the Commission in writing during the opt-out window.

(4) A dealer who opts out must submit the Refund Request form provided by the Commission to receive refunds of assessments remitted to the Commission by Distributors. Refunds may be requested quarterly after the 25th of the month following the end of the prior quarter.

Cite as Ga. Comp. R. & Regs. R. 42-1-4-.03
Authority: O.C.G.A. §§ 2-8-212, 2-8-219.
History. Original Rule entitled "Opt-Out Provisions" adopted. F. Aug. 31, 2020; eff. Sept. 20, 2020. ntitled "Hearing" adopted. F. Aug. 31, 2020; eff. September 20, 2020.

Subject 42-1-5. ASSESSMENTS.

Rule 42-1-5-.01. Responsibilities of Distributors.

(1) Each distributor, as the owner of propane at the time of odorization or at the time of import of odorized propane, must make the assessment based on the volume of odorized propane sold in the state and placed in commerce in the state.

(2) Each distributor must collect the assessment from the dealer to whom the sale is made and must remit to the Commission the sum of the amount of the assessment multiplied by the number of gallons of propane sold to any dealer during the assessment period.

(3) Assessments must be remitted to the Commission quarterly no later than the 25th day of the month following the end of the prior quarter.

(4) A distributor must keep records of the number of gallons of propane sold to dealers. All documents or records regarding purchases and sales must be made available to the Commission upon its request for the purpose of determining the distributor's compliance with the provisions of the Act and these Rules. The Commission will keep the records confidential and will not disclose the records except to its accountants, attorneys, or financial advisors without a court order directing it to do so.

Cite as Ga. Comp. R. & Regs. R. 42-1-5-.01
Authority: O.C.G.A. §§ 2-8-211, 2-8-219.
History. Original Rule entitled "Responsibilities of Distributors" adopted. F. Aug. 31, 2020; eff. Sept. 20, 2020.

Rule 42-1-5-.02. Payment and Collection of Assessments.

(1) Any assessment established in accordance with the Act and these Rules will constitute a personal debt of every person so assessed and will be due and payable to the Commission when payment is called for by the Commission. If the person fails to pay the assessment, then the Commission may file an action against the person in a court of competent jurisdiction for collection of the assessment.

(2) If a person duly assessed fails to pay to the Commission the amount assessed, then the Commission may add to the unpaid assessment an amount not exceeding 10 percent of the unpaid assessment to defray the cost of enforcing the collection of the unpaid assessment.

(3) These provisions will be cumulative, and any other remedies may be pursued concurrently until satisfaction is obtained.

(4) Any penalty recovered will become a part of the principal assessment levied and will be for the use of the Commission.

Cite as Ga. Comp. R. & Regs. R. 42-1-5-.02
Authority: O.C.G.A. §§ 2-8-214, 2-8-219.
History. Original Rule entitled "Payment and Collection of Assessments" adopted. F. Aug. 31, 2020; eff. Sept. 20, 2020.

Subject 42-1-6. PUBLIC HEARINGS.

Rule 42-1-6-.01. Notice of Hearing.

A notice of any hearing called for such purpose must be given by the Commission by publishing a notice of such hearing for a period of not less than five days in a newspaper of general circulation published in the City of Atlanta and in such other newspapers as the Commission may prescribe. No public hearing shall be held prior to five days after the last day of such period publication. The Commission must also mail or electronically communicate a copy of the notice and a copy of the proposed marketing order or proposed amendments to all dealers and distributors of propane whose names and addresses are on file with the Commission.

Cite as Ga. Comp. R. & Regs. R. 42-1-6-.01
Authority: O.C.G.A. §§ 2-8-209, 2-8-219.
History. Original Rule entitled "Notice of Hearing" adopted. F. Aug. 31, 2020; eff. Sept. 20, 2020.

Rule 42-1-6-.02. Hearing.

(1) All hearings must be public, and all testimony must be received under oath.

(2) A full and complete record of the proceedings at a hearing must be made and maintained on file in the office of the Commission.

(3) A hearing may be conducted by the Commission or by a member of the Commission, as may be designated by the Commission in each instance; but no decision will be made based on hearings conducted other than by the Commission itself, at which a majority of the Commission members are present, until the Commission members have been afforded an opportunity to review the hearing record.

(4) When the Commission conducts a hearing, its recommendations must be based on findings reached after a review of the record of the hearing.

Cite as Ga. Comp. R. & Regs. R. 42-1-6-.02
Authority: O.C.G.A. §§ 2-8-209, 2-8-219.
History. Original Rule entitled "Hearing" adopted. F. Aug. 31, 2020; eff. Sept. 20, 2020.