

## Rules of the Agricultural Commodity Commission for Propane

### Rule 40-32-1 Administration

### Rule 40-32-2 Statement of Application and Listing of Terms

### Rule 40-32-3 Organization of Commodity Commission for Propane

### Rule 40-32-4 Funds and Administrative Expenses

### Rule 40-32-5 Marketing Orders

### Rule 40-32-6 Assessments

### Rule 40-32-7 Notice of Hearing

### Rule 40-32-8 Hearing

### Rule 40-32-9 Robert's Rules of Order

### Rule 40-32-10 Office of the Commission

### Rule 40-32-11 Amendment of this Document

### Rule 4-32-1 Administration

- (1) All Rules relating to the administration of the Agricultural Commodity Commission for Propane shall be administered by the Commissioner of Agriculture of the State of Georgia, whose office is located at 19 Martin Luther King, Jr. Drive, Atlanta, Georgia, 30334.

### Rule 4-32-2 Statement of Application and Listing of Terms

- (1) The following definitions shall apply in the interpretation and application of these Regulations.
  - (a) Act - means the Georgia Agricultural Commodity Commission for Propane (Ga. L. 2018, p.\_\_\_\_ and all amendments thereto).
  - (b) Commission - means the Georgia Agricultural Commodity Commission for Propane.
  - (c) Commissioner - means the Commissioner of Agriculture of the Georgia Department of Agriculture.
  - (d) Dealer – mean any person to whom the office of the Commissioner of Insurance issues a liquid propane license. The term shall not include any person who offers for retail sale propane in containers of less than 50 pounds

water capacity and whose business does not include the filling or transportation of such containers.

(e) Department – means the Department of Agriculture.

(f) Distributor – Any person engaged in the business of selling propane to a dealer in the state.

(g) Marketing Order – an order issued pursuant to the Act establishing an assessment for financing the programs established.

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

### Subject 40-32-3 Organization of Commodity Commission for Propane

#### Rule 40-32-3-.01 Creation & Structure of Commodity Commission for Propane

- (1) The Georgia Agricultural Commodity Commission for Propane is hereby created under the Georgia Department of Agriculture. The Commission shall be composed of seven members; three members elected by the House Committee on Agriculture and Consumer Affairs; three members elected by the Senate Committee on Agriculture and Consumer Affairs; and one member elected by a majority of the members of the commission. All members shall be a dealer or distributor and shall not be a member of the General Assembly.
- (2) The commission shall name its chairperson and determine a quorum for conducting business.
  - (a) The officers of the commission shall be a chairperson, a vice-chairperson. The commission may appoint a secretary and treasurer as necessary.
  - (b) Each officer shall hold office until his successor shall have been chosen and qualified until his death or until his resignation or removal from office.
  - (c) A vacancy in office shall be filled by a member elected by a majority of the members.
  - (d) A majority of the number of members shall constitute a quorum.
  - (e) If less than a majority is present at a meeting, a majority of the members present may adjourn the meeting from time to time without further notice.

- (3) The term of office for members is three years beginning on January 1, 2020.
- (4) Members may serve a maximum of six continuous years, but must then vacate the office for a period of one year before being reconsidered for office.
- (5) Initial members shall serve one term of office, which will be staggered to provide rotation during each successive year, and may be considered for a full second term.
- (6) Members shall be divided into three classes (Class A, Class B, Class C), and will serve one, two, and 3 years respectively during the members' term. The member appointed by the other commission members shall be considered a Class C member. The six remaining members shall be divided evenly between the three classes.
- (7) Any member may resign at any time by mailing or delivering written notice to the commission chairman.
- (8) A member shall be deemed to resign if the member ceases to be eligible under the section "Members of the Commission".
- (9) A member may be removed for good cause, by majority vote of the disinterested members at a meeting for which notice was properly given and the notice included notice of a vote to remove the member.
- (10) Vacancies in the membership of the commission shall be filled in the same manner as that of the original election of such members.
- (11) Any person selected to fill a vacancy shall serve for the remainder of the unexpired term.
- (12) A referendum shall 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.

#### Rule 40-32-3-.02 Powers of the Commission

- (1) The commission is authorized to

- (a) Accept donations, gifts, and other property and to use the same for commission purposes.
- (b) 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.
- (c) 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 such services shall be fixed by the commission and shall be paid from the funds of the commission.
- (d) 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 with respect to propane of the commission.
- (e) Give due notice of and an opportunity for a public hearing.

#### Subject 40-32-4 - Funds and Administrative Expenses

##### Rule 40-32-4.-01 Funds

- (1) The commission is authorized, and it shall be its duty to receive, collect, and disperse the funds of the commission.
- (2) Funds received by the commission shall be held in trust for the commission.
- (3) Such funds shall be deposited, accounted for, and disbursed in the same manner as that of the funds of this state.
- (4) Any persons who handle funds on behalf of the commission shall be bonded with good and sufficient surety in an amount determined by the commission for the accounting of such funds.
- (5) All checks, drafts, and negotiable instruments which are drawn on or payable from the funds of the commission shall be signed by the chairperson of the commission.

##### Rule 40-32-4.02 Administrative Expense Exclusions

(1) The following are administrative expenses excluded from the percentage restrictions:

- (a) Marketing order program and project costs;
- (b) referendum costs;
- (c) costs to compel compliance with an assessment;
- (d) determine and impose late payment charges,
- (e) manage the investment of funds pending disbursement; and
- (f) Start-up costs.

#### Subject 40-32-5 Marketing Orders

##### Rule 40-32-5-.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, 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) Such order shall 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 pursuant to the Act and rules incurred shall be used for administrative expenses relating to the expenditure of the funds.

(4) The commission may advance costs of conducting referenda pursuant to the Act and rules and reimburse those costs from the assessment funds.

##### Rule 40-32-5-.02 Referendum

- (1) No marketing order issued pursuant to the Act by the commission shall be made effective by the commission until a referendum thereon is held.
- (2) The commission shall 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 of the referendum ballot is required to be returned to the commission in order to be considered on the question.
  - e. Any other matters pertaining to the referendum.
- (3) The amount of the proposed assessment established by the marketing order shall be stated on the referendum ballot.
- (4) The amount may not exceed four-tenths of one cent for each gallon of propane sold in this state by distributors to dealers.
- (5) The commission shall make reasonable efforts to provide all dealers with notice of the referendum and an opportunity to vote.
  - a. All dealers may vote in the referendum.
  - b. Each dealer shall have one vote.
  - c. Any dispute over eligibility to vote or any other matter relating to the referendum shall be resolved by the commission.
- (6) A proposed assessment shall become effective if more than 50 percent of the eligible dealers in the state vote and more than 50 percent of the votes cast by the dealers are cast in favor of the assessment.
- (7) The commission shall notify the department of the amount and the effective date of the assessment.
- (8) If the assessment is approved by the referendum, then the commission shall notify the Department of the amount and the effective date of the assessment.

- (9) The department shall notify all dealers of the assessment.

Rule 40-32-5.-03 Opt-Out Provisions

- (1) All dealers must pay the assessment to the distributors regardless of whether the dealer has chosen to opt-out.
- (2) A dealer can opt out of the Act participating with the marketing orders established by the commission only once per year between September 1 and September 30.
- (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.
- (5) Refunds may be requested quarterly after the 25<sup>th</sup> of the month following the end of the prior quarter.
- (6) Any dealer who opts out in accordance with this subsection shall 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 under this section and shall not be entitled to the payment of any interest by the commission on the amount refunded.

**Subject 40-32-6. Assessments**

Rule 40-32-6.-01 Distributors' Responsibilities

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

- (2) Each distributor shall collect the assessment from the dealer to whom the sale is made and shall 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 shall be remitted to the commission quarterly not later than the 25<sup>th</sup> day of the month following the end of the prior quarter.
- (4) A distributor shall keep records of the number of gallons of propane sold to dealers.
- (5) All documents or records regarding purchases and sales shall be made available to the commission upon its request for the purpose of determining the distributor's compliance with the provisions of the Act.
- (6) The commission shall keep the records confidential and shall not disclose the records except to its accountants, attorneys, or financial advisors without a court order directing it to do so.

#### Rule 40-32-6-.02 Pay and Collection of Assessments

- (1) Any assessment properly established in accordance with the Act and rules by the commission shall constitute a personal debt of every person so assessed and shall be due and payable to the commission when payment is called for by the commission.
- (2) If such person fails to pay any such assessment, the commission may file an action against such person in a court of competent jurisdiction for the collection thereof.
- (3) In the event that any person duly assessed pursuant to these rules fails to pay to the commission the amount so assessed, the commission shall be authorized to add to such unpaid assessment an amount not exceeding 10 percent of such unpaid assessment to defray the cost of enforcing the collection of the unpaid assessment.
- (4) The provisions of this section shall be cumulative, and any other remedies may be pursued concurrently until satisfaction is obtained.
- (5) Any penalty recovered shall become a part of the principal assessment levied and shall be for the use of the commission.



#### Rule 40-32-7 Notice of Hearing

- (1) A notice of any hearing called for such purpose shall 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.
- (2) No public hearing shall be held prior to five days after the last day of such period publication.
- (3) The commission shall also mail a copy or communicate electronically such notice of hearing and a copy of such proposed marketing order or proposed amendments to all dealers and distributors of propane whose names and addresses are on file with the commission.

#### Rule 40-32-8 Hearing

- (1) The hearing shall be public, and all testimony shall be received under oath.
- (2) A full and complete record of the proceedings at such hearing shall be made and maintained on file in the office of the commission.
- (3) The 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 shall be made based on hearings conducted other than by the commission itself, at which a majority of the members thereof are present, until the members of the commission have been afforded an opportunity to review the hearing record.
- (4) When the commission conducts hearings, its recommendations shall be based on findings reached after a review of the record of such hearings.

#### Rule 40-32-9 Robert's Rules of Order

- (1) Robert's Rules of Order shall govern the parliamentary procedures during all meetings.

#### Rule 40-32-10 Office of the Commission

- (1) The office of the commission is 1205 Johnson Ferry Road, Suite 136-435, Marietta, GA 30068.

**Rule 40-32-11 Amendment of this Document**

- (1) The commission may, by a majority vote, amend this document.
- (2) Such amendment shall not be effective until certified by the Secretary of State.