

Title 422 - Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission

Chapter 1 - Administrative Operations

422:1-1-1. Purpose

(a) The provisions of this Chapter set forth the organization and procedural rules governing the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission and have been adopted for the purpose of complying with 52 O.S., Section 420.20.

(b) The Commission is the policy making and governing authority for administration of the Act. The purposes of the Commission are set forth in the Act, but may be stated generally to include coordinating marketing and research activities of the LP Gas industry and to promote safety through programs and education.

[Source: Added at 14 Ok Reg 3183, eff 7-25-97]

422:1-1-2. Definitions

Unless the context clearly indicates otherwise, or unless defined in this Section, terms used in this Chapter, if defined in the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act shall have the meanings set forth in such act. The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the most recent codification of the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act, 52 O.S. Sections 420.20 through 420.30.

"Assessment" means the one-half cent (\$0.005) levied on each gallon of odorized LP Gas which is collected by the operator of a loading rack upon delivery into any cargo container in the State of Oklahoma except for odorized LP gas destined for export out of the state if the LP gas is in continuous movement to a destination outside of Oklahoma.

"Commission" means the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission.

"Refund" means the refund of the assessment authorized by Section 420.29 of the Act.

"LP gas" means liquefied petroleum gas (propane).

"Revolving Fund" means the fund created in the State Treasury for the Commission to be designated the "Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Revolving Fund."

[Source: Added at 14 Ok Reg 3183, eff 7-25-97; Amended at 25 Ok Reg 2508, eff 7-11-08]

422:1-1-3. Organization

(a) The Commission shall be organized in accordance with Section 420.23 of Title 52 of the

Oklahoma Statutes. The powers and duties of the Commission shall be as set forth in 52 O.S., Section 420.24. Membership in the Commission shall be determined in accordance with 52 O.S., Section 420.23

(b) The Commission may appoint a Director to carry out the provisions of the Act. The Director shall not be an appointed Commission Member.

[Source: Added at 14 Ok Reg 3183, eff 7-25-97]

422:1-1-4. Funding

(a) The activities of the Commission are funded through a one-half cent (\$0.005) per gallon assessment on the first sale of odorized LP gas or at the time of import of odorized LP gas into the State of Oklahoma. The assessment is voluntary inasmuch as any party subject to the assessment may apply for a Refund for the amount of the assessment paid by or on behalf of such person during the preceding calendar year.

(b) The Commission may expend Revolving Fund revenues as provided by law.

(c) Expenditures against claims filed as prescribed by law with the Director of Finance for approval and payment.

[Source: Added at 14 Ok Reg 3183, eff 7-25-97; Amended at 25 Ok Reg 2508, eff 7-11-08]

422:1-1-5. Official actions

(a) All official acts of the Commission shall be evidenced by a written record, and all final orders, decisions, opinions, rules and other written statements of policy of interpretations formulated, adopted or used in the discharge of the function of the Commission shall be available for public inspection.

(b) Official action of the Commission shall not be bound or be prejudiced by any informal statement made or opinion given by any Commission member, the Director or employees of the Commission.

[Source: Added at 14 Ok Reg 3183, eff 7-25-97]

422:1-1-6. Location, office hours

(a) Any member of the public may obtain information or make submission and requests to the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission, 6412 N. Santa Fe Ave., Suite C, Oklahoma City, Oklahoma 73116-9111. Office hours from 8:30 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.

(b) Any person seeking information, making submissions or requests shall contact the Director who shall act on behalf of the Commission.

[Source: Added at 14 Ok Reg 3183, eff 7-25-97; Amended at 15 Ok Reg 3267, eff 7-13-98; Amended at 25 Ok Reg 2508, eff 7-11-08]

422:1-1-7. Public inspection of policies and rules

(a) All rules and other written statements of policy or interpretations formulated, or adopted by the Commission in the discharge of its function shall be available for public inspection during normal business hours at the office of the Oklahoma LP Gas Research, Marketing and Safety Commission.

(b) All orders and decisions will be made available for public inspection within a reasonable period following order or decisions.

[Source: Added at 14 Ok Reg 3183, eff 7-25-97]

422:1-1-8. Procedure for requesting promulgation, amendment or repeal of a rule

Any request for promulgation, amendment or repeal of a rule by a person shall be by petition, said petition must specify the rule to be promulgated, amended or repealed, indication why such a rule change would be in the interest of those involved, such petition shall bear the signatures of no less than fifty-one (51%) percent of all Class I permit holders in the state. Such petitions shall be filed with the Commission office at least 30 days prior to a regularly scheduled Commission meeting, and must be placed upon said Commission's Agenda for consideration without delay.

[Source: Added at 14 Ok Reg 3183, eff 7-25-97]

422:1-1-9. Judicial Review

Any party aggrieved by a final order of the Commission in an individual proceeding may seek judicial review in accordance with the provisions of Section 318 of the Administrative Procedures Act.

[Source: Added at 14 Ok Reg 3183, eff 7-25-97]

422:1-1-10. Declaratory ruling

(a) the Commission may honor requests from interested persons for interpretative opinions as to the applicability of any rule or order, if it be shown that an actual case, controversy, or issue is in contemplation and that unreasonable hardship, loss or delay would result if the matter were not determined in advance.

(b) The request should set forth the following information:

(1) the name and address of the person or entity requesting the declaratory ruling;

(2) the full text of the rule involved;

(3) the basis for requesting the declaratory ruling, including the basis for contesting the validity of the rule, if applicable; and

(4) any court cases, Attorney General's opinions, or other explanatory material supporting the position of the person or entity seeking the ruling.

(c) Upon receipt of the request, the Commission shall proceed to set the matter for hearing in accordance with Sections 309-323 of the Oklahoma Administrative Procedures Act.

(d) Any person aggrieved by a declaratory ruling of the Commission may seek a review of the decision of the Commission in accordance with Sections 317 through 323 of the Oklahoma Administrative Procedures Act. Nothing herein shall impair the right of any person to seek a declaratory judgment respecting a rule's validity in accordance with Section 306 of the Oklahoma Administrative Procedures Act.

[Source: Added at 14 Ok Reg 3183, eff 7-25-97]

Title 422 - Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission

Chapter 10 - Marketing and Safety Programs Subchapter 1 - Water Heater Rebate Program

422:10-1-1. Purpose

The purpose of this section is to establish for purchasers of propane water heaters a consumer rebate program that achieves energy conservation and efficiency and improves the quality of air in this state. These sections outline the commission's mechanism for determining the eligibility of equipment and consumer applicants, application requirements, administrative procedures, rebate amounts and adjustments, terms of compliance, penalties for violations and program termination.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97]

422:10-1-2. Definitions

The following words and terms used in these rules shall have the following meanings, unless the context clearly indicates otherwise.

"Applicant" means a consumer who has submitted a complete and timely application.

"Application" means the set of forms prescribed by the Commission for the purpose of applying for and/or assigning a rebate and participating in the rebate program as a propane dealer, including all required supporting documentation.

"Available funds" means the Money available in the Oklahoma LP Gas Research, Marketing and Safety Revolving Fund in the state treasury, consisting of fees charged under O.S. 52 Sec. 420.22 and penalties for the late payment of the fee charged under O.S. 52 Sec. 420.28.

"Commission" means the Oklahoma LP Gas Research, Marketing and Safety Commission.

"Consumer" means a person who is the legal owner of eligible equipment installed in an eligible installation.

"Delivery date" means the date of postmark of a mailed complete and correct application or the date that a hand-delivered complete and correct application is stamped in at the Oklahoma City offices of the Commission.

"Eligible equipment" means a propane-fueled water heater, either a storage-type water heater rated by its manufacturer at not less than 30 gallons water capacity or an instantaneous-type water heater rated by its manufacturer at not less than 50,000 BTU/hour input, that meets the applicable standards of the federal Energy Policy and Conservation Act, as amended (42 United State Code S6291 et seq.) and regulations adopted thereunder (10 Code of Federal Regulations S430.32(d)), is approved and listed by the American Gas Association, and is listed in the most recent edition of the Gas Appliance Manufacturers Association's (GAMA) "Consumer Directory of Certified Efficiency Ratings for Residential Heating and Water Heating Equipment.

"Eligible installation" means an installation of eligible equipment that takes place on real property owned by the applicant and located in this state and that occurs no earlier than the effective date of this rule and no later than the date of termination of the program established under this rule.

"Installation date" means the date on which a Safety Inspection (Form 4) is performed per Oklahoma Liquefied Petroleum Gas Board rules and regulations (Title 420:10-1-15).

"Person" means an individual, sole proprietorship, partnership, corporation or other legal entity.

"Propane" means Liquefied petroleum gas (LPG), as that term is defined in O.S. 52 Sec. 420.21.

"Propane dealer" means a person who:

(A) has been issued a current Class I permit from the Oklahoma LP Gas Administration; or

(B) has been issued a Class X Manager's permit to

operate or manage a retail business, including any branch outlet or outlets, delivering odorized propane to consumers; and

(C) is a regular supplier or a potential regular

supplier of propane to an applicant.

"Safety inspection" means an on-site inspection, including any necessary pressure tests, of an operating eligible installation by a propane dealer or a propane dealer's designated agent, for the purpose of verifying that the LP-gas system, including all equipment, is or was installed in compliance with the propane water heater rebate program rules and with all applicable LP Gas Administration rules, including Form 4 requirements, and is in safe operating condition.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 17 Ok Reg 2999, eff 7-13-00; Amended at 25 Ok Reg 2509, eff 7-11-08]

422:10-1-3. Establishment; duration

The rebate program is hereby established on the effective date of this rule. The Commission may terminate this rebate program at any time.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97]

422:10-1-4. Availability of funds

The Commission may not use more than 50% of the funds available in the Oklahoma LP Gas Research, Marketing and Safety Revolving Fund for purposes of consumer incentive or rebate programs. If funds become unavailable during a program year, the Commission may carry over applications until the next program year.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 15 Ok Reg 3267, eff 7-13-98]

422:10-1-5. Eligibility

(a) To be eligible for a rebate under this program, a consumer must document, using forms prescribed by the Commission for the purpose, that:

- (1) an eligible installation has been performed;
- (2) the eligible installation for which application is made either replaced an existing water heater or occurred in new construction; and
- (3) a safety inspection of the eligible installation has been performed and documented with a Form 4.

(b) Installations performed on motor vehicles, travel trailers, mobile homes or manufactured homes are not eligible for rebates under this program, except when the installation replaces an existing water heater in a mobile home or manufactured home that is already in permanent residential or commercial use in this state;

(c) No more than one rebate may be paid for each eligible installation.

(d) An applicant may apply for a rebate for any number of eligible installations.

(e) The Commission may limit the total amount of rebates that may be paid to any applicant.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 17 Ok Reg 2999, eff 7-13-00; Amended at 25 Ok Reg 2509, eff 7-11-08]

422:10-1-6. Applications

(a) Forms. Application for a rebate shall be made by a consumer on forms prescribed for that purpose by the Commission.

(b) Payment. The Commission may approve payment of a rebate to an applicant subject to the availability of funds. Applicants have no legal right or other entitlement to receive rebates under this program, and receipt of a complete and correct application does not bind the Commission to approve payment of a rebate to any applicant.

(c) Priority. Applications shall be considered on a first-come, first-served basis according to the receipt dates of complete and correct applications.

(d) Acceptance. Applications will be accepted no earlier than the effective date of this rule and no later than the date of termination of the program. An application must be received at the Commission no later than 120 days following the installation date of the eligible installation to be eligible for rebates. Applications may be mailed or hand-delivered to the Oklahoma LP Gas Research, Marketing and Safety Commission, 6412 N. Santa Fe Ave., Suite C, Oklahoma City, Oklahoma 73116-9111. Applications may not be submitted electronically or by facsimile transmission (FAX).

(e) Installation date. The date on which a Safety Inspection (Form 4) is performed. Applications must pertain to eligible installations made not earlier than the effective date of this rule and not

later than the program termination date.

(f) **Completeness.** Applicants must furnish completely and correctly all information required on the official rebate application. No application may be considered complete until all required information is correct and all forms and required supporting documentation are received by the commission.

(g) **Incomplete applications.** Applicants have 30 days from the date the Commission sends notice to correct any errors or omissions on the application. If a complete, correct application is not received by the commission within 30 days after notice has been sent, the application shall be void.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 15 Ok Reg 3267, eff 7-13-98; Amended at 25 Ok Reg 2509, eff 7-11-08]

422:10-1-7. Conditions of Receipt of Rebate

The application forms prescribed by the Commission shall include conditions that the consumer agrees:

- (1) to practice environmentally sound operating principles;
- (2) not to modify the equipment for a period of five years from the date of installation in any way that would materially impair the equipment's performance with respect to energy conservation, energy efficiency or air quality;
- (3) not to remove the equipment from this state; and
- (4) not to remove eligible equipment permanently from service for a period of five years from the date of installation; and
- (5) to allow Commission inspection of the installation pursuant to Sec. 422:10-1-10 (relating to Verification; Safety; Disallowance; Refund).

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 15 Ok Reg 3267, eff 7-13-98]

422:10-1-8. Selection of equipment and installer

Selection of a water heater and an installer is solely the responsibility of the consumer. The Commission will not recommend equipment, dealers or installers.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97]

422:10-1-9. Rebate amount; minimum efficiency factor

(a) The Commission may establish the rebate amount and the minimum energy efficiency factor for an eligible installation. The Commission may change this amount and efficiency factor at any time. If the Commission changes the rebate amount or the minimum energy efficiency factor, an applicant whose application is approved shall receive the amount that is in effect on the delivery date.

(b) In setting the amount of the rebate or the energy efficiency factor, the Commission may consider any or all of the following:

- (1) availability of funds;
- (2) the effectiveness of the program in increasing propane use;
- (3) dealer participation;
- (4) consumer acceptance;
- (5) administrative cost; and
- (6) energy-conservation, energy efficiency, or air-quality benefits.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 17 Ok Reg 2999, eff 7-13-00; Amended at 25 Ok Reg 2509, eff 7-11-08]

422:10-1-10. Verification; safety; disallowance; refund

(a) Upon reasonable notice and at any reasonable time, an inspector, employee or agent of the Commission may enter premises where an eligible installation has taken place, to verify compliance with the requirement of the rebate program and/or LP Gas Administration rules. The Commission may perform such inspection prior to approving payment of a rebate.

(b) No rebate will be paid for any installation inspected and found to be out of compliance. If an installation found to be out of compliance is not brought into compliance within 30 days, the rebate will be disallowed.

(c) If an installation is inspected by the Commission after payment of a rebate and found not to be in compliance, the consumer shall have 30 days to bring the installation into compliance. If the installation is not brought into compliance at the end of 30 days, the consumer shall refund the full amount of the rebate to the Commission.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97]

422:10-1-11. Assignment of rebate

The Commission may authorize payment of a rebate to a propane dealer only by assignment from a consumer. Rebate amounts assigned shall be those in effect at the time an application is approved. A consumer may apply to assign a rebate to a propane dealer by completing and submitting the form prescribed for that purpose by the Commission. A propane dealer or applicant who submits false information pertaining to the assignment of a rebate is subject to criminal and civil penalties under Sec. 422:10-1-14 (relating to Penalties).

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 15 Ok Reg 3267, eff 7-13-98]

422:10-1-12. Compliance

(a) An applicant or propane dealer may be suspended from or declared ineligible to participate in the rebate program if, in the judgment of the Commission director, the applicant or dealer has

submitted false information or otherwise violated rebate program rules.

(b) Within 30 days after the division director mails a notice of suspension or ineligibility to an applicant or propane dealer, the applicant or propane dealer may appeal the suspension or declaration of ineligibility in writing to the Commission. Action taken by the Commission with respect to such appeals are final.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97]

422:10-1-13. Complaints

(a) Any person may file a complaint about an applicant, a propane dealer or another person regarding alleged violations of the rebate program rules. Complaints should be sent in writing to the Commission director at the address set forth in Sec. 422:10-1-6 (relating to Application).

(b) Complaints that an installation does not comply with the Commission's LP-gas safety rules should be sent in writing to the Commission director at the same address.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97]

422:10-1-14. Penalties

Violations of propane water heater rebate program rules are subject to civil and criminal prosecution and penalties prescribed under O.S. 52 Sec. 420.28.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 15 Ok Reg 3267, eff 7-13-98]

Title 422 - Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission

Chapter 10 - Marketing and Safety Programs

Subchapter 5 - Regulator Rebate Program

422:10-5-1. Purpose

The purpose of this section is to establish for Oklahoma retail propane dealers a regulator rebate program that achieves increased public awareness and assists in the marketing of propane as a safe and environmentally beneficial alternative fuel. These sections outline the Commission's mechanism for determining the eligibility of equipment and consumer applicants, application requirements, administrative procedures, rebate amounts and adjustments, terms of compliance, penalties for violations and program termination.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97]

422:10-5-2. Definitions

The following words and terms used in these rules shall have the following meanings, unless the context clearly indicates otherwise.

"Applicant" means a consumer who has submitted a complete and timely application.

"Application" means the set of forms prescribed by the Commission for the purpose of applying for and/or assigning a rebate and participating in the rebate program as a propane dealer, including all required supporting documentation.

"Available funds" - Money available in the Oklahoma LP Gas Research, Marketing and Safety Revolving Fund in the state treasury, consisting of fees charged under O.S. 52 Sec. 420.27 and penalties for the late payment of the fee charged under O.S. 52 Sec. 420.28.

"Commission" means the Oklahoma LP Gas Research, Marketing and Safety Commission.

"Consumer" means a person who is the legal owner of an eligible regulator installed in an eligible installation.

"Delivery date" means the date of postmark of a mailed application or the date that a hand-delivered application is stamped in at the Oklahoma City offices of the Commission.

"Eligible regulator" means a regulator that is U.L. listed and meets all National Fire Protection Association (NFPA) pamphlet No. #58 requirements, including the current and any subsequent editions and any subsequent changes and/or additions to the pamphlet.

"Eligible installation" means an installation of an eligible regulator that takes place on real property owned or rented by the applicant and located in this state and that occurs no earlier than the effective date of this rule and no later than the date of termination of the program established under this rule.

"Installation date" means the date on which a Safety Inspection (Form 4) is performed per Oklahoma Liquefied Petroleum Gas Board rules and regulations (Title 420:10-1-15).

"Person" means an individual, sole proprietorship, partnership, corporation or other legal entity.

"Propane" means Liquefied petroleum gas (LPG), as that term is defined in O.S. 52 Sec. 420.21.

"Propane dealer" means A person who:

(A) has been issued a current Class I permit from the Oklahoma LP Gas Administration; or

(B) has been issued a Class X Manager's permit to operate or manage a retail business, including any branch outlet or outlets, delivering odorized propane to consumers; and

(C) is a regular supplier or a potential regular supplier of propane to an applicant.

"Safety inspection" means an on-site inspection, including any necessary pressure tests, of an operating eligible installation by a propane dealer or a propane dealer's designated agent, for the purpose of verifying that the LP-gas system, including all equipment, is or was installed in compliance with the regulator rebate program rules and with all applicable LP-gas Administration rules, including Form 4 requirements, and is in safe operating condition.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 15 Ok Reg 3267, eff 7-13-98; Amended at 25 Ok Reg 2509, eff 7-11-08]

422:10-5-3. Establishment; duration

The rebate program is hereby established on the effective date of this rule. The Commission may terminate this rebate program at any time.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97]

422:10-5-4. Availability of funds

The Commission may not use more than 50% of the funds available in the Oklahoma LP Gas Research, Marketing and Safety Revolving Fund for purposes of consumer incentive or rebate programs. If funds become unavailable during a program year, the Commission may carry over applications until the next program year.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 15 Ok Reg 3267, eff 7-13-98]

422:10-5-5. Eligibility

(a) To be eligible for a rebate under this program, a consumer must document, using forms prescribed by the Commission for the purpose, that:

(1) an eligible installation has been performed;

(2) the eligible installation for which application is made either replaced an existing regulator that was at least 15 years old, or replaced an unsafe regulator; and

(3) a safety inspection of the eligible installation has been performed and documented with a Form 4.

(b) Installations performed on motor vehicles, motor homes, travel trailers, that are not in permanent residential or commercial use in this state are not eligible for rebates under this program.

(c) No more than one rebate may be paid for each eligible installation.

(d) An applicant may apply for a rebate for any number of eligible installations.

(e) The Commission may limit the total amount of rebates that may be paid to any applicant.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 25 Ok Reg 2509, eff 7-11-08]

422:10-5-6. Applications

(a) Forms. Application for a rebate shall be made by a consumer on forms prescribed for that purpose by the Commission.

(b) Payment. The Commission may approve payment of a rebate to an applicant subject to the availability of funds. Applicants have no legal right or other entitlement to receive rebates under this program, and receipt of a complete and correct application does not bind the Commission to approve payment of a rebate to any applicant.

(c) Priority. Applications shall be considered on a first-come, first-served basis according to the receipt dates of complete and correct applications.

(d) Acceptance. Applications will be accepted no earlier than the effective date of this rule and no later than the date of termination of the program. An application must be received at the Commission no later than 120 days following the installation date of the eligible installation to be eligible for rebates. Applications may be mailed or hand-delivered to the Oklahoma LP Gas Research, Marketing and Safety Commission, 6412 N. Santa Fe Ave., Suite C, Oklahoma City, Oklahoma 73116-9111. Applications may not be submitted electronically or by facsimile transmission (FAX).

(e) Installation date. The date on which a Safety Inspection (Form 4) is performed. Applications must pertain to eligible installations made not earlier than the effective date of this rule and not later than the program termination date.

(f) Completeness. Applicants must furnish completely and correctly all information required on the official rebate application. No application may be considered complete until all required information is correct and all forms and required supporting documentation are received by the commission.

(g) Incomplete applications. Applicants have 30 days from the date the commission sends notice to correct any errors or omissions on the application. If a complete, correct application is not received by the commission within 30 days after notice has been sent, the application shall be void.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 15 Ok Reg 3267, eff 7-13-98; Amended at 25 Ok Reg 2509, eff 7-11-08]

422:10-5-7. Conditions of receipt of rebate

The application forms prescribed by the commission shall include conditions that the consumer agrees:

- (1) to practice environmentally sound operating principles;
- (2) not to modify the equipment for a period of five years from the date of installation in any way that would materially impair the equipment's performance with respect to energy conservation, energy efficiency or air quality;
- (3) not to remove the equipment from this state; and
- (4) not to remove eligible equipment permanently from service for a period of five years from the date of installation; and
- (5) to allow Commission inspection of the installation pursuant to Sec. 422:10-5-10 (relating to Verification; Safety; Disallowance; Refund).

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 15 Ok Reg 3267, eff 7-13-98]

422:10-5-8. Selection of equipment and installer

Selection of a regulator and a licensed installer is solely the responsibility of the consumer. The Commission will not recommend equipment, dealers or installers.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97]

422:10-5-9. Rebate amount

- (a) The Commission shall establish the rebate amount for an eligible installation. The Commission may change this amount at any time. If the Commission changes the rebate amount, an applicant whose application is approved will receive the amount that is in effect for the eligible installation at the time of approval of the application.
- (b) In setting the amount of the rebate, the Commission may consider any or all of the following:
 - (1) availability of funds;
 - (2) the effectiveness of the program in increasing propane use;
 - (3) dealer participation;
 - (4) consumer acceptance;
 - (5) administrative cost; and
 - (6) public safety awareness

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 25 Ok Reg 2509, eff 7-11-08]

422:10-5-10. Verification; safety; disallowance; refund

(a) Upon reasonable notice and at any reasonable time, an inspector, employee or agent of the Commission may enter premises where an eligible installation has taken place, to verify compliance with the requirement of the rebate program and/or LP Gas Administration rules. The Commission may perform such inspection prior to approving payment of a rebate.

(b) No rebate will be paid for any installation inspected and found to be out of compliance. If an installation found to be out of compliance is not brought into compliance within 30 days, the rebate will be disallowed.

(c) If an installation is inspected by the Commission after payment of a rebate and found not to be in compliance, the consumer shall have 30 days to bring the installation into compliance. If the installation is not brought into compliance at the end of 30 days, the consumer shall refund the full amount of the rebate to the Commission.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97]

422:10-5-11. Assignment of rebate

The Commission may authorize payment of a rebate to a propane dealer only by assignment from a consumer. Rebate amounts assigned shall be those in effect at the time an application is approved. A consumer may apply to assign a rebate to a propane dealer by completing and submitting the form prescribed for that purpose by the Commission. A propane dealer or applicant who submits false information pertaining to the assignment of a rebate is subject to criminal and civil penalties under Sec. 422:10-5-14 (relating to Penalties).

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 15 Ok Reg 3267, eff 7-13-98]

422:10-5-12. Compliance

(a) An applicant or propane dealer may be suspended from or declared ineligible to participate in the rebate program if, in the judgment of the Commission director, the applicant or dealer has submitted false information or otherwise violated rebate program rules.

(b) Within 30 days after the division director mails a notice of suspension or ineligibility to an applicant or propane dealer, the applicant or propane dealer may appeal the suspension or declaration of ineligibility in writing to the Commission. Action taken by the Commission with respect to such appeals are final.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97]

422:10-5-13. Complaints

(a) Any person may file a complaint about an applicant, a propane dealer or another person regarding alleged violations of the rebate program rules. Complaints should be sent in writing to the Commission director at the address set forth in Sec. 422:10-5-6 (relating to Application).

(b) Complaints that an installation does not comply with the LP Gas Administration rules should be sent in writing to the Commission director at the same address.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 15 Ok Reg 3267, eff 7-13-98]

422:10-5-14. Penalties

Violations of regulator rebate program rules are subject to civil and criminal prosecution and penalties prescribed under O.S. 52 Sec. 420.28.

[Source: Added at 14 Ok Reg 3185, eff 7-25-97; Amended at 15 Ok Reg 3267, eff 7-13-98]

Title 422 - Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission

Chapter 10 - Marketing and Safety Programs

Subchapter 15 - Manufactured Housing Incentive Program [Revoked]

422:10-15-1. Definitions [REVOKED]

[Source: Added at 15 Ok Reg 4310, eff 9-8-98 (emergency); Added at 16 Ok Reg 3345, eff 7-26-99; Revoked at 25 Ok Reg 2509, eff 7-11-08]

422:10-15-2. Establishment; duration [REVOKED]

[Source: Added at 15 Ok Reg 4310, eff 9-8-98 (emergency); Added at 16 Ok Reg 3345, eff 7-26-99; Revoked at 25 Ok Reg 2509, eff 7-11-08]

422:10-15-3. Incentive amount; limitation [REVOKED]

[Source: Added at 15 Ok Reg 4310, eff 9-8-98 (emergency); Added at 16 Ok Reg 3345, eff 7-26-99; Revoked at 25 Ok Reg 2509, eff 7-11-08]

422:10-15-4. Eligibility [REVOKED]

[Source: Added at 15 Ok Reg 4310, eff 9-8-98 (emergency); Added at 16 Ok Reg 3345, eff 7-26-99; Amended at 17 Ok Reg 2999, eff 7-13-00; Revoked at 25 Ok Reg 2509, eff 7-11-08]

422:10-15-5. Application procedure [REVOKED]

[Source: Added at 15 Ok Reg 4310, eff 9-8-98 (emergency); Added at 16 Ok Reg 3345, eff 7-26-99; Revoked at 25 Ok Reg 2509, eff 7-11-08]

422:10-15-6. Payment of rebate [REVOKED]

[Source: Added at 15 Ok Reg 4310, eff 9-8-98 (emergency); Added at 16 Ok Reg 3345, eff 7-26-99; Amended at 17 Ok Reg 2999, eff 7-13-00; Revoked at 25 Ok Reg 2509, eff 7-11-08]

422:10-15-7. ¹ Conditions of Receipt of Rebate [REVOKED]

[Source: Added at 16 Ok Reg 3345, eff 7-26-99; Revoked at 25 Ok Reg 2509, eff 7-11-08]

EDITOR'S NOTE: ¹In an earlier EMERGENCY action, a rule called "Assignment of incentive" was added at this number (422:10-15-7), effective 9-8-98. The emergency rule was later superseded by a permanent rule numbered as 422:10-15-8, effective 7-26-99.

422:10-15-8. ¹ Assignment of incentive [REVOKED]

[Source: Added as 422:10-15-7 at 15 Ok Reg 4310, eff 9-8-98 (emergency); Added at 16 Ok Reg 3345, eff 7-26-99; Revoked at 25 Ok Reg 2509, eff 7-11-08]

EDITOR'S NOTE: ¹In an earlier EMERGENCY action, a rule called "Compliance" was added at this number (422:10-15-8), effective 9-8-98. The emergency rule was later superseded by a permanent rule numbered as 422:10-15-9, effective 7-26-99.

422:10-15-9. ¹ Compliance [REVOKED]

[Source: Added as 422:10-15-8 at 15 Ok Reg 4310, eff 9-8-98 (emergency); Added at 16 Ok Reg 3345, eff 7-26-99; Revoked at 25 Ok Reg 2509, eff 7-11-08]

EDITOR'S NOTE: ¹In an earlier EMERGENCY action, a rule called "Complaints" was added at this number (422:10-15-9), effective 9-8-98. The emergency rule was later superseded by a permanent rule numbered as 422:10-15-10, effective 7-26-99.

422:10-15-10. ¹ Complaints [REVOKED]

[Source: Added as 422:10-15-9 at 15 Ok Reg 4310, eff 9-8-98 (emergency); Added at 16 Ok Reg 3345, eff 7-26-99; Revoked at 25 Ok Reg 2509, eff 7-11-08]

EDITOR'S NOTE: ¹In an earlier EMERGENCY action, a rule called "Penalties" was added at this number (422:10-15-10), effective 9-8-98. The emergency rule was later superseded by a permanent rule numbered as 422:10-15-11, effective 7-26-99.

422:10-15-11. Penalties [REVOKED]

[Source: Added as 422:10-15-10 at 15 Ok Reg 4310, eff 9-8-98 (emergency); Added at 16 Ok Reg 3345, eff 7-26-99; Revoked at 25 Ok Reg 2509, eff 7-11-08]

Title 422 - Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission

Chapter 10 - Marketing and Safety Programs

Subchapter 20 - Central Furnace Rebate Program

422:10-20-1. Purpose

The purpose of this section is to establish for purchasers of a propane-fueled central furnace a consumer rebate program that achieves energy conservation and efficiency and improves the quality of air in this state. These sections outline the commission's mechanism for determining the eligibility of equipment and consumer applicants, application requirements, administrative procedures, rebate amounts and adjustments, terms of compliance, penalties for violations and program termination.

[Source: Added at 17 Ok Reg 890, eff 2-10-00 (emergency); Added at 17 Ok Reg 3003, eff 7-13-00]

422:10-20-2. Definitions

The following words and terms used in these rules shall have the following meanings, unless the context clearly indicates otherwise.

"Applicant" means a consumer who has submitted a complete and timely application.

"Application" means the set of forms prescribed by the Commission for the purpose of applying for and/or assigning a rebate and participating in the rebate program as a propane dealer, including all required supporting documentation.

"Available funds" means the money available in the Oklahoma LP Gas Research, Marketing and Safety Revolving Fund in the state treasury, consisting of fees charged under O.S. 52 Sec. 420.22 and penalties for the late payment of the fee charged under O.S. 52 Sec. 420.28.

"Commission" means the Oklahoma LP Gas Research, Marketing and Safety Commission.

"Consumer" means a person who is the legal owner of eligible equipment installed in an eligible installation.

"Delivery date" means the date of postmark of a mailed complete and correct application or the date that a hand-delivered complete and correct application is stamped in at the Oklahoma City offices of the Commission.

"Eligible equipment" means a self-contained, propane gas burning appliance for heating air by transfer of heat of combustion through metal to the air and designed to supply heated air through ducts to spaces remote from or adjacent to the appliance location.

"Eligible installation" means an installation of eligible equipment that takes place on real property owned by the applicant and located in this state and that occurs no earlier than the effective date of this rule and no later than the date of termination of the program established under this rule.

"Installation Date" means the date on which a Safety Inspection (Form 4) is performed per Oklahoma Liquefied Petroleum Gas Board rules and regulations (Title 420:10-1-15).

"Person" means an individual, sole proprietorship, partnership, corporation or other legal entity.

"Propane" means Liquefied petroleum gas (LPG), as that term is defined in O.S. 52 Sec. 420.21.

"Propane dealer" means a person who:

(A) has been issued a current Class I permit from the Oklahoma LP Gas Administration;
or

(B) has been issued a Class X Manager's permit to operate or manage a retail business, including any branch outlet or outlets, delivering odorized propane to consumers; and

(C) is a regular supplier or a potential regular supplier of propane to an applicant.

"Safety inspection" means an on-site inspection, including any necessary pressure tests, of an operating eligible installation by a propane dealer or a propane dealer's designated agent, for the purpose of verifying that the LP-gas system, including all equipment, is or was installed in compliance with the central furnace rebate program rules and with all applicable LP Gas Administration rules, including Form 4 requirements, and is in safe operating condition.

[Source: Added at 17 Ok Reg 890, eff 2-10-00 (emergency); Added at 17 Ok Reg 3003, eff 7-13-00; Amended at 25 Ok Reg 2509, eff 7-11-08]

422:10-20-3. Establishment; duration

The rebate program is hereby established on the effective date of this rule. The Commission may terminate this rebate program at any time.

[Source: Added at 17 Ok Reg 890, eff 2-10-00 (emergency); Added at 17 Ok Reg 3003, eff 7-13-00]

422:10-20-4. Availability of funds

The Commission may not use more than 50% of the funds available in the Oklahoma LP Gas Research, Marketing and Safety Revolving Fund for purposes of consumer incentive or rebate programs. If funds become unavailable during a program year, the Commission may carry over applications until the next program year.

[Source: Added at 17 Ok Reg 890, eff 2-10-00 (emergency); Added at 17 Ok Reg 3003, eff 7-13-00]

422:10-20-5. Eligibility

(a) To be eligible for a rebate under this program, a consumer must document, using forms prescribed by the Commission for the purpose, that:

(1) an eligible installation has been performed;

(2) the eligible installation for which application is made either replaced an existing central furnace or occurred in new construction; and

(3) a safety inspection of the eligible installation has been performed and documented with a Form 4.

(b) Installations performed on motor vehicles, travel trailers, mobile homes or manufactured homes are not eligible for a rebate under this program, except when the installation replaces an existing central furnace in a mobile home or manufactured home that is already in permanent residential or commercial use in this state;

(c) No more than one rebate may be paid for each eligible installation.

(d) An applicant may apply for a rebate for any number of eligible installations.

(e) The Commission may limit the total amount of rebates that may be paid to any applicant.

[Source: Added at 17 Ok Reg 890, eff 2-10-00 (emergency); Added at 17 Ok Reg 3003, eff 7-13-00; Amended at 25 Ok Reg 2509, eff 7-11-08]

422:10-20-6. Applications

(a) Forms. Application for a rebate shall be made by a consumer on forms prescribed for that purpose by the Commission.

(b) Payment. The Commission may approve payment of a rebate to an applicant subject to the availability of funds. Applicants have no legal right or other entitlement to receive rebates under this program, and receipt of a complete and correct application does not bind the Commission to approve payment of a rebate to any applicant.

(c) Priority. Applications shall be considered on a first-come, first-served basis according to the receipt dates of complete and correct applications.

(d) Acceptance. Applications will be accepted no earlier than the effective date of this rule and no later than the date of termination of the program. An application must be received at the Commission no later than 120 days following the installation date of the eligible installation to be eligible for rebates. Applications may be mailed or hand-delivered to the Oklahoma LP Gas Research, Marketing and Safety Commission, 6412 N. Santa Fe Ave., Suite C, Oklahoma City, Oklahoma 73116-9111. Applications may not be submitted electronically or by facsimile transmission (FAX).

(e) Installation date. The date on which a Safety Inspection (Form 4) is performed. Applications must pertain to eligible installations made not earlier than the effective date of this rule and not later than the program termination date.

(f) Completeness. Applicants must furnish completely and correctly all information required on the official rebate application. No application may be considered complete until all required information is correct and all forms and required supporting documentation are received by the commission.

(g) Incomplete applications. Applicants have 30 days from the date the Commission sends notice to correct any errors or omissions on the application. If a complete, correct application is not received by the commission within 30 days after notice has been sent, the application shall be void.

[Source: Added at 17 Ok Reg 890, eff 2-10-00 (emergency); Added at 17 Ok Reg 3003, eff 7-13-00; Amended at 25 Ok Reg 2509, eff 7-11-08]

422:10-20-7. Conditions of receipt of rebate

The application forms prescribed by the Commission shall include conditions that the consumer agrees:

- (1) to practice environmentally sound operating principles;
- (2) not to modify the equipment for a period of five years from the date of installation in any way that would materially impair the equipment's performance with respect to energy conservation, energy efficiency or air quality;
- (3) not to remove the equipment from this state; and
- (4) not to remove eligible equipment permanently from service for a period of five years from the date of installation; and
- (5) to allow Commission inspection of the installation pursuant to Sec. 422:10-20-10 (relating to Verification; Safety; Disallowance; Refund).

[Source: Added at 17 Ok Reg 890, eff 2-10-00 (emergency); Added at 17 Ok Reg 3003, eff 7-13-00]

422:10-20-8. Selection of equipment and installer

Selection of a central furnace and an installer is solely the responsibility of the consumer. The Commission will not recommend equipment, dealers or installers.

[Source: Added at 17 Ok Reg 890, eff 2-10-00 (emergency); Added at 17 Ok Reg 3003, eff 7-13-00]

422:10-20-9. Rebate amount; minimum efficiency factor

(a) The Commission may establish the rebate amount and the minimum energy efficiency factor for an eligible installation. The Commission may change this amount and efficiency factor at any time. If the Commission changes the rebate amount or the minimum energy efficiency factor, an applicant whose application is approved shall receive the amount that is in effect on the delivery date.

(b) In setting the amount of the rebate or the energy efficiency factor, the Commission may consider any or all of the following:

- (1) availability of funds;

- (2) the effectiveness of the program in increasing propane use;
- (3) dealer participation;
- (4) consumer acceptance;
- (5) administrative cost; and
- (6) energy-conservation, energy efficiency, or air-quality benefits.

[Source: Added at 17 Ok Reg 890, eff 2-10-00 (emergency); Added at 17 Ok Reg 3003, eff 7-13-00; Amended at 25 Ok Reg 2509, eff 7-11-08]

422:10-20-10. Verification; safety; disallowance; refund

(a) Upon reasonable notice and at any reasonable time, an inspector, employee or agent of the Commission may enter premises where an eligible installation has taken place, to verify compliance with the requirement of the rebate program and/or LP Gas Administration rules. The Commission may perform such inspection prior to approving payment of a rebate.

(b) No rebate will be paid for any installation inspected and found to be out of compliance. If an installation found to be out of compliance is not brought into compliance within 30 days, the rebate will be disallowed.

(c) If an installation is inspected by the Commission after payment of a rebate and found not to be in compliance, the consumer shall have 30 days to bring the installation into compliance. If the installation is not brought into compliance at the end of 30 days, the consumer shall refund the full amount of the rebate to the Commission.

[Source: Added at 17 Ok Reg 890, eff 2-10-00 (emergency); Added at 17 Ok Reg 3003, eff 7-13-00]

422:10-20-11. Assignment of rebate

The Commission may authorize payment of a rebate to a propane dealer only by assignment from a consumer. The rebate amount assigned shall be the amount that is in effect on the delivery date of the application. A consumer may apply to assign a rebate to a propane dealer by completing and submitting the form prescribed for that purpose by the Commission. A propane dealer or applicant who submits false information pertaining to the assignment of a rebate is subject to criminal and civil penalties under Sec. 422:10-20-14 (relating to Penalties).

[Source: Added at 17 Ok Reg 890, eff 2-10-00 (emergency); Added at 17 Ok Reg 3003, eff 7-13-00]

422:10-20-12. Compliance

(a) An applicant or propane dealer may be suspended from or declared ineligible to participate in the rebate program if, in the judgment of the Commission director, the applicant or dealer has submitted false information or otherwise violated rebate program rules.

(b) Within 30 days after the Commission director mails a notice of suspension or ineligibility to

an applicant or propane dealer, the applicant or propane dealer may appeal the suspension or declaration of ineligibility in writing to the Commission. Action taken by the Commission with respect to such appeals are final.

[Source: Added at 17 Ok Reg 890, eff 2-10-00 (emergency); Added at 17 Ok Reg 3003, eff 7-13-00]

422:10-20-13. Complaints

(a) Any person may file a complaint about an applicant, a propane dealer or another person regarding alleged violations of the rebate program rules. Complaints should be sent in writing to the Commission director at the address set forth in Sec. 422:10-20-6 (relating to Application).

(b) Complaints that an installation does not comply with the Commission's LP-gas safety rules should be sent in writing to the Commission director at the same address.

[Source: Added at 17 Ok Reg 890, eff 2-10-00 (emergency); Added at 17 Ok Reg 3003, eff 7-13-00]

422:10-20-14. Penalties

Violations of central furnace rebate program rules are subject to civil and criminal prosecution and penalties prescribed under O.S. 52 Sec. 420.28.

[Source: Added at 17 Ok Reg 890, eff 2-10-00 (emergency); Added at 17 Ok Reg 3003, eff 7-13-00]

Title 422 - Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission

Chapter 10 - Marketing and Safety Programs

Subchapter 22 - Media Rebate Program

422:10-22-1. Purpose

The purpose of these sections is to establish for Oklahoma retail propane dealers a media rebate program that achieves increased public awareness and assists in the marketing of propane as an environmentally beneficial alternative fuel. These sections outline the commission's mechanism for determining the eligibility of applicants, application requirements, administrative procedures, rebate amounts and adjustments, terms of compliance, penalties for violations and program termination.

[Source: Added at 17 Ok Reg 2999, eff 7-13-00]

422:10-22-2. Definitions

The following words and terms used in these rules shall have the following meanings, unless the context clearly indicates otherwise.

"Applicant" means a propane dealer who has submitted a complete and timely application.

"Application" means the set of forms prescribed by the Commission for the purpose of applying for and participating in the media rebate program as a propane dealer, including all required supporting documentation.

"Available funds" means the Money available in the Oklahoma LP Gas Research, Marketing and Safety Revolving Fund in the state treasury, consisting of fees charged under O.S. 52 Sec. 420.22 and penalties for the late payment of the fee charged under O.S. 52 Sec. 420.28.

"Commission" means the Oklahoma LP Gas Research, Marketing and Safety Commission.

"Commission advertising" means advertising produced or approved by the commission, including, but not limited to, print advertisements, billboards, written radio copy or fully produced radio or television commercials.

"Delivery date" means the date of postmark of a mailed complete and correct application or the date that a hand-delivered complete and correct application is stamped in at the Oklahoma City offices of the Commission.

"Eligible media outlet" means a media outlet, including, but not limited to, a radio or television station or cable franchise licensed by the Federal Communications Commission; a weekly or daily published newspaper; a weekly, monthly or bi-monthly magazine; a provider of billboard advertising; or a publisher of an annual or seasonal special events program that regularly accepts paid advertising from the public and whose target audience and message are consistent with the

goals of the Commission. The media outlet must be approved by the commission in advance of purchase of advertising. The term does not include dealer-published newsletters, yellow pages advertising, fliers or specialty advertising.

"Eligible media purchase" means any payment for Commission advertising displayed or broadcast in or on eligible media.

"Person" means an individual, sole proprietorship, partnership, corporation or other legal entity.

"Propane" means Liquefied petroleum gas (LPG), as that term is defined in O.S. 52 Sec. 420.21.

"Propane dealer" means a person who:

(A) has been issued a current Class I permit from the Oklahoma LP Gas Administration; or

(B) has been issued a Class X Manager's permit to operate or manage a retail business, including any branch outlet or outlets, delivering odorized propane to consumers; and

(C) is a regular supplier or a potential regular supplier of propane to an applicant.

"Retail propane delivery truck" means any bobtail truck, semitrailer, or other motor vehicle equipped with an LP-gas cargo container and each trailer, semitrailer, or other motor vehicle used principally for transporting LP-gas in portable containers that:

(A) has aggregate water capacity of 4,999 gallons or less; and

(B) is currently registered with the Oklahoma LP Gas Administration.

[Source: Added at 17 Ok Reg 2999, eff 7-13-00]

422:10-22-3. Establishment; duration

The media rebate program is hereby established on the effective date of this rule. The Commission may terminate this rebate program at any time.

[Source: Added at 17 Ok Reg 2999, eff 7-13-00]

422:10-22-4. Eligibility

(a) To be eligible for a rebate under this program, a propane dealer must document, using forms prescribed by the Commission for the purpose, that an eligible media purchase has been made from an eligible media outlet.

(b) No more than one rebate may be paid for each eligible media purchase.

(c) The commission may limit the total percentage and amount of rebates that may be paid to any applicant.

[Source: Added at 17 Ok Reg 2999, eff 7-13-00]

422:10-22-5. Application

- (a) Forms. Application for a rebate shall be made by a propane dealer on forms prescribed for that purpose by the Commission.
- (b) Payment. The Commission may approve payment of a rebate to an applicant subject to the availability of funds. Applicants have no legal right or other entitlement to receive rebates under this program, and receipt of a complete and correct application does not bind the Commission to approve payment of a rebate to any applicant.
- (c) Priority. Applications shall be considered on a first-come, first-served basis according to the date of receipt of complete and correct applications.
- (d) Acceptance. Applications will be accepted no earlier than the effective date of this rule and no later than the date of termination of the program. An application must be received at the Commission no later than 60 days following the date of the eligible media purchase to be eligible for rebates. Applications may be mailed or hand-delivered to the Oklahoma LP Gas Research, Marketing and Safety Commission, 6412 N. Santa Fe Ave., Suite C, Oklahoma City, Oklahoma 73116-9111. Applications may not be submitted electronically or by facsimile transmission (FAX).
- (e) Media purchase date. Applications must pertain to eligible media purchases made no earlier than the effective date of this rule and not later than the program termination date.
- (f) Completeness. Applicants must furnish completely and correctly all information required on the official media rebate application. No application may be considered complete until all required information is correct and all forms and required supporting documentation are received by the commission.
- (g) Incomplete applications. Applicants have 30 days from the date the Commission sends notice to correct any errors or omissions on the application. If a complete, correct application is not received by the commission within 30 days after notice has been sent, the application shall be void.

[Source: Added at 17 Ok Reg 2999, eff 7-13-00; Amended at 25 Ok Reg 2509, eff 7-11-08]

422:10-22-6. Rebate percentage and amount

- (a) The Commission shall establish the media rebate percentage and amount. The commission may change this percentage and amount at any time. If the commission changes the rebate percentage and amount, an applicant whose application is approved shall receive the percentage and amount that is in effect on the delivery date.
- (b) In setting the percentage amount of the rebate, the Commission may consider any or all of the following:
 - (1) availability of funds;
 - (2) the effectiveness of the program in increasing propane use;

- (3) dealer participation;
- (4) administrative cost; and
- (5) increased public awareness of energy-conservation, energy-efficiency, or air-quality benefits.

[Source: Added at 17 Ok Reg 2999, eff 7-13-00]

422:10-22-7. Verification; basis of rebate calculation

(a) A rebate amount shall be calculated on the basis of an eligible media outlet's published rate card or rate schedule in effect at the time of the media purchase, unless a lower rate was available for comparable purchases at that time. If a lower rate for comparable purchases was available, the rebate amount shall be calculated based on that lower rate.

(b) The commission may conduct spot checks to verify rate cards or rate schedules of eligible media outlets.

[Source: Added at 17 Ok Reg 2999, eff 7-13-00]

422:10-22-8. Compliance

(a) An applicant may be suspended from or declared ineligible to participate in the rebate program if, in the judgment of the commission director, the applicant has submitted false information or otherwise violated media rebate program rules.

(b) Within 30 days after the Commission director mails a notice of suspension or ineligibility to an applicant, the applicant may appeal the suspension or declaration of ineligibility in writing to the Commission. Action taken by the Commission with respect to such appeals are final.

[Source: Added at 17 Ok Reg 2999, eff 7-13-00]

422:10-22-9. Complaints

Any person may file a complaint about a media outlet, a propane dealer or another person regarding alleged violations of the rebate program rules. Complaints should be sent in writing to the Commission director at the address set forth in Sec.422:10-22-4 (relating to Application).

[Source: Added at 17 Ok Reg 2999, eff 7-13-00]

422:10-22-10. Penalties

Violations of media rebate program rules are subject to civil and criminal prosecution and penalties prescribed under O.S. 52 Sec. 420.28.

[Source: Added at 17 Ok Reg 2999, eff 7-13-00]

Title 422 - Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission

Chapter 15 - Assessment Enforcement and Collection

Subchapter 1 - Purpose and Definitions

422:15-1-1. Purpose

The purpose of this Chapter is to set forth the procedures of the Commission used in the auditing and investigation of loading rack operators and importers, and the enforcement and collection of assessments due under the Act.

[Source: Added at 22 Ok Reg 1500, eff 6-11-05]

422:15-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Liquefied Petroleum Gas Research, Marketing, and Safety Act, 52 O.S.2001, §§ 420.20, et seq., as amended, or any act over which the Commission has regulatory jurisdiction.

"APA" means Article I and/or Article II of the Administrative Procedures Act, 75 O.S. 2001, §§ 250, et seq and subsequent amendments.

"Assessment" means the assessment in the amount of one-half cent (\$0.005) per gallon imposed on the first sale of odorized LP gas or at the time of import of odorized LP gas into the State of Oklahoma or as otherwise determined by law.

"Assessment Hearing" means an individual proceeding before the Commission to determine and order compliance by a loading rack operator or importer with the assessment requirements of the Act.

"Commission" means the Oklahoma Liquefied Petroleum Gas Research, Marketing, and Safety Commission or its representative.

"Executive Director" means the Executive Director of the Commission.

"Just Cause" means a reasonable suspicion that a load rack operator or importer has failed to remit to the Commission the required assessment.

"Staff" means the personnel of the Commission.

[Source: Added at 22 Ok Reg 1500, eff 6-11-05]

Title 422 - Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission

Chapter 15 - Assessment Enforcement and Collection

Subchapter 3 - Audits and Investigations

422:15-3-1. Inspection of records

(a) Upon written request from the Commission, a loading rack operator or importer shall make available for inspection records of LP Gas operations necessary to determine whether the loading rack operator or importer has remitted the assessment due to the Commission. Such written request shall identify the records sought, shall designate a time and place for production of the records, and shall be served by certified mail or as otherwise allowed by law.

(b) If a loading rack operator or importer fails to comply with a request for inspection of records or if circumstances otherwise warrant, the Executive Director, or his or her designee, with the assistance of staff, shall apply to the Commission for an Order of Audit and Investigation and shall present to the Commission evidence in support thereof.

(c) After review of the application and supporting evidence, the Commission shall issue an Order of Audit and Investigation upon a determination by a majority of the Commission that just cause exists.

(d) The Order of Audit and Investigation shall set forth a summary of the evidence in support of the determination of just cause. The Order shall command the person or entity to whom it is directed to make available for inspection, examination, and copying the records of LP gas operations maintained pursuant to the Act and shall authorize a representative of the Commission to enter an office, premises or place of business of a loading rack operator or importer to inspect, examine, and obtain copies of the LP gas operation records.

[Source: Added at 22 Ok Reg 1500, eff 6-11-05; Amended at 25 Ok Reg 2517, eff 7-11-08]

422:15-3-2. Execution of order of audit and investigation

An Order of Audit and Investigation may be executed by the Commission at reasonable times and after reasonable notice to the loading rack operator or importer.

[Source: Added at 22 Ok Reg 1500, eff 6-11-05]

Title 422 - Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission

Chapter 15 - Assessment Enforcement and Collection

Subchapter 5 - Assessment Hearings

422:15-5-1. Petition and notice

The Executive Director, or his or her designee, with the assistance of staff, shall petition the Commission for an Order of Assessment. The petition shall include a statement of the time, place and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing is to be held; a reference to the particular sections of the statutes and rules involved; and a short and plain statement of the matters asserted. The petition shall satisfy the requirements of the APA. The petition shall be served on the parties by certified mail, personal service, or other such means as may be permitted in the Oklahoma Pleading Code. The parties shall be provided thirty (30) days notice of an Assessment Hearing.

[Source: Added at 22 Ok Reg 1500, eff 6-11-05; Amended at 25 Ok Reg 2517, eff 7-11-08]

422:15-5-2. Responses and continuances

(a) A Respondent may file with the Commission a responsive pleading to a petition for an Order of Assessment. Responses must be postmarked no later than seven days prior to the scheduled hearing.

(b) Motions for continuance of the hearing to another date or time shall be in writing and filed with the Commission. A motion for a continuance shall state the reasons for the request and specify the length of time requested.

[Source: Added at 22 Ok Reg 1500, eff 6-11-05]

422:15-5-3. Subpoenas

(a) Subpoenas for the attendance of witnesses, the furnishing of information and the production of evidence shall be issued by the Executive Director, or his or her designee, upon request by a party. As an officer of the court, an attorney authorized to practice law in Oklahoma may also issue and sign subpoenas. Filing a formal request for the issuance of subpoenas shall not be required. Subpoenas shall be served and a return made in the same manner as provided in the Oklahoma Pleading Code.

(b) A party may seek an appropriate judicial proceeding to compel compliance by persons who fail to obey a subpoena, who refuse to be sworn or make an affirmation at a hearing or who refuse to answer a proper question during a hearing. The hearing shall proceed despite any such refusal but the Commission may, in its discretion at any time, continue the proceedings as necessary to secure a court ruling.

(c) Motions to quash subpoenas may be filed with the Commission and will be ruled on by the

Commission.

[Source: Added at 22 Ok Reg 1500, eff 6-11-05; Amended at 25 Ok Reg 2517, eff 7-11-08]

422:15-5-4. Administrative law judge

The Commission may designate a person to serve as Administrative Law Judge for any proceeding properly filed with the Commission. Administrative Law Judges shall be familiar with the rules of procedure and generally familiar with the substantive rules governing the matter, and shall not have had prior involvement in the matter other than as a Administrative Law Judge. The Administrative Law Judge so designated shall have full authority to conduct all aspects of the hearing and may take any action not inconsistent with the provisions of the rules of this Chapter or of the APA for the maintenance of order at hearings and for the expeditious, fair, and impartial conduct of the proceedings. The Administrative Law Judge may also:

- (1) arrange and issue notice of the date, time and place of hearings and conferences;
- (2) establish the methods and procedures to be used in the presentation of the evidence;
- (3) administer oaths and affirmations;
- (4) regulate the course of the hearing and govern the conduct of participants;
- (5) examine witnesses;
- (6) rule on, admit, exclude and limit evidence;
- (7) establish the time for filing motions, testimony, and other written evidence, briefs, findings, and other submissions, and hold the record open for such purposes; and
- (8) rule on motions and other pending procedural matters.

[Source: Added at 22 Ok Reg 1500, eff 6-11-05]

422:15-5-5. Order of procedure

Upon proper service of petition and notice to the Respondent, the Commission shall hold an Assessment Hearing. All motions shall be considered and ruled on by the Commission prior to the consideration of the petition. At the hearing on the petition, each party may make an opening statement; present witnesses, documents and exhibits on its behalf; cross-examine adverse witnesses; present rebuttal witness; and make closing arguments. The rules of evidence shall be those specified by the APA.

[Source: Added at 22 Ok Reg 1500, eff 6-11-05]

422:15-5-6. Order of assessment

(a) After review and consideration of all evidence presented and upon a majority vote of the Commission, the Commission may issue an Order of Assessment commanding the remittance of assessments owed and imposing such penalties as may be provided by law. The Order shall

include findings of fact and conclusions of law, and shall otherwise satisfy the requirements of the APA. The Order of Assessment shall be a final order appealable under the APA.

(b) Any Respondent or other person who fails to appear as directed, after service of the petition and notice of hearing as provided by these rules, may be determined to have waived the right to appear and present a defense to the allegations contained in the petition. A final order in such proceeding may be issued by the Administrative Law Judge or the granting by default the relief prayed for in the petition.

(c) Any dispute over the remittance of an assessment may be resolved by an agreed settlement or consent order, with the approval of a majority of the Commission.

[Source: Added at 22 Ok Reg 1500, eff 6-11-05]