

§ 119-63.5. Payment and collection of assessment; refunds.

(a) 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 and placed into commerce in this State. Each dealer must pay the assessment on each gallon of propane purchased from a distributor. The assessment charge shall be identified and listed as a separate line item on each distributor's invoice to a dealer for the sale of odorized propane.

(b) Each distributor shall collect the assessment from the dealer to whom the sale is made. Each distributor shall remit to the Foundation the sum of the amount of the assessment multiplied by the number of gallons of propane sold to any dealer during the preceding quarter not later than the 25th day of the month following the end of the prior quarter. The Foundation shall provide forms to the distributors for reporting the assessment. Each distributor shall file the report not later than the 25th day of the month following the end of the prior quarter regardless of the amount due.

(c) A distributor shall keep records of the number of gallons of propane sold to dealers, including number of gallons, name of dealer, and rate of assessment. All documents or records regarding purchases and sales that are made or kept as required by this subsection or subsection (d) of this section shall be made available to the Foundation upon its written request from time to time for the purpose of determining the distributor's compliance with the provisions of this Article. The Foundation 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.

(d) The Foundation may bring an action to recover any unpaid assessments plus the reasonable costs, including attorneys' fees, incurred in the action and may use assessment funds to cover all reasonable costs and expenses incurred in connection with recovery of any unpaid assessment.

(e) A dealer may request a refund of the assessment collected from the dealer in the prior month by submitting a written request for a refund to the Foundation no later than 30 days after the end of the month for which the refund is requested. The refund request shall state specifically the period of time for which a refund is requested, the amount of the refund, the distributors to whom the dealer paid assessments, and the amount of each assessment paid and shall be accompanied by proof of payment of the assessment satisfactory to the Foundation. The Foundation shall mail a refund to the dealer within 30 days of receipt of a properly documented refund request, provided that the Foundation shall have no obligation to make a refund to a dealer of assessments that are not yet paid to the Foundation by the distributor. Any dealer who requests and is paid a refund in accordance with this subsection shall not be eligible to receive the benefit of any consumer rebate programs for a period of one year following the date of a refund request under this subsection and shall not be entitled to the payment of any interest by the Foundation on the amount refunded. (2013-299, s. 1.)