

Guidelines for PERC Odorized Propane Assessments

The Propane Education & Research Council (PERC) was authorized by the U.S. Congress with the passage of Public Law 104-284, the Propane Education and Research Act (PERA), signed into law on October 11, 1996. PERC activities are based upon an industry-wide referendum to develop programs and projects in the following areas:

- **Consumer Education:** PERC is committed to educating consumers on the advantages of using propane and the proper maintenance and safe handling of propane and propane-fueled appliances.
- **Employee Safety:** PERC is dedicated to providing ongoing education to members of the industry to foster the safe use and handling of odorized propane. Training programs are an integral part of this mission area.
- **Research & Development:** PERC is committed to supporting research related to the use of propane and the development of propane utilization equipment to improve propane efficiency, environmental performance, and safety standards.

The Propane Education and Research Council (PERC) currently spends more than \$30 million per year on programs promoting the safe, efficient use of odorized propane gas as a preferred energy source. PERC also provides almost \$10 million per year in direct rebates to state propane associations for local and regional programs.

The PERC programs have had a fundamental and positive impact on the U.S. odorized propane market by providing national marketing support, development of safety and training programs for all propane marketers, and assisting in the development of new technologies using propane. These programs are partially responsible, along with the overall attractiveness of propane as an energy source, for the measured expansion in the propane market share during a time when similar competing fuels such as distillate fuel oil have seen declining markets.

All of the PERC programs are funded by an assessment levied on each gallon of propane gas at the point it is odorized or imported into the United States. The assessment, which is mandatory, is currently \$.004 per gallon. The PERA Law requires the owner of the propane at the time of odorization, or at the time odorized propane is imported into the United States, to remit an assessment based on the volume of odorized propane sold and placed into commerce each month.

PERC estimates that more than 90 percent of all required assessments are remitted to PERC. However, a small proportion of propane companies are receiving the PERC benefits without paying their fair share of the assessment. PERC is taking steps to clarify the rules and procedures for the collection process in order to assist companies who may be inadvertently failing to comply with the PERA legislation, as well as to identify and pursue companies that may be ignoring PERC Assessment requirements. This document attempts to provide a clear explanation of who owes the PERC Assessment, and outlines the different types of transactions that can lead to a PERC Assessment obligation, as well

April 1, 2010

as those types of transactions that do not lead to an assessment obligation, or that might lead to an assessment refund. The document also provides a brief description of appropriate record keeping and reporting approaches to promote company self auditing of the assessment process.

Answers to Frequently Asked Questions on the PERC Assessment Process

Who Owes the PERC Assessment?

The PERA law requires that “the owner of odorized propane at the time of odorization, or the time of import of odorized propane, shall make the assessment based on the volume of odorized propane sold and placed into commerce.”

- When propane is odorized in the United States, the party that has legal title to the propane product at the time that the odorant is added to the propane is the party responsible for paying the PERC Assessment, regardless of where in the supply chain the odorization occurs.
- When the propane is odorized outside of the United States (e.g., Canada), the party that has legal title to the propane product at the time that the propane is imported into the U.S. is the party responsible for paying the PERC Assessment, regardless of whether the party with legal title is an importer selling odorized products to marketers and other customers inside of the United States, or is a marketer selling odorized propane to the end-user, or is the end-user of the odorized propane.

The assessment is due when the odorized propane transfers ownership or is placed into commerce. A marketer purchasing and then odorizing propane, whether for immediate shipment to himself or for storage and later use or resale, would be responsible for payment of the assessment at the time the odorized propane is placed into commerce.

What Types of Activities Result in a PERC Assessment Obligation

- 1) Odorization of propane within the U.S. by any market participant:
 - a. Producer, marketer, distributor, or end-user.
 - b. By a terminal on behalf of the owner of the propane.
 - c. By any other party.
- 2) Imports of odorized propane into the U.S. from other Countries:
 - a. Imports of odorized propane into the Lower-48 from Canada.
 - b. Imports of odorized propane into Alaska from Canada.
 - c. Imports of odorized propane into Hawaii.

- 3) Exports of odorized propane From the U.S. to other countries trigger a refund payment from PERC to the owner of the odorized propane at the time that the propane crosses the border:
 - a. Exports of odorized propane from the Lower-48 to Canada.
 - b. Exports of odorized propane from Alaska to Canada.
 - c. Exports of odorized propane from Alaska to Japan/other countries.
 - d. Exports of odorized propane from the Lower-48 to Mexico/other countries.

Key Questions to be Determined When Evaluating PERC Assessment Requirements

- 1) For propane odorized in the U.S., who owns the propane at the time of odorization.
- 2) For odorized propane imported into the U.S., who owns the propane when it crosses an international border into the U.S.
- 3) For odorized propane exported from the U.S., who owns the propane when it crosses an international border out of the U.S.

Does the Mode of Transportation Impact the Propane Assessment?

Most propane is transported via pipeline and barge/ship at some point in the distribution process, however geographic and economic limitations on these two modes of transportation limit their use to bulk movements between production centers, bulk terminals, and major market centers. As a result, much of the regional distribution is via rail and truck transport, and most of the local distribution is via truck transport. In general terms, the mode of propane transportation is not relevant to determining the propane assessment. However, different forms of transportation are often used to transport odorized vs. non-odorized propane. The key characteristics of each mode of transportation relative to odorized propane are highlighted below:

- 1) Truck
 - a. Almost all truck transport is expected to be odorized propane due to safety requirements.
- 2) Rail
 - a. Most of the propane transported by rail is expected to be odorized to meet transportation safety requirements and to maintain market flexibility.
- 3) Barge
 - a. Almost all barge/ship transportation of propane is believed to be non-odorized propane.

April 1, 2010

- 4) Pipeline
 - a. Almost all pipeline transportation of propane is believed to be non-odorized propane.

Due to the transportation safety requirements, most propane transported via truck and rail will be odorized propane. However, the economics of odorization indicate that propane moved using bulk transportation modes generally will not be odorized unless odorization is required to meet safety requirements or to maintain market flexibility. As a result, most of the odorization takes place at the terminals and storage facilities where propane is transshipped from pipeline or barge/ship into truck and railcars, and at production facilities that use rail and truck shipment options to transport propane to their customers.

When Is the PERC Assessment Due?

The assessment must be paid by the 25th of the month following the date when the odorized propane transfers ownership or is placed into commerce. If payments are not made by this date, a five percent penalty is assessed. If payment for the late fees is not received within 30 days, an additional penalty of 1 ½ percent is assessed and this process continues each month the amount due is outstanding.

Who Reports Propane Odorization Activities to PERC?

Propane odorization activities are reported to PERC in two ways. The PERA law requires “the owner of odorized propane at the time of odorization, or the time of import of odorized propane” to remit the PERC Assessment. In addition, PERC requests terminal operators that provide the odorization service to report all odorization activity, including location, customer, and volumes to the PERC.

The forms and instructions for PERC Assessment remittances, as well as the forms and instructions for the terminal operator reports are attached at the end of this document. In the past, the forms have been submitted in “hard copy” form. PERC is currently implementing new procedures to allow electronic filing for both remittance forms and terminal operator reports.

Can the PERC Assessment be Passed on to Propane Customers?

According to the PERA law “consistent with the antitrust laws, the Council may take no action, nor may any provision of this Act be interpreted as establishing an agreement to pass along to consumers the cost of the assessment.” As a result, PERC does not determine whether or not the company that pays the initial assessment can collect the amount of the assessment from their customers. This is a decision that must be made individually by each company that pays the assessment. The PERA law requires that the PERC Assessment be paid by the party who owns the propane when the propane is odorized or when the odorized propane is imported, regardless of whether the assessment is reimbursed as part of the sales price of the odorized propane.

April 1, 2010

Timing of PERC Assessment Payment and Treatment of Propane In Storage

The payment of the PERC assessment obligation is due on the 25th of the month following the month in which the propane is odorized in the U.S. or the odorized propane clears U.S. customs and is imported into the U.S. Hence, the amount of time that the propane remains in storage after odorization has no impact on the assessment obligation or the timing of the payment of the assessment.

Who is Eligible for a Refund on the PERC Assessment?

The PERC Assessment is required on all propane odorized in the U.S., and on all odorized propane imported into the U.S. However, the PERC Assessment is not required on odorized propane exported from the U.S. The party that owns odorized propane at the time that the odorized propane is exported from the United States may request a refund of any PERC Assessment that may have been previously paid on the propane.

Is the Assessment Data Confidential?

Yes. All information submitted to PERC or its currently designated representatives, Apex Integrated Solutions (AIS), as part of the PERC Assessment process will be treated as confidential by PERC staff and accounting personnel. Members of the Council will not have access to company specific data except for audit or enforcement purposes and only in such limited detail as required for decision making.

Different Types of Potential Transactions, and the Associated PERC Assessment Implications

Propane Odorized and Consumed in the U.S.

- 1) A Supplier delivers unodorized propane to a bulk terminal via pipeline or barge, pays the terminal operator to store and odorize propane, and sells odorized propane to an end-user, distributor, or other marketer.
 - a. The PERC Assessment is owed by supplier.
 - i. The supplier determines how much, if any, of the assessment cost may be passed on to the purchaser based on negotiations with the purchaser.

- 2) A Terminal operator purchases unodorized propane from supplier, odorizes propane, and sells odorized propane to end-user/distributor/marketer.
 - a. The assessment is owed by terminal operator.
 - i. The assessment cost may or may not be passed on by supplier based on terms of contract with purchaser.

- 3) An End-User purchases unodorized propane, and pays the terminal to odorize propane prior to transport to end-user facility.
 - a. The PERC assessment is owed by the end-user.
- 4) A marketer/distributor purchases non-odorized propane at a bulk terminal, and pays the terminal operator to odorize propane prior to transport to distributor or end-user facility.
 - a. The PERC assessment is owed by the marketer/distributor.
 - i. The assessment cost may or may not be passed on based on terms of contract with purchaser.

Odorized Propane Imported Into the U.S.

- 5) A marketer purchases odorized propane in Canada, takes title to the propane in Canada and imports the odorized propane into the U.S by rail or truck transport.
 - a. The PERC assessment is paid to PERC by the marketer.
- 6) A marketer purchases odorized propane from a supplier in Canada. The supplier ships to the propane across the border into the U.S., but the title to the propane is transferred to the marketer at the Border.
 - a. The marketer owes the PERC assessment based on the volume of odorized propane received at the border.
- 7) A supplier odorizes propane in Canada, and transports odorized propane to a terminal in the United States, where the propane is sold to a marketer or distributor.
 - a. The supplier owes the PERC assessment based on the volumes of odorized propane imported into the U.S.
 - i. The supplier may negotiate reimbursement of the PERC assessment from the purchaser.
 - b. The initial purchaser of the odorized propane may sell the propane to a second company. The second company owes no assessment to PERC, but may be required to reimburse the initial purchaser, depending on the terms of the purchase contract.
- 8) A marketer purchases odorized propane in the U.S., and ships the propane into Canada and back into the U.S. at a different point.
 - a. Since the marketer is purchasing propane that has already been odorized, the assessment should have been paid already, and no assessment would be due.
 - b. The export to Canada results in a rebate from PERC,
 - c. The import back into the U.S. would require payment of the PERC Assessment. (See note on offsetting assessments and rebates)

April 1, 2010

- 9) Import of non-odorized propane from Canada
 - a. No PERC assessment impact.

Exports of Odorized Propane from the U.S. to Other Countries (Canada, Mexico, Other)

A company exporting odorized propane may request a refund of the PERC assessment paid on the exported volumes. Any request for a refund of the PERC Assessment must be accompanied by documentation that the required PERC Assessment has been paid.

- 10) A marketer/distributor purchases odorized propane from a supplier in the U.S., and transports the propane into Mexico or Canada (or other country).
 - a. The marketer should request a refund of the assessment paid on odorized propane transported into Mexico, as long as marketer owned the propane at the time that it crossed the Border. The refund request would need to include documentation that the assessment had been paid by the supplier (or other previous owner of the propane.)
 - b. If the supplier odorized the propane, the supplier is required to pay the assessment to PERC, but is not eligible to request a refund on the exported volumes.
- 11) A marketer imports a railcar of odorized propane from Canada, and then exports the same propane back to Canada at a different point.
 - a. The marketer owes the assessment on the propane at the time that it clears customs and is brought into the country.
 - b. The marketer is also eligible to apply for a refund from PERC when the odorized propane is exported. (See note below on offsetting assessments and rebates).
- 12) A marketer imports a shipment of non-odorized propane from Canada, Mexico, or other Country, and sells the unodorized propane to a third party.
 - a. No PERC assessment impact.

Offsetting Assessments and Refunds

In cases related to propane exports, where the refund of the PERC assessment will offset a required assessment payment, the owner of the propane may net the refund amount against the payment amount. The offsetting payments must be clearly identified on the PERC Assessment Remittance form. PERC may request documentation indicating actual export of the product.

- 13) A marketer imports a railcar of odorized propane from Ontario into Michigan, and in a separate transaction, exports a railcar of odorized propane from Washington to British Columbia.
 - a. The marketer incurs the obligation to pay the assessment on the propane at the time that it clears customs and is brought into the country.

- b. The marketer is eligible to apply for a refund from PERC when the odorized propane is exported from Washington to British Columbia.

The assessment due on the imported volumes is not offset or reduced by the refund on the exported volumes. However, the marketer can subtract the refund due on the export volumes from the payment required on the import volumes, as long as both import volumes and export volumes are explicitly identified in the assessment report. PERC may request documentation for the exported volumes.

PERC Assessment Accounting

As part of the PERC Assessment review process, PERC is requesting all companies that are required to remit, or that may be required to remit assessments on odorized propane to review their assessment accounting processes to ensure accurate tracking and reporting of assessment activities.

Do Different Companies Use Different Accounting Practices to Track PERC Assessments?

Different companies may choose to manage the PERC Assessment process in slightly different ways. In all cases, the PERC Assessment should be treated and tracked as a liability every time a transaction occurs that requires a PERC Assessment. The liability is tracked until the odorized propane is placed into commerce, at which point the liability comes due. This liability should be tracked in the same way as a volume related tax or fee. An example of the general accounting approach used by one of the major remitting companies is summarized below:

1. A PERC liability is created in the company accounting system whenever an assessable activity (either propane stanching/odorization, or odorized propane importation) occurs.
2. The accounting system tags the PERC portion of the invoiced amount with a specific transaction code associated with the federal PERC payments.
3. The PERC Assessment is billed throughout the month by movement by customer using the company's operating system in the same way that other volume related taxes and fees are tracked and billed.
4. All transactions tagged with the transaction code are recorded throughout the month to the accounting system as a PERC liability.
5. The PERC liability becomes due when the odorized propane is sold or placed into commerce.
6. Sales to customers outside of the United States are tagged as exempt from the PERC Assessment.

April 1, 2010

7. At the end of each account month, the appropriate department prepares the monthly PERC remittance filing.
 - a. They use reports from the operating system that lists each PERC transaction collected or paid by the company by origin.
 - b. They summarize the amounts by origin and report it on the PERC report at the terminal level.
 - c. To validate the reports contain all the amounts paid or collected, they balance the activity back to the amount shown in the liability account.
 - d. They then issue a payment for the activity for the month.

The PERC Assessment obligation can also be determined through a five step process based on five different accounting system reports to track odorized propane transactions:

Report 1: Total odorized propane sales for the month.

Report 2: Purchases of odorized propane where the assessment has already been paid by a different party. Additional PERC Assessments would not be required on purchases of odorized propane where an initial assessment has already been paid by a different party.

Report 3: PERC Assessments Due on Customer Sales (report 1 minus report 2).

Report 4: PERC Assessments previously paid on purchases taken into inventory. The propane assessment is not due until the odorized propane is put into commerce. As a result, the assessment would be temporarily deferred on propane that is odorized and placed into inventory.

Report 5: Odorized propane sales to customers exempt from the PERC Assessment (sales exported from the U.S. to other Countries). Propane odorized for customers exporting the propane to other countries never enters commerce in the U.S., hence no assessment is due. PERC will credit assessments previously paid on odorized propane exported to different countries against current assessment obligations, or provide a refund of previously paid assessments.

The assessments due to PERC in each month would be the total of Report 3 minus Report 4 and Report 5.

Does PERC Identify and Pursue Companies that Fail to Pay Appropriate Remittances?

The companies incurring the PERC Assessment liability are solely responsible for preparing and submitting an accurate assessment remittance report. However, PERC does monitor remittances, and matches remittances against a variety of different data sources to identify and pursue companies that do not correctly remit the PERC Assessment.

AIS monitors remittances, and is responsible for identifying and pursuing companies that are not remitting appropriate PERC Assessments. AIS has created a PERC Remittance Access Database, which is used to log all remittance activity by both the company remitting and the associated terminal operator. The terminal operator reports identify who, where and how many gallons of propane have been odorized. The database serves as a valuable cross-referencing tool to identify those companies who have failed to remit based on the reports of their terminal operator. PERC is then able to bill these companies their proper assessment as well as the associated late fees.

On a monthly basis (normally at the end of each month) AIS reviews and takes action on the following information:

- (1) A cross reference report is generated, called "Remittance vs. Terminal Report"
 - a. Based on the terminal operators' reports, which provide the number of gallons odorized for each company, AIS identifies companies that have not paid their proper assessment.
 - b. Once identified, invoices are generated and sent to the delinquent companies stating; where, when and how many gallons of propane have been odorized. An assessment is then made and billed with the associated penalty / late charges to be assessed. Collection efforts then follow the procedures described in Section 3 below.
 - c. AIS is also able to identify terminal operators who are not reporting. However, no action is taken in this case, since there is no government mandate for terminal operators to report.
- (2) A "Company Remittance Report" is generated
 - a. After review of the cross-reference report, AIS identifies those companies with a past history of payment, who have not remitted in the current period.
 - b. When a company is identified as not remitting, AIS follows up by mail asking for remitter information, either payment or a declaration of no liability. Those who fail to respond to the mailing within a two-week period, receive subsequent telephone calls until the matter is resolved.
 - c. Firms who are not liable for an assessment in a given period are requested to submit a "no sales" report to eliminate unnecessary follow-up.
- (3) "Late Fee Reports"
 - a. An analysis is done to determine if companies who have remitted, have done so in a timely manner. If not, late fees are assessed. On the 25th day of each month, an assessment is due for the prior month. If payments are delinquent, a 5.0 percent late charge is assessed on the total remittance amount due.
 - b. Upon identification, an invoice for these late charges is sent out for payment.

April 1, 2010

- c. If payment for the late fees is not received within 30 days, an additional penalty of 1 ½ percent is assessed and this process continues each month the amount due is outstanding.

PERC is also starting to review propane import records, and to match import records against remittance reports to identify companies that may be failing to pay remittances on odorized propane imports.

Is Additional Information Available on the PERC Assessment Process?

Yes. Please call the PERC Help Desk @ 856-872-4761 if you have any questions concerning whether or not you owe the assessment, or have any questions concerning the assessment process. Assessment remittance forms and instructions can be found on the PERC website, www.propanecouncil.org.