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NEW YORK CODES, RULES AND REGULATIONS

*** THIS DOCUMENT REFLECTS CHANGES RECEIVED THROUGH AUGUST 15, 2008 ***

TITLE 9. EXECUTIVE DEPARTMENT
SUBTITLE BB. STATE ENERGY OFFICE
CHAPTER IV. FUEL ALLOCATION AND ENERGY EMERGENCY PROCEDURES
SUBCHAPTER A. HEATING FUEL EMERGENCY PROCEDURES
PART 7870. NOTICE OF REFUSAL, SUSPENSION OR TERMINATION OF HEATING FUEL DELIVERIES

9 NYCRR Part 7870 Notes (2008)

Part 7870 Notes

Statutory authority: Energy Law, §§ 3-101, 5-101, 5-105

Added Part 7870 on 2/02/80.

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9 NYCRR § 7870.1 (2008)

§ 7870.1 Definitions

As used in this part:

(a) Automatic delivery account shall mean a contract under which a distributor delivers heating fuel to a residential building whenever the distributor determines that a delivery is needed, without obtaining a separate request or authorization from the customer for each delivery.

(b) Customer shall mean any person, firm, partnership or corporation responsible or offering to become responsible, for the purchase of heating fuel for one or more residential buildings located within New York State; and, with regard to a multiple dwelling, shall mean the owner or managing agent of such dwelling.

(c) Cutoff shall mean a refusal to make a requested delivery, as defined in subdivision (j) of this section, or a suspension or termination of regularly scheduled deliveries, as defined in subdivision (n) of this section.

(d) Designated person shall mean a relative or other person, or a social services agency, designated by a customer to receive notice of any cutoff affecting the customer.

(e) Distributor shall mean any person, firm, partnership or corporation delivering heating fuel to customers for consumption in residential buildings located within New York State.

(f) Emergency shall mean a situation in which an occupied residential building is currently without heating fuel or is anticipated to be without heating fuel within 48 hours.

(g) Emergency agency shall mean the municipal or county agency or private organization for a municipality or county listed in Appendix BB-7 of this Title.

(h) Heating fuel shall mean No. 2 distillate fuel oil, No. 4 blended fuel oil, No. 6 residual fuel oil, kerosene, liquid propane gas, or any other fuel, other than natural gas or electricity, used for heating residential buildings.

(i) Multiple dwelling shall mean any residential building or structure, or portion thereof, which is either rented, leased, let or hired out to be occupied, or is occupied, as the temporary or permanent residence or home of three or more families living independently of each other.

(j) Refusal to make a requested delivery shall mean an outright denial of a request, by any will-call, cash on delivery or other customer, to deliver heating fuel to any residential building; but shall not mean any situation, other than an emergency, in which a distributor indicates that heating fuel will be delivered on a later date than that requested

9 NYCRR § 7870.1

by a customer.

(k) Residential building shall mean a building or structure or portion thereof which is occupied in whole or in part as the home, residence or sleeping place of one or more human beings.

(l) Severe or hazardous health situation shall mean a situation in which a customer is unable to protect himself or herself, and all other inhabitants of the residential building for which the customer is purchasing fuel, from danger to health or safety caused by a cutoff, by obtaining heating fuel from another source or by securing adequate alternative shelter.

(m) Social services district office shall mean the district office for a municipality or county listed in Appendix BB-6 of this Title.

(n) Suspension or termination of regularly scheduled deliveries shall mean any suspension or termination of deliveries of heating fuel made on an automatic delivery account to a residential building; but shall not mean any situation, other than an emergency, in which a distributor notifies a customer by telephone that the customer's account will be converted from an automatic delivery account to a delivery on request or cash on delivery account.

(o) Will-call account shall mean an account for which the distributor delivers heating fuel to a residential building upon obtaining a separate request from the customer for each delivery, and not whenever the distributor determines that a delivery is needed.

Statutory authority: Energy Law, §§ 3-101, 5-101, 5-105

Added 7870.1 on 2/02/80.

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9 NYCRR § 7870.2 (2008)

§ 7870.2 Distributor records

(a) On or before November first, yearly, and for new customers at the time an account is established, all distributors shall contact their customers in any convenient manner and ask whether the customer wishes to designate a relative or other person, or a social services agency, to receive notification of a cutoff, in addition to any notification provided to the customer.

(b) Every distributor shall maintain records of the information provided by customers under this requirement.

Statutory authority: Energy Law, §§ 3-101, 5-101, 5-105

Added 7870.2 on 2/02/80.

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9 NYCRR § 7870.3 (2008)

§ 7870.3 Notice

During the period beginning on November 1 of each year and ending on April 15 of the following year, every distributor shall comply with the notification requirements of sections 7870.4 through 7870.8 of this Part, in connection with any cutoff.

Statutory authority: Energy Law, §§ 3-101, 5-101, 5-105

Added 7870.3 on 2/02/80.

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9 NYCRR § 7870.4 (2008)

§ 7870.4 Written notice to customer

(a) No distributor shall impose a suspension or termination of regularly scheduled deliveries, as defined in section 7870.1(n) of this Part, unless such distributor provides the customer with written notice containing the information required by subdivision (b) of this section not less than three calendar days prior to the date of suspension or termination is to take effect.

(b) The written notice shall:

(1) notify the customer of the cutoff and the reason for it; and

(2) inform the customer that assistance may be available from a social services district office, and provide the name, address and telephone number of the designated social services district office listed in Appendix BB-6 of this Title for the municipality or county in which the residential building involved is located.

Statutory authority: Energy Law, §§ 3-101, 5-101, 5-105

Added 7870.4 on 2/02/80.

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9 NYCRR § 7870.5 (2008)

§ 7870.5 Telephone notice to customer

(a) In connection with any refusal to make a requested delivery, as defined in section 7870.1 (j) of this Part, the distributor involved shall notify the customer of such refusal when the customer contacts the distributor to request delivery.

(b) In connection with any suspension or termination of regularly scheduled deliveries, as defined in section 7870.1(n) of this Part, the distributor shall make at least three attempts to notify the customer of such suspension or termination by telephone at the time the decision to suspend or terminate deliveries is reached, which shall not be less than three calendar days prior to the date the suspension or termination is to take effect. If these attempts are unsuccessful, the distributor shall notify a designated person, if any, and the appropriate social services district office as required by sections 7870.6 and 7870.7 of this Part.

(c) In connection with telephone notifications required by subdivision (a) or (b) of this section, the distributor shall:

(1) notify the customer of the cutoff and the reason for it;

(2) ask whether the residential building affected is out of fuel, and if it is not, ask when the customer expects to need additional supplies of heating fuel;

(3) inform the customer that the distributor is required to inform any person designated by the customer, and a social services district office, if the customer is unable to obtain fuel from another source or is unable to secure adequate alternative shelter, or if the affected building is a multiple dwelling;

(4) ask whether the customer is unable to protect himself or herself, and all other inhabitants of the residential building for which the customer is purchasing fuel, from danger to health or safety caused by a cutoff, by obtaining heating fuel from another source or by securing adequate alternative shelter;

(5) ask whether the building for which the customer buys fuel is a one- or two-family house, or a multiple dwelling;

(6) inform the customer that assistance may be available from a local social services district office, and provide the name, address and telephone number of the designated social services district office listed in Appendix BB-6 of this Title and the designated emergency agency listed in Appendix BB-7 for the municipality or county in which the residential building affected is located; and

(7) ask whether the customer wishes to designate a relative or other person to be notified of the cutoff.

Statutory authority: Energy Law, §§ 3-101, 5-101, 5-105

Added 7870.5 on 2/02/80.

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9 NYCRR § 7870.6 (2008)

§ 7870.6 Notice to designated person

(a) Every distributor shall notify a designated person of a cutoff if the customer has requested that such notice be given.

(b) Every distributor shall attempt to call the designated person by telephone on the same date the distributor attempts to provide telephone notice to the customer. If the first attempt is unsuccessful, the distributor shall make at least one additional attempt.

(c) If the designated person is contacted, the distributor shall inform the designated person of the name and address of the customer involved, and provide the designated person with the same telephone notification the customer would receive.

Statutory authority: Energy Law, §§ 3-101, 5-101, 5-105

Added 7870.6 on 2/02/80.

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9 NYCRR § 7870.7 (2008)

§ 7870.7 Notice to social services district office

(a) Every distributor shall notify the designated social services district office listed in Appendix BB-6 of this Title, for the municipality or county in which the residential building is located, of a cutoff in the following circumstances:

(1) If the distributor's records, or contact with the customer or designated person, show that a refusal, suspension or termination of deliveries involves a severe or hazardous health situation, as defined in section 7870.1(l) of this Part;

(2) If the distributor's attempts to notify the customer by telephone have been unsuccessful; or

(3) If the residential building affected is a multiple dwelling, as defined in section 7870.1(i) of this Part.

(b) Under the circumstances specified in subdivision (a) of this section, every distributor shall notify the social services district office by the following methods and at the following times.

(1) If an emergency as defined in section 7870.1(f) of this Part, is involved, the distributor shall attempt to notify the district office by telephone immediately. If two attempts are unsuccessful, the distributor shall contact the appropriate emergency agency as required by section 7870.8 of this Part.

(2) In all other cases, the distributor shall notify the district office by telephone or daily messenger on the same day the distributor attempts to provide telephone notice to the customer.

(c) When the district office is contacted, the distributor shall:

(1) notify the district office of the name and telephone number of the customer and of any designated person involved, the address of the building affected, whether the building affected is a one- or two-family house or a multiple dwelling, the reason for the refusal, suspension or termination, and the type of fuel involved;

(2) notify the district office whether contact with the customer or designated person to provide notification shows that a severe or hazardous health situation as defined in section 7870.1(l) of this Part is involved; and

(3) notify the district office of the date on which the customer is expected to require an additional supply of heating fuel, or, if an emergency is involved, of the fact that the building affected is currently without fuel or is anticipated to be without fuel within 48 hours.

Statutory authority: Energy Law, §§ 3-101, 5-101, 5-105

Added 7870.7 on 2/02/80.

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9 NYCRR § 7870.8 (2008)

§ 7870.8 Notice to emergency agency

(a) Every distributor shall immediately notify by telephone the designated emergency agency listed in Appendix BB-7 of this Title for the municipality or county in which the residential building affected is located, if notification to a social services district office is required under section 7870.7 (a) of this Part, and two attempts to contact the social services district office are unsuccessful. If initial attempts are unsuccessful, every distributor shall continue to call until the emergency agency is contacted.

(b) When the emergency agency is contacted, the distributor shall provide the emergency agency with the same notification the social services district office would receive.

Statutory authority: Energy Law, §§ 3-101, 5-101, 5-105

Added 7870.8 on 2/02/80.

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9 NYCRR § 7870.9 (2008)

§ 7870.9 Role of social services district offices and emergency agencies

(a) Social services district offices shall investigate the circumstances of those customers with respect to which they have received a notice of cutoff of heating fuel deliveries, as directed by the New York State Department of Social Services. Based on such investigation, social services district offices shall take whatever actions are appropriate and necessary, as directed by the New York State Department of Social Services, to provide any financial assistance for which customers may be eligible, and to provide or arrange for the provision of such other forms of assistance or social services as may be available from the district or from other government agencies.

(b) Emergency agencies shall:

(1) pursuant to their powers and duties under law, take any reasonable action as if immediately necessary on a temporary basis to prevent loss of life or serious danger to public health; and

(2) notify the appropriate social services district offices by telephone on the next business day after a notification is received, and provide the information the emergency agency received and a brief description of any temporary action taken to prevent loss of life or serious danger to public health.

Statutory authority: Energy Law, §§ 3-101, 5-101, 5-105

Added 7870.9 on 2/02/80.