



Ohio Administrative Code Rule 4901:5-35-02 General provisions.

Effective: July 7, 2023

A state set-aside program may be established for heating oil, propane, and transportation fuel, for the purpose of providing relief to Ohio consumers experiencing an energy emergency. In such event, the following shall apply:

(A) Authority shall be delegated to the commission by order of the governor to administer the program. The program shall be utilized by the commission to meet emergency requirements of all consumers and customers within the state from program volumes, including state and local government consumers and customers. To facilitate relief of emergency requirements of consumers and customers, the commission may direct that a secondary supplier be supplied from amounts set aside by another primary or secondary supplier pursuant to the program, in order that the secondary supplier can supply the consumers and customers experiencing an emergency.

(B) Primary and secondary suppliers shall inform the commission, in accordance with paragraph (A)(7) of rule 4901:5-29-04 and paragraph (A)(8) of rule 4901:5-33-04 of the Administrative Code, of the product subject to the program and of the estimated volume of each product to be sold into the state for consumption within the state.

(C) The governor, after consultation with the chairperson of the commission, shall determine the program percentage level, not to exceed five per cent, for each product subject to the program.

(D) The set-aside volume available to the commission for a particular month pursuant to the program shall be calculated by multiplying the program percentage level by each primary and secondary supplier's estimated portion of its total supply for that month that will be sold into the state's distribution system for consumption within the state.

(E) The set-aside volume for a particular month can be accumulated or deferred. That set-aside volume shall be made available to the commission from stocks of primary and secondary suppliers, either directly or through their suppliers.



(F) The commission may authorize allocations from the program during this period for emergency needs only.

(G) Each primary and secondary supplier shall meet the full priority use consumer product requirements from available volumes. Each supplier shall reduce deliveries for nonpriority use to consumers sufficiently to assure priority use needs are met in full.

(H) The commission may accept applications for emergency allocations under the program from the secondary supplier who would supply the affected consumer. An application submitted by a secondary supplier for an allocation under the program, to supply verifiable consumer emergency needs, shall:

(1) Contain a statement of certifications, subject to the penalties of division (E) of section 4935.03 of the Revised Code, that:

(a) All information provided is truthful and accurate.

(b) No product volume granted from the program will be diverted to use other than the alleviation of the emergency use described in the application.

(c) The secondary supplier has delivered, or will deliver, one hundred per cent of all monthly supply volumes available to it to its end user customers.

(2) Identify the consumer's existing primary or secondary supplier or, if the consumer does not have an existing primary or secondary supplier, at least two primary or secondary suppliers (including one primary and one secondary supplier) that the applicant has contacted to provide the allocated product.

(3) Meet the requirements set forth in rule 4901:5-35-03 of the Administrative Code.

(I) The commission will make every effort to assure that consumers with emergency product needs will receive sufficient product. The allocation of product to and the fulfillment of an emergency



need is considered a priority use.

(J) A secondary supplier requesting an allocation from the program may be requested to provide to the commission a list of those consumers for whom product is requested. This list shall identify the volume of each consumer's request, as well as the type of use for which application is made.

(K) All emergency applications for assignment from the program, and appeals therefrom, shall be filed with and resolved by the commission in accordance with this chapter.

(L) If the commission approves an emergency application, it shall assign a supplier and an amount from the program to the applicant.

(M) The commission shall issue to an applicant that is granted an assignment a document authorizing such assignment, with a copy provided to the primary or secondary supplier's representative. The authorizing document is effective upon issuance and represents an option on that primary or secondary supplier's program volumes for the month of issuance, regardless of the fact that delivery of the product may not be made until the following month. An authorizing document not presented to the primary or secondary supplier within ten days of issuance shall expire after that time.

(N) The primary or secondary supplier shall provide the assigned amount of the allocated product to an applicant when presented with an authorizing document which entitles the applicant to receive product from the primary or secondary supplier from which the state set-aside assignment has been made.

(O) All primary and secondary suppliers shall supply products from their program volume each month, as directed by the commission, not to exceed the total program volume for each product for that month. That portion of a primary or secondary supplier's program volume for a particular month that is not allocated by the commission during that month or that is not subject to an authorizing document issued no later than the last day of that month shall be a part of the primary or secondary supplier's total supply for the subsequent month and shall be distributed according to the allocation procedures set forth in this chapter.



(P) At any time during the month, the commission may order the release of part or all of a primary or secondary supplier's program volume through the primary or secondary supplier's normal distribution system in the state.

(Q) The chairperson of the commission shall notify the governor when, based on the information available to the chairperson, the chairperson believes that an energy emergency exists or no longer exists with regard to the supply of heating oil, propane, or transportation fuel.

(R) The commission may, upon an application or a motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.

(S) The commission may direct the attorney general to bring an action for immediate injunction or other appropriate relief to enforce commission orders and to secure immediate compliance with this chapter.