

565—3.13(473) Criteria for assignment from state set-aside.

3.13(1) *Hardship or emergency requirements.* There shall be assignments only to wholesale purchaser-consumers and end-users located within the state who demonstrate hardship or emergency requirements (or to wholesale purchaser-resellers to enable them to supply such persons) with respect to propane, middle distillate, motor gasoline and residual fuel oil (except that used by utilities or as bunker fuel for maritime shipping).

A hardship is a situation involving or potentially involving substantial discomfort or danger or economic dislocation caused by a shortage of an allocated petroleum product or both. An emergency is a hardship involving the absence of a petroleum product supply for a wholesale purchaser-consumer or an end-user which requires immediate attention.

3.13(2) *Assignment priorities.* To the extent that the state can determine the order of priority, assignments from the state set-aside to applicants demonstrating emergency or hardship requirements shall generally conform to the following rank order of assignment.

a. Protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units), and the national defense;

b. Maintenance of essential public services (including facilities and services provided by municipally, cooperatively, or investor-owned utilities, or by any state or local government or authority, and including transportation facilities and services which serve the public at large);

c. Maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto;

d. Preservation of an economically sound and competitive petroleum industry, including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;

e. Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of:

1. Fuels, and

2. Minerals essential to the requirements of the United States, and for required transportation related thereto;

f. Economic efficiency; and

g. Minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

3.13(3) *Assignment of set-aside volume.* A prime supplier's set-aside volume shall, to the extent possible, be uniformly assigned during the month so as to enable the director to meet the emergency and hardship priority needs of the state throughout the month.

3.13(4) *Report of projected distribution.* The department shall review monthly the projected degree to which there are emergency and hardship requirements of end-users in the various categories and may provide for differing assignments among priority categories in the state set-aside for that month. The department will assess the gravity of need of end-users in the various categories and may provide for differing assignment among priority categories on a monthly basis as deemed to be in the public interest. The director shall take appropriate steps to make monthly allocation projections and priorities available to the public. The department shall also review the extent to which the emergency and hardship requirements were met in the previous month.