**DRAFT EXECUTIVE ORDER FOR EMERGENCY PETROLEUM SET-ASIDE**

**Establishment of State Emergency Set-Aside for**

**[insert name of petroleum products to be set aside]**

**Executive Order [insert number and year] Authority and Scope**

WHEREAS, [insert citation to legal authorities that give the governor the authority to take the actions contained in the order];

WHEREAS, [insert a brief description of the event(s) that have required this action]; and

WHEREAS, [insert a brief description of the consequences and impacts of the event(s)]; and

WHEREAS, it is in the best interests of the State of [insert name] to establish the ability to provide emergency fuel supplies to emergency responders needed to protect the health, safety, and economic well‐being of the State’s residents and visitors; and

NOW, THEREFORE, I, [insert governor’s name], Governor of the State of [insert state name], by virtue of the power and authority vested in the Governor by [cite statute] upon declaration of a state of emergency in the Executive Proclamation [insert number] under this act,

I, [insert governor’s name], Governor, hereby implement a State Emergency Set‐Aside Program for [insert names of the petroleum products to be set aside], [statewide or in the state of], as set forth below on [insert time, month, day, year].

I hereby designate [insert the name of the designated state agency] as the state office responsible for the administration of the State Set‐Aside Program as set forth below. In this capacity, the [insert the name of the designated state agency] or as referred to hereafter as the “state office” shall have the following duties and responsibilities:

1. Promulgate administrative rules that will specify the procedures and criteria for obtaining relief from the set‐aside.
2. Provide a mechanism that will allow for appeals of any decisions made by the state office.
3. Provide a means to assure that fuel released from the state set‐aside is used for hardship purposes only.
4. Utilize the set‐aside to provide for the health, safety, and welfare of the citizens of [insert state name].

**State Set‐Aside Program**

1. Volumes to be set-aside for emergency fuel allocation.
   1. A prime supplier shall inform the state office, not later than one week before the first day of each month, of the estimated volume projected monthly sales of petroleum products subject to State Set‐Aside Program to be delivered into the state of [insert state name] for consumption within the state for the upcoming month. This will be consistent with the Prime Suppliers Monthly Report EIA-782c required to be reported to the U.S. Energy Information Administration that contains the prior month’s deliveries and using this same format the prime supplier shall provide the volumes that are estimated to be delivered for sales in the upcoming month
   2. The set‐aside volume available to the state office for a particular month shall be the amount calculated by multiplying .03 by each prime supplier’s total projected deliveries to be available in the subsequent month for consumption within the state of [insert state name].
   3. The state set‐aside for a particular month may not be accumulated or deferred but shall be made available from stocks and deliveries of prime suppliers whether directly or through their wholesale purchaser‐resellers.
   4. Volumes remaining in a prime supplier’s set‐aside at the end of the month that have not been used shall revert back to the supplier to become part of the subsequent month’s supply and shall be retained and made available to accounts and customers in the state of [insert state name] in an equitable manner.
2. Company Representative – Each prime supplier shall designate a company representative to act for and on behalf of the prime supplier with respect to the State Set‐Aside Program. Each prime supplier shall notify the state office, in writing and within 10 work days of the date of this order, of such designation including name, title, physical address, phone number, and email address.
3. Authorizing Document – The state office shall issue a document authorizing the assignment of the amount of petroleum products to be released from the set‐aside upon full or partial approval of an applicant’s request. A copy of this document shall also be provided by the state office to the designated company representative of the prime supplier from which the assignment is to be made. An authorizing document issued by the state office is effective upon issuance and represents a call on the prime supplier’s set‐aside volumes for the month of issuance, even in cases where delivery of the product subject to the authorizing document cannot be made until the following month.
4. Area Release of State Set‐Aside
   1. At any time during the month, the state office may order the release of part or all of a prime supplier’s set‐aside volume to its customers through the prime supplier’s normal distribution system in the state.
   2. The state office may designate certain geographical areas within the state as suffering from an intrastate supply imbalance. At any time during the month, the state office may order some or all of the prime suppliers with purchasers within such geographical areas to release part or all of their set‐aside volume through their normal distribution systems. This will increase the allocation to all the supplier’s purchasers located within such areas.
5. Orders issued pursuant to this declaration shall be in writing and effective immediately upon presentation to the prime supplier’s designated company representative.
6. Prevailing Price – Any assignments made from the set‐aside under this order shall be made available to the wholesale purchaser‐consumer or end‐user at prices prevailing for the same class of purchasers and products in the locality of the wholesale purchaser‐consumers, end‐user, or wholesale purchaser‐reseller at the time of the sale.

**Violation of Order**

Any person who knowingly violates this directive is guilty of a [insert any penalties that may be provided by state law. For example, this might be something like a misdemeanor punishable by a fine of not more than [insert number of dollars].] Each day a violation continues is a separate offense. The Attorney General or a Prosecuting Attorney of a county may bring an action in a court of competent jurisdiction to prevent a violation of this order or to compel a person to perform a duty imposed on the person under this Executive Order.

**Duration of Order**

This order shall remain in effect for [insert number of] days from its effective date unless amended, superseded, or rescinded by further Executive Order. It shall expire [insert number of days] after the proclamation of a state of energy emergency unless extended as provided for in [insert reference to the statute under which this action is based. Alternatively, it could also say until such time as supply conditions improve and the plan is no longer needed and the governor issues an order rescinding the plan.]

Governor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert location]

File with [insert the name of the department or legislative body with which the order may need to be filed]