

CERTIFICATION OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
EMERGENCY RULE FILED WITH THE
DEPARTMENT OF STATE

I hereby certify that an immediate danger to the public health, safety or welfare requires emergency action and that the attached rule is necessitated by the immediate danger. I further certify that the procedures used in the promulgation of this emergency rule were fair under the circumstances and that the rule otherwise complies with section 120.54(4), F.S. The adoption of this rule was authorized by the head of the agency and this rule is hereby adopted upon its filing with the Department of State.

Rule No.

5JER23-1

Under the provision of Section 120.54(4)(d), F.S., this rule takes effect upon filing unless a later time and date less than 20 days from filing, is set out below:

Effective Date: _____
(month) (day) (year)



Wilton Simpson, Commissioner of Agriculture

Number of Pages Certified

Emergency Rule 5JER23-1 Volatility Standards for Gasoline

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC, HEALTH, SAFETY OR WELFARE:

Due to severe weather that has resulted in historic flooding, the typical movement of fuel into South Florida has been interrupted, slowing the distribution of fuel. Pursuant to adopted national fuel standards, fuel volatility requirements are expected to shift to accommodate the changing seasons, however, the United States Environmental Protection Agency has determined that “extreme and unusual fuel [] supply circumstance” exists that will prevent the distribution of an adequate supply of compliant gasoline to consumers. Class C fuel remains available, and its sale could alleviate fuel supply issues in the southern part of the state. On April 20, 2023, the EPA issued a Fuel Waiver, temporarily waiving federal fuel quality standards in specified areas in order to address this crisis. If Florida’s volatility standards are not also adjusted to account for this extraordinary situation, there may be a shortage of lawful fuel for sale, even as useable fuel remains available.

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES:

This emergency rule was initiated to ensure a consistent supply of fuel in Florida and to help alleviate fuel shortages. As this is an unprecedented and rapidly evolving situation, prompt action based on information regarding recent developments in the fuel industry is both necessary and fair.

SUMMARY: This emergency rule allows fuels of different volatility classes than those set forth in ASTM International designation D4814-20a, as adopted in rule 5J-21.001, F.A.C., for the periods indicated.

5JER23-1 Volatility Standards for Gasoline

(1) Fuel Introduced at Wholesale. Through May 1, 2023, volatility Class C fuels, as specified in ASTM International designation D4814-20a, shall be lawful for introduction into terminal storage tanks from which gasoline and gasoline blendstocks are dispensed for distribution to retail outlets. Such fuel may be held in terminal storage tanks in Broward County through May 20, 2023.

(2) Fuel Introduced and Sold at Retail. Volatility Class C fuels, as specified in ASTM International designation D4814-20a, shall be lawful for sale at retail outlets until supplies are depleted, provided that they were introduced into and distributed from terminal storage tanks in Broward County in accordance with subsection (1) of this rule.
Rulemaking Authority 525.037, 525.14, 570.07(23) FS. Law Implemented 525.01, 525.037, 525.14 FS. History –
New 4-21-23.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE.