

DIVISION OF CONSUMER SERVICES
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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER WILTON SIMPSON

August 29, 2023

Florida Department of State
Administrative Code and Register Section
The Capitol, Room 701
Tallahassee, Florida 32399-0250

Subject: Emergency Rule 5JER23-4

Dear Administrative Code and Register Section:

Please find enclosed the certification package for the above-referenced emergency rule. My contact information is:

Richard Kimsey
Florida Department of Agriculture and Consumer Services
Division of Consumer Services
2005 Apalachee Parkway
Tallahassee, Florida 32399-6500
(850) 410-3662
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If you have any questions, please contact me at (850) 410-3662.

Sincerely,

Richard Kimsey
Director

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.

5JER23-4

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

CERTIFICATION OF DEPARTMENT OF STATE
DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

All rules covered by this certification are not rules the violation of which would be minor violation pursuant to Section 120.695, F.S.

The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

Rules covered by this certification:

5JER23-4



Wilton Simpson

Commissioner of Agriculture

Title

Emergency Rule 5JER23-4 Volatility Standards for Gasoline

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

Due to the Russian war in Ukraine and the resulting limitations on the purchase and use of Russian crude oil, the typical movement of fuel into the United States has been interrupted, reducing the amount of available fuel, and affecting its distribution. In addition, the Organization of the Oil Exporting Countries (OPEC) recently announced an unexpected reduction in crude oil output by OPEC+ member countries, creating further market pressure. At the same time, U.S. refining capacity has been reduced in the wake of multiple refinery closures, even while gasoline demand remains higher than average. Pursuant to adopted national fuel standards, fuel volatility requirements are shifting to accommodate the changing seasons, however, the United States Environmental Protection Agency has determined that the factors outlined above have created “extreme and unusual fuel [] supply circumstances” that will prevent the distribution of an adequate supply of compliant gasoline to consumers. Noncompliant fuel remains available, and its sale could help alleviate fuel supply issues. On August 28, 2023, the EPA issued a Reid Vapor Pressure Fuel Waiver, temporarily waiving federal fuel vapor pressure standards for fuel blends containing gasoline and between 9 and 15 percent denatured anhydrous ethanol (E15) 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.

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

This emergency rule was initiated following issuance of an EPA waiver. Its terms apply to all fuel suppliers and will help to ensure a consistent supply of fuel in the state, while alleviating additional strain on Florida’s fuel market. As this is an unprecedented 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.

5JER23-4 Volatility Standards for Gasoline

Vapor Pressure Requirements. It shall be lawful to introduce into wholesale terminal storage tanks and to offer for sale at retail outlets, gasoline containing at least nine (9) percent and up to and including fifteen (15) percent ethanol by volume with a vapor pressure of no more than 1.0 psi above the applicable vapor pressure class maximums, as specified in ASTM International designation D4814-20a. This rule shall be in effect on August 30, 2023, and will continue through September 15, 2023.

Rulemaking Authority 525.037, 525.14, 570.07(23) FS. Law Implemented 525.01, 525.037, 525.14 FS. History – New 8-30-23.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 8/30/23