DIVISION OF CONSUMER SERVICES
(850) 410-3800

THE RHODES BUILDING
2005 APALACHEE PARKWAY
TALLAHASSEE, FLORIDA 32399-6500

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

COMMISSIONER NICOLE "NIKKI" FRIED

March 20, 2020

FILED
2020 MAR 20 AM 11:44

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

Subject: Emergency Rule 5JER20-1

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) 921-1556
(850) 410-3839 – fax
Richard.Kimsey@FDACS.gov

If you have any questions, please contact me at (850) 921-1556.

Sincerely,

Richard Kimsey
Assistant 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.

5JER20-1

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)

Nicole Fried

Nicole Fried, Commissioner of Agriculture

_____
Number of Pages Certified

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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:

[X] 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:

5JER20-1

Nicole Fried

Nicole Fried

Commissioner of Agriculture
Title

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Form: DS-FCR-6
Rule 1-1.010(3)(f), F.A.C.; effective 10-17

5JER20-1 Volatility Standards for Gasoline

Volatility Class D-4 fuels, as specified in ASTM International designation D4814-13a, shall be allowed for an additional 30 days.

Rulemaking Authority 525.037, 525.14, 570.07(23) FS. Law Implemented 525.01, 525.037, 525.14 FS. History – New 3-20-20.

2020 MAR 20 AM 11:44

Emergency Rule 5JER20-1 Volatility Standards for Gasoline

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

Due to the global crisis related to COVID-19 and the Center for Disease Control's directive to limit travel, there is an extreme and unusual oversupply of fuel meeting winter season volatility requirements. Pursuant to adopted national fuel standards, volatility requirements will soon shift to accommodate the changing seasons, leaving distributors unable to supply this fuel for retail sale. The unexpected oversupply of winter season fuel is also monopolizing fuel storage systems, preventing distributors from being able to shift their supplies to season-appropriate fuel. If volatility standards are not adjusted to account for this extraordinary situation, there will be a shortage of lawful fuel available for sale, even as storage tanks sit full of useable fuel. This emergency rule will allow for the adequate and rapid distribution of available fuel, helping to stabilize the fuel market, thus protecting the public welfare.

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

This emergency rule was initiated at the request of fuel suppliers to ensure a consistent supply of fuel in Florida while avoiding the unnecessary creation of a fuel shortage. As the COVID-19 health crisis is an unprecedented and rapidly-evolving situation, prompt action based on information regarding recent developments in the fuel industry is both necessary and fair.

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Notice of Emergency Rule

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NO.: RULE TITLE:

5JER20-1 Volatility Standards for Gasoline

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Due to the global crisis related to COVID-19 and the Center for Disease Control and Prevention's directive to limit travel, there is an extreme and unusual oversupply of fuel meeting winter season volatility requirements. Pursuant to adopted national fuel standards, volatility requirements will soon shift to accommodate the changing seasons, leaving distributors unable to supply this fuel for retail sale. The unexpected oversupply of winter season fuel is also monopolizing fuel storage systems, preventing distributors from being able to shift their supplies to season-appropriate fuel. If volatility standards are not adjusted to account for this extraordinary situation, there will be a shortage of lawful fuel available for sale, even as storage tanks sit full of useable fuel. This emergency rule will allow for the adequate and rapid distribution of available fuel, helping to stabilize the fuel market, thus protecting the public welfare.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: This emergency rule was initiated at the request of fuel suppliers to ensure a consistent supply of fuel in Florida while avoiding the unnecessary creation of a fuel shortage. As the COVID-19 health crisis 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 gasoline of a different volatility class than adopted in ASTM International designation D4814-13a, as adopted in Rule 5J-21.001, F.A.C., for a period of 30 days. The specific standards affected are below.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Richard Kimsey, Assistant Director of Consumer Services, 2005 Apalachee Parkway, Tallahassee, FL 32399, (850) 921-1556.

THE FULL TEXT OF THE EMERGENCY RULE IS:

5JER20-1 Volatility Standards for Gasoline

Volatility Class D-4 fuels, as specified in ASTM International designation D4814-13a, shall be allowed for an additional 30 days.

Rulemaking Authority 525.037, 525.14, 570.07(23) FS. Law Implemented 525.01, 525.037, 525.14 FS. History – New 3-20-20.

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: 3/20/20