

Notice of Emergency Rule

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Consumer Services**

RULE NO.: RULE TITLE:

5JER21-2 Volatility Standards for Gasoline

**SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE:** Due to the extreme winter weather event that occurred in Texas during the month of February, eleven fuel refineries, representing twenty percent of the nation's petroleum production, were shut down for an extended period of time. Pursuant to adopted national fuel standards, fuel volatility requirements will soon shift to accommodate the changing seasons. Typically, this shift happens seamlessly; however, due to the unprecedented events in Texas, distributors have been unable to shift their supplies to season-appropriate fuel. As a result, only winter fuel remains available in a quantity sufficient to meet demand in Florida. 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.

Since Florida's average temperatures are higher than those across much of the nation, though, there is a greater concern that vehicle operability, drivability, and portable power supply generator reliability could be impacted if high volatility fuel is used into the late spring and early summer months. Therefore, this waiver is limited in time and geographical scope; it balances the public need for a reliable fuel supply with the industry's need to help stabilize the fuel market, all while 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 post-crisis recovery in Texas 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. The specific standards affected are included below.

**THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS:** Blair Bodenmiller, Assistant Director of Consumer Services, 2005 Apalachee Parkway, Tallahassee, FL 32399, (850)410-3675.

THE FULL TEXT OF THE EMERGENCY RULE IS:

5JER21-2 Volatility Standards for Gasoline

(1) Fuel Introduced at Wholesale. Volatility Class D-4 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 through April 30.

(2) Fuel Introduced and Sold at Retail. Volatility Class D-4 fuels, as specified in ASTM International designation D4814-20a, shall be lawful for sale at retail through May 31.

(3) The allowances set forth in subsections (1) and (2) of this rule shall apply only to fuels introduced or sold in the following counties: Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Gadsden, Liberty, Franklin, Leon, Wakulla, Jefferson, Madison, Taylor, Hamilton, Suwannee, Columbia, Baker, Union, Bradford, Lafayette, Alachua, Gilchrist, Dixie, Levy, Marion, Nassau, Duval, Clay, St. Johns, Putnam, Flagler, and Volusia.

Rulemaking Authority 525.037, 525.14, 570.07(23) FS. Law Implemented 525.01, 525.037, 525.14 FS. History – New 3-15-21.

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: 3/15/2021