COMMISSIONER OF AGRICULTURE
EMERGENCY ORDER
2020-027

WHEREAS, on March 9, 2020, through Executive Order 20-52, the Governor of the State of Florida declared that Novel Coronavirus Disease 2019 (COVID-19) poses a risk to the entire State of Florida, and that because of this danger, a state of emergency exists in the State of Florida; and

WHEREAS, on May 8, 2020, the Governor of the State of Florida issued Executive Order 20-114, which ratified, reaffirmed, and extended the applicability of Section 4, Subparagraph B of Executive Order 20-52; and

WHEREAS, on July 7, 2020, the Governor of the State of Florida issued Executive Order 20-166, which again ratified, reaffirmed, and extended the applicability of Section 4, Subparagraph B of Executive Order 20-52; and

WHEREAS, the United States Centers for Disease Control and Prevention and the Florida Department of Health recommend social distancing measures to control the spread of the COVID-19 outbreak; and

WHEREAS, the Governor of the State of Florida, pursuant to Executive Order 20-52, Section 4, Subparagraph B, authorized State agencies to suspend the effect of any regulatory statute, rule, or order that would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, on June 5, 2020, the Governor of the State of Florida issued Executive Order 20-139, which strongly encouraged senior citizens and individuals with certain medical conditions to remain at home, which ordered all persons in Florida to continue to limit their personal interactions outside the home, and which reaffirmed the ability to lawfully provide all "essential services" identified in Executive Order 20-91; and

WHEREAS, on July 7, 2020, the Governor of the State of Florida issued Executive Order 20-192, which reiterated that the portions of Executive Order 20-139 referenced herein shall remain effective for the duration of Executive Order 20-166; and

WHEREAS, pursuant to Chapter 527, Florida Statutes, the Department regulates and licenses persons performing certain activities related to the sale and use of liquefied petroleum gas; and

WHEREAS, pursuant to Section 527.0201(2)(b), Florida Statutes, every business organization in license category I (LP Gas Dealer), category II (LP Gas Dispenser), or category V (LP Gas Installer) shall employ at all times a full-time qualifier who has successfully completed an examination in the corresponding category of the license held by the business organization; and

WHEREAS, pursuant to Section 527.0201(3), Florida Statutes, in order to renew an expiring qualifier registration, each qualifier must present documentation demonstrating the completion of Department-approved continuing education courses; and

WHEREAS, pursuant to Section 527.0201(2)(b), Florida Statutes, a person may not act as a qualifier for more than one licensed location; and

WHEREAS, pursuant to Section 527.0201(6)(a), Florida Statutes, the license of a business organization that no longer possesses a duly designated qualifier shall be suspended by the Department after 20 working days without a qualifier; and

WHEREAS, pursuant to Section 527.0201(5), Florida Statutes, each category I (LP Gas Dealer) and category V (LP Gas Installer) licensee must employ a master qualifier who has passed a competency examination, who is a full-time employee at the licensed location, and who is primarily responsible for overseeing the operations of the licensed location; and

WHEREAS, pursuant to Section 527.0201(5)(c), Florida Statutes, in order to renew an expiring master qualifier registration, each master qualifier must present documentation demonstrating the completion of Department-approved continuing education courses; and

WHEREAS, pursuant to Section 527.0201(6)(b), Florida Statutes, and notwithstanding the requirements set forth in Section 527.0201(5), Florida Statutes, a business organization that no longer possesses a duly designated master qualifier, but that still employs a licensed qualifier, shall be allowed to operate without a master qualifier for up to 60 days, after which time the Department shall suspend the business organization's license; and

WHEREAS, pursuant to Section 531.41(16), Florida Statutes, the Department shall provide for the voluntary registration of private weighing and measuring device service agencies or personnel so that these service agencies and personnel may place into commercial service weighing and measuring devices that meet all state requirements; and

WHEREAS, pursuant to Rule 5J-21.005(5)(d), Florida Administrative Code, meter mechanics must annually apply for licensure in person at an annual clinic hosted by the Department and must participate in a review of current rules and regulations in order to obtain necessary licensure; and

WHEREAS, the COVID-19 outbreak has necessitated the indefinite postponement of all requisite pre-licensure competency testing for liquefied petroleum gas qualifier and master qualifier license applicants, which is preventing new applicants from becoming licensed to work in the State of Florida; and

WHEREAS, the COVID-19 outbreak has necessitated cancellations and postponements of continuing education courses related to liquefied petroleum gas, which is preventing current qualifier and master qualifier licensees from being able to meet license renewal requirements in order to maintain licensure and to continue working in the State of Florida during the current crisis; and

WHEREAS, the COVID-19 outbreak has necessitated the cancellation of the Department's annual in-person clinic for meter mechanics, which was scheduled to occur in May; and

WHEREAS, the Department can provide adequate resources and information to licensed meter mechanics regarding current rules and regulations using alternative, remote methods.

NOW THEREFORE, with the powers and authorities conferred by Article IV, Section 4, Florida Constitution, Executive Orders 20-52, 20-114, 20-166, and any extensions thereof, I hereby declare the following:

1. **Temporary Suspension of Continuing Education Requirements for Renewing Licenses of Qualifiers and Master Qualifiers; Section 527.0201, Florida Statutes.**

Continuing education requirements related to the renewal of qualifier and master qualifier licenses, as set forth in Sections 527.0201(3) and (5)(c), Florida Statutes, are hereby temporarily suspended for all current licensees seeking to renew their licenses from the date of this Order through December 31, 2020. A qualifier or master qualifier licensee who meets all renewal requirements, except for those related to continuing education, may apply for licensure and will be issued a provisional qualifier or master qualifier license upon the Department's receipt of an otherwise complete renewal application. Provisional licensees shall be permitted to perform all activities authorized to be performed by non-provisional license holders under Chapter 527, Florida Statutes.

Provisional licenses issued pursuant to this Order shall stand expired without further action of the Department on January 1, 2021, unless forfeited, suspended, or revoked prior to that date. To prevent automatic expiration, the holder of a provisional license issued pursuant to this Order must provide all necessary documentation of the continuing education required under Section 527.0201, Florida Statutes, prior to January 1, 2021. Upon the Department's receipt of the necessary documentation, the license will no longer be considered provisional, and its expiration date will be set three years from the date of issuance of the provisional license.

On January 1, 2021, any business organization in license category I, category II, or category V operating with a provisionally-licensed qualifier and/or master qualifier who has not submitted documentation showing that continuing education requirements have been met will be deemed to be operating without a licensed qualifier and/or master qualifier beyond the timeframes provided in Sections 527.0201(6)(a) and (6)(b), Florida Statutes, and the business organization's license shall be suspended by order of the Department.

Any qualifier or master qualifier working under a provisional license and all businesses operating with a provisionally-licensed qualifier and/or master qualifier pursuant to this Order shall remain subject to and must act in accordance with all other provisions of Chapter 527, Florida Statutes, and the rules promulgated thereunder. Failure to do so will result in the imposition of penalties prescribed in Chapter 527, Florida Statutes, and Rule Chapter 5J-20, Florida Administrative Code.

Notwithstanding the temporary suspension granted by this Order, an applicant for renewal of a qualifier or master qualifier license who meets all renewal requirements, including those related to continuing education, remains eligible to receive and will be granted a standard, non-provisional license upon submission of a compliant license application.

2. Extension of Time to Fill a Qualifier Vacancy; Section 527.0201, Florida Statutes.

The time granted under Section 527.0201(6)(a), Florida Statutes, for a business organization to replace its duly designated qualifier when that person is no longer working for the business organization is extended from 20 days to 60 days.

If a business organization no longer possesses a duly designated qualifier but employs a licensed master qualifier who is willing and able to perform the duties associated with the vacated qualifier position in addition to his or her own, the business organization shall have 90 days to fill the qualifier vacancy.

If a category II licensee no longer possesses a duly designated qualifier, the business organization shall have 90 days to fill the qualifier vacancy if its liquefied petroleum gas supplier agrees to provide a licensed qualifier or master qualifier to take on the duties and responsibilities associated with the category II licensee's vacant qualifier position. A person acting as a qualifier for one category I licensee and one category II licensee in accordance with this paragraph and all other applicable terms of this Order shall not be deemed to be acting in violation of Section 527.0201(2)(b), Florida Statutes.

Nothing in this Order alters or suspends the reporting requirements set forth in Section 527.0201(6), Florida Statutes. A vacancy in a qualifier position in a business organization which results from the departure of the qualifier shall be immediately reported to the department by the departing qualifier and the licensed company.

The extensions of time set forth in this section (§ 2) apply only to those vacancies reported to the Department prior to the expiration of the state of emergency declared in Executive Order 20-52 and extended by Executive Orders 20-114, 20-166, or any subsequent extension, issued by the Governor of the State of Florida. Vacancies reported to the Department following the expiration of the state of emergency declared in Executive Order 20-52 and extended by Executive Orders 20-114, 20-166, or any subsequent extension, must be filled in accordance with Section 527.0201(6)(a), Florida Statutes.

If a qualifier vacancy is not filled in accordance with the terms of this Order, the business organization's license shall be suspended by order of the Department.

3. Extension of Time to Fill a Master Qualifier Vacancy; Section 527.0201, Florida Statutes.

The time granted under Section 527.0201(6)(b), Florida Statutes, for any category I or category V licensee to replace its duly designated master qualifier when that person is no longer working for the business organization is extended from 60 days to 90 days when the business organization still employs a licensed qualifier.

Nothing in this Order alters or suspends the reporting requirements set forth in Section 527.0201(6), Florida Statutes. A vacancy in a master qualifier position in a business organization which results from the departure of the master qualifier shall be immediately reported to the department by the departing master qualifier and the licensed company.

The extensions of time set forth in this section (§ 3) apply only to those vacancies reported to the Department prior to the expiration of the state of emergency declared in Executive Order 20-52 and extended by Executive Orders 20-114, 20-166, or any subsequent extension, issued by the Governor of the State of Florida. Vacancies reported to the Department following the expiration of the state of emergency declared in Executive Order 20-52 and extended by Executive Orders 20-114, 20-166, or any subsequent extension, must be filled in accordance with Section 527.0201(6)(b), Florida Statutes.

If a master qualifier vacancy is not filled in accordance with the terms of this Order, the business organization's license shall be suspended by order of the Department.

4. **Extension of Time for Currently-Licensed Meter Mechanics to Attend In-Person Clinic Hosted by the Department; Section 531.41(16), Florida Statutes; Rule 5J-21.005(5)(d), Florida Administrative Code.**

Notwithstanding the annual in-person application requirement set forth in Rule 5J-21.005(5)(d), Florida Administrative Code, every meter mechanic license that is active as of the date of this Order shall remain in effect until July 1, 2021, unless such license is forfeited, suspended, or revoked prior to that date. On July 1, 2021, all meter mechanic licenses that are active as of the date of this Order shall stand expired, and any meter mechanic who has failed to renew his or her license at an in-person clinic hosted by the Department will be deemed to be operating without a license.

Meter mechanics and the work performed by such individuals shall remain subject to all other provisions of Chapters 525, 527, and 531, Florida Statutes, and of Rule Chapters 5J-21, 5J-20, and 5J-22, Florida Administrative Code, during the pendency of this Order.

5. **Unless specifically suspended in this Order or any other Emergency Order issued pursuant to the authority conferred by Article IV, Section 4, Florida Constitution, and Executive Orders 20-52, 20-114, 20-166, or any extensions thereof, all other portions of Chapters 525, 527, and 531, Florida Statutes, and the rules promulgated thereunder remain in effect.**

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THIS ORDER shall expire sixty (60) from the date of this Order unless extended or rescinded by the Commissioner of Agriculture or upon the expiration or rescission of Executive Order 20-52, as extended by Executive Orders 20-114, 20-166, or further extensions, whichever occurs first.

EXECUTED AUGUST 21, 2020.

Nicole Fried

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COMMISSIONER OF AGRICULTURE