

Request approval from the board to initiate the administrative rulemaking process to amend Nevada Administrative Code (NAC) Chapter 590 – MOTOR VEHICLE FUEL, PETROLEUM PRODUCTS AND ANTIFREEZE to implement certain provisions of Assembly Bill 31 of the 81st session of the Nevada Legislature, including adoption of specification standards for diesel exhaust fluid, petroleum heating products and aviation fuel, and adding requirements for proof of transfer of petroleum products and motor vehicle fuel which, if sold, would violate any of the provisions of NRS 590.010 to 590.150, inclusive. – Dr. William Striejewski, Ph.D., Chemist V

In keeping with the Nevada Department of Agriculture’s (NDA) strategic plan goal of modernizing our statutory and regulatory framework, Assembly Bill 31 of the 81st Session of the Nevada Legislature was submitted by the NDA as primarily a cleanup and update of Nevada Revised Statutes (NRS) Chapter 590 - MOTOR VEHICLE FUEL, PETROLEUM PRODUCTS AND ANTIFREEZE. As introduced, the bill set out to address the following:

- Grant authority to the Board of Agriculture to adopt specifications for diesel exhaust fluid (DEF) and petroleum home heating products (except for liquefied petroleum gas and natural gas)
- Add references throughout NRS Chapter 590 relating to DEF, including new definitions
- Transfer authority for establishing specifications for aviation fuels from the State Sealer of Consumer Equitability to the Board of Agriculture
- Set forth that the Board of Agriculture shall enforce the specifications it establishes for DEF, aviation fuels, and petroleum heating products, and grants authority to the Board of Agriculture to adopt regulations imposing fines for violation of regulations of standards for these products
- Strengthen the NDA’s authority to take actions when regulated products are found to be out of compliance with Nevada state law, including requiring documentation on the final disposition of the noncompliant product
- Update the title of the ASTM Petroleum Measurement Tables used for gravity and volume conversion and temperature correction of 60° F used by the NDA when testing petroleum products and motor vehicle fuels

Additionally, the bill adds references to DEF in various sections of NRS CHAPTER 561 - STATE DEPARTMENT OF AGRICULTURE, including the section related to laboratory fees collected for analysis and testing, and expenditures for carrying out provisions of chapter 590.

Following introduction of the bill, the NDA submitted an amendment to the bill to strengthen the ability of the State Sealer of Consumer Equitability, their appointees or any member of the Nevada Highway Patrol to access a business property during regular business hours to take necessary enforcement action when regulated products are found to be out of compliance, and to expand existing provisions of the law which make it illegal for any person, or any officer, agent

or employee thereof to prevent or attempt to prevent the State Sealer of Consumer Equitability, their appointees or any member of the Nevada Highway Patrol to take samples of fuel, to make it illegal for any person, or any officer, agent or employee thereof to prevent or attempt to prevent the State Sealer of Consumer Equitability, their appointees or members of the Nevada Highway Patrol from performing any of their duties set forth in NRS 590.100.

Assembly Bill 31, as amended, was passed unanimously by both houses of the Nevada Legislature, and was signed by Governor Sisolak on May 21, 2021. The bill became effective upon the Governor's signature for the purpose of adopting regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of the bill. For all other purposes, the bill becomes effective on July 1, 2021.

Staff requests approval from the Board of Agriculture to begin the regulation rulemaking process to promulgate regulations in NAC Chapter 590 - MOTOR VEHICLE FUEL, PETROLEUM PRODUCTS AND ANTIFREEZE, to carry out the provisions of the bill requiring adoption of specification standards for DEF, petroleum heating products and aviation fuel, and to add requirements for proof of transfer of petroleum products and motor vehicle fuel which, if sold, would violate any of the provisions of NRS 590.010 to 590.150, inclusive.

Our timeline for the rulemaking process is as follows: draft language will be presented at the September 8, 2021 Board of Agriculture meeting for approval for submission to the Legislative Counsel Bureau for review. Staff would then proceed through the other rulemaking steps as required by the Nevada Administrative Procedure Act, including preparation of the Small Business Impact Statement, and conducting one or more workshops prior to holding a hearing for adoption. Our intent is to complete that process in time for the Board of Agriculture to hold a hearing for adoption of the regulations at the March 2022 meeting of the Board of Agriculture, with submission immediately thereafter to the Legislative Commission for approval.