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STATE OF NEVADA  
**DEPARTMENT OF AGRICULTURE**

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**SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY NRS 223B.0608**

**LCB FILE No. R037-21  
February 24, 2022 (amended April 21, 2022)**

- 1. A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

Notice and text of the proposed regulations were mailed via the United States Postal Service to 440 individual petroleum product distributors, wholesalers, and retailers. Three notices were returned as undeliverable. In addition, notice and a link to the text of the proposed regulations were sent via email to 7,026 interested parties. The notice included the website address for an electronic survey and a request that the recipient participate in the survey to assist the Nevada Department of Agriculture (NDA) in determining the potential impacts of the proposed regulations on businesses in Nevada. An option was offered for recipients to request a hard copy of the survey be sent to them by mail or email, though the department did not receive any such requests. Additionally, the notice and survey link were sent via email to the Nevada Petroleum Marketers and Convenience Store Association, the Western States Petroleum Association, and the Retail Association of Nevada with a request that these associations notify their respective members of the proposed changes and the survey. Notice of the proposed regulations and the survey link were posted to [www.agri.nv.gov](http://www.agri.nv.gov). The survey was open from December 14, 2021, through January 14, 2022.

A total of 22 responses were received, though not all respondents answered every survey question. Persons interested in obtaining the survey results and summary may do so by contacting the NDA's Division of Measurement Standards at 775-353-3783 or [ce@agri.nv.gov](mailto:ce@agri.nv.gov).

Summary of survey responses:

- There were 13 respondents to the question as to whether the changes proposed in LCB R037-21 would impact their ability to do business, and responses were split, with 46% responding "Yes", 46% responding "No", and 8% responding "Maybe."
- There were 11 respondents to the question indicating the level on impact. 18% of the survey respondents stated the proposed changes will have a major impact on their business, 45% stated that there would be a minor or moderate impact, and 36% stated that there would be insignificant or no impact. However, 45% of survey respondents indicated that there would be no financial impact to their operations, 45% indicated an annual financial impact of less than \$5,000, and 1 respondent indicated an annual financial impact of greater than \$5,000, but less than \$10,000.
- Three survey participants answered question 8, which asked the respondent to identify the sections which would have the highest financial impact on their business. While every section of the file

was cited, Section 4 (which updates the purchase price for the ASTM specification for diesel fuel adopted by the State Board of Agriculture) and Section 10 (which updates the purchase price for the ASTM specification for gasoline adopted by the State Board of Agriculture) all were cited by the participants.

- Survey participants also cited other sections of the file in which the prices for the purchase of the above noted reference documents available from ASTM, International and the International Organization for Standardization were updated as having a financial impact on their business. Purchase of these documents is not required, and the NDA does not set the prices for outside organizational documents. The documents are available, upon request, to be inspected at any of the NDA's offices.
- Responses to the open-ended questions included:
  - “How would the proposed changes to NAC 590 in LCB R037-21 impact your ability to do business?” Respondents answered, “As a gas station owner, these are costly regulations to adhere to when equipment is already very expensive and its (sic) used by the general public who do not give a second thought before damaging property. Upkeep is extremely expensive, the state should provide signs and materials the first round to ensure that everyone has resources to begin with,” “Increased cost and complexity for compliance with required standards,” “Extra expenses erode profit,” “Cost of operations,” and “Cost of replacement equipment.”
  - “Would you need to make operational changes to your business as a result of the financial impact of the proposed changes LCB R037-21? If so, what would those changes be?” Three respondents answered, “No Changes,” “Price increase passed on to the consumers,” and “Additional costs, and expenses.”
  - “How could the proposed section(s) in LCB R037-21 be adjusted to mitigate their level of negative financial impact?” Three respondents answered, “Delay the changes. Stations have barely been able to catch up with the EMV regulations. Added on with almost 2 years of covid-19 limiting business, it is too much, too soon,” “Educate the benefit,” and “Leave it as is.”
  - “Please feel free to provide any feedback you would like us to consider in relation to the proposed changes in LCB R037-21.” There were no comments from respondents.

## **2. The manner in which the analysis was conducted.**

A statistical analysis of the survey results was compiled and considered. Survey respondents were asked whether the proposed changes in R037-21 would impact their ability to do business, and how they would be impacted; the estimated amount of annual economic impact on their business and the level of impact, ranging from “no impact” to “severe impact,” that these changes would cause; and if these changes would require the business to make operational changes. Finally, participants were invited to offer suggestions on how negative financial impacts might be mitigated.

## **3. The estimated indirect and direct economic effect of the proposed regulation on the small businesses it is to regulate, including, without limitation.**

### **(1) Both adverse and beneficial effects; and**

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**(2) Both direct and indirect effects.**

Sections 2 and 3 adopt new specifications for diesel emission fluid (DEF) and petroleum heating products after the Nevada Legislature granted the NDA authority over these products during the 81<sup>st</sup> Legislative Session. Included in these sections is information on the prices and method by which copies of these specifications may be obtained by regulated businesses or the public.

Sections 4 through 8 inclusive, and Section 10 update the prices to purchase documents published by ASTM International. Again, there is no requirement for businesses to purchase any of these publications and interested parties may request to inspect any of the documents referenced in NAC Chapter 590 at any of the NDA's offices.

Regulated businesses will likely face adverse economic effects for two reasons. Because DEF and petroleum heating products have not previously been regulated by the NDA, there may be industry interest in ensuring proper storage and quality of these products, and a desire to acquire the specifications adopted by reference in the proposed regulations. Purchase of all five documents related to DEF would cost \$543. Purchase of both documents for kerosene and heating oil would cost \$114. Sections 4 through 8 inclusive, and Section 10 update the prices to purchase documents published by ASTM International. Interested parties may request to inspect any of these documents at any of the NDA's offices. The most important beneficial economic effect for regulated businesses would be increased compliance of the regulated products, leading to a more level marketplace for all regulated businesses.

The NDA does not anticipate any adverse economic effects on the public because of the proposed regulations. A beneficial economic effect may result from regulation of DEF and petroleum heating products, as non-compliant products are prevented from causing harm to automotive or heating systems used by the public.

The NDA does not anticipate any direct economic effects for regulated businesses because of the proposed regulations. However, businesses should see an indirect economic effect as DEF and petroleum heating products are regulated, non-compliant product is removed from sale. As a result, there will be higher quality product available, and the marketplace is made more equitable.

The public should see direct economic effects in being able to purchase quality, compliant products. The NDA does not anticipate any indirect economic effects for the public because of the proposed regulations.

**4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

Many of the proposed changes are related to updating the prices of documents available from other organizations and the prices of those documents are outside of the NDA's control. Similarly, Sections 2 and 3 are related to new authority granted to the State Board of Agriculture and additional documents to be adopted by reference by the State Board of Agriculture. As stated above, purchase of these documents by affected businesses is not required.

As the NDA continues through the regulatory adoption process required under the Nevada Administrative Procedure Act, it will consider any other methods to reduce the impact on small businesses.

**5. The estimated cost to the agency for enforcement of the proposed regulation.**

The NDA does not anticipate increased costs to enforce the provisions of NAC 590.

**6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The proposed regulation does not provide for a new fee or increase to an existing fee collected by the agency. Prices for certain publications sold by other organizations have been updated to reflect the current price of the publication as determined by each organization, and with the new specifications adopted by reference there are additional publications that affected businesses may wish to purchase. The NDA does not receive any of the proceeds for the sale of these publications, and information is provided in NAC Chapter 590 for purchase directly from the publishing organizations. It is also possible for those publications to be viewed at any of the NDA's offices, so purchase of the publications is unnecessary.

**7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

The proposed regulations are not duplicative or more stringent than federal, state, or local standards.

**8. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses**

The NDA concludes that the updates and additional authority will have a minor impact, both financially and to the operation of small businesses. While a few respondents anticipated more significant impacts, we believe that they misinterpreted the price updates that make up the bulk of the file as being costs that will be required of their businesses, when in fact they are not. The NDA will attempt to correct these misinterpretations during the public workshop(s) to be held for this proposed regulation.

I certify to the best of my knowledge or belief, a concerted effort was made to determine the impact of this proposed regulation on small business, and that the information contained in this statement was prepared properly and is accurate.

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