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

LCB FILE No. R038-21
March 7, 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 petroleum product distributors, wholesalers, and retailers. Four notices were returned as undeliverable. In addition, notice and 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, but 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. The survey was open from January 21, 2022, through February 11, 2022.

A total of 18 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.

Summary of survey responses:

- There were 16 respondents to the question as to whether the changes proposed in LCB R038-21 would impact their ability to do business. Only 6% responded "Yes," while 56% responded "No," and 38% responded "Maybe."
- There were 12 respondents to the question asking the level of impact of the proposed changes. 8% of the survey respondents stated the proposed changes will have a major impact on their business, 33% stated that there would be a minor or moderate impact, and 58% stated that there would be insignificant or no impact. When asked to estimate the annual economic impact, 25% of respondents indicated an impact of more than \$20,000, 8% indicated an annual financial impact of greater than \$5,000, but less than \$10,000, 8% indicated an annual financial impact of greater than \$1,000, but less than \$5,000, and 58% indicated that there would be no financial impact to their operations.

- LCB File No. R038-21 amends NAC 590.065, amending existing subsections and adding two new subsections. Six survey participants answered question 7, which asked the respondent to identify the subsection(s) of the proposed regulations that would have the highest financial impact on their business. Respondents were able to select more than one subsection, so while not every subsection of the LCB file was cited, four subsections were selected, and the percentages do not total 100%. Subsection 1 was selected by 50% of respondents, subsections 5 and 7 were each selected by 33% of respondents, and subsection 6 was selected by 17%.
- Half of the respondents to question 7 selected subsection 1; however, subsection 1 is not being amended within LCB File No. R038-21. This subsection lists ordering information and prices for the purchase of a standard specification available from ASTM, International. Purchase of this document is not required, and the NDA does not set the prices for outside organizational documents. All standard specifications and other documents are available, upon request, to be inspected at any of the NDA's offices.
- The following are aggregated responses to the open-ended questions:
 - “How would changes to NAC 590 in LCB File No. R038-21 impact your ability to do business?” Respondents answered, “Not Sure,” “Higher cost of doing business. inconsistent E blends, reduced mpg,” “I think there is not much difference, need more clarity,” “The changes to NAC 590, as drafted, are not expected to impact our ability to do business in Nevada,” “The proposed changes would be beneficial to our ability to do business. It would offer a new product to bring to market and expand our offering,” “The Washoe County Health District Regulates Underground Storage Tanks that sell/distribute fuel. There will be instances where E15 is incompatible with existing infrastructure and could cause fuel releases. This would impact the ground water and further contaminate other sources and valuable area within the Region,” “No impact other than the cost of fuel,” and “Have minimum to no impact.”
 - “Would you need to make operational changes to your business as a result of the financial impact of the proposed changes in LCB File No. R038-21? If so, what would those changes be?” Respondents answered, “If I was required to carry this fuel I would have to update my site. If not required, I will not carry it,” “no,” “not all vehicles run efficiently on E15,” “I haven't decide (sic) yet,” “The changes to NAC 590, as drafted, are not expected to result in any financial impacts that would require operational changes,” “We would have limited back office changes for a new fuel product. There are one time changes to price signs and dispenser labels. None of these are a material price impact,” “Change gas supplier,” and “no.”
 - “How could the proposed section(s) in LCB R038-21 be adjusted to mitigate their level of negative financial impact?” Respondents answered, “not sure,” “Can't say anything until it should clear in simple language (sic),” “Year round sales of E15 would eliminate the need for sign and dispenser changes” and “public awareness.”
 - “Please feel free to provide any feedback you would like us to consider in relation to the proposed changes in LCB R038-21.” Respondents answered, “No Comment,” “No feedback,” and “The sale of E15 gives the customer another choice. The retail market will

determine if the product is wanted and legislation should allow the product to be tested in cost effective and reasonable manner.”

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 R038-21 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

(2) Both direct and indirect effects.

Following the passage of Assembly Bill 411 during the 81st Legislative Session, which allowed for the sale of E15 gasoline in Nevada, the proposed regulation amends NAC Chapter 590.065, establishing requirements for the sale of E15. The sale of E15 is not mandatory but will be another product available in the marketplace. Retailers will have the choice whether or not to sell E15.

The approximate expenses detailed below can be used to estimate the total cost that a business will incur should they decide to sell E15. Information on requirements and cost analyses will be provided on request by contacting the NDA’s Division of Measurement Standards at 775-353-3783 or ce@agri.nv.gov. It is expected that these costs would be upfront, one-time expenses.

Because the sale of E15 is not mandatory, there is a wide range of possible adverse economic effect on regulated businesses. For businesses that choose not to sell E15, there will be no economic effect. Those who do may need to change one or more aspects of their infrastructure to store and sell E15 safely and responsibly. These costs may be as little as approximately \$2,000 or less for labeling and placarding, depending on the size of the station, but could rise to well over \$100,000, as replacement of a 10,000-gallon underground storage tank is estimated to cost approximately \$115,000. Regulated businesses may see beneficial economic effects in the form of increased sales if there is consumer interest in E15 as an additional product choice.

For the public, the NDA does not anticipate any adverse economic effects on the public. The proposed regulations may provide beneficial economic effects on the public. E15 is normally priced lower than conventional gasolines, either oxygenated or non-oxygenated. There will be a decrease in miles per gallon with an increased amount of ethanol, however, and it should be noted that use of E15 is only approved for vehicles in model year 2001 and newer. The proposed regulation includes a dispenser labeling requirement that E15 is only approved for use in those model years, and includes a requirement for the regulated business to have in place a federally approved plan for mitigation in the event of misfuelling.

A direct effect to regulated businesses selling E15 would be increased sales because of this additional product available for sale. Indirect benefits could include increased sales of all products because of attention brought by the sale of E15 and positive word of mouth, and upgrades or modernizations of station infrastructure in order to sell E15.

The public will see direct effect in the availability of another product for their vehicles, often at a lower price than other gasoline products. If E15 proves to be a popular and readily available fuel option, metropolitan areas in Nevada may see indirect effects in the form of improved air quality.

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.

Because of Federal regulations governing many aspects of the storage, sale, and use of E15, there was little that could be done to reduce the impact of the proposed regulations. However, as mentioned above, the sale of E15 is not mandatory; it is at the discretion of the business. Prior to submitting draft language to LCB, the NDA held a listening session with stakeholders from the petroleum industry, the renewable fuels industry, and government environmental entities. This session helped ensure that all necessary requirements were included, and that unnecessary requirements that would hinder businesses were not included.

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

The NDA estimates that it will incur costs of between \$1,000 and \$2,000 to recalibrate instruments necessary to confirm compliance with the adopted standard.

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 regulations do not provide for a new fee or increase an existing fee collected by the agency.

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.

While the proposed regulations do not duplicate federal, state, or local standards, they do adopt by reference regulations in the Code of Federal Regulations that have been promulgated by the U.S. Environmental Protection Agency. These regulations have been included in NAC Chapter 590 because it would be of benefit to regulated businesses and the public if the comprehensive requirements are conveniently collected in state regulation, rather than requiring interested parties to seek that information from other sources.

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

The proposed regulation establishes requirements for the storage and sale of E15. Sale of this product is not mandatory, so the decision is at the discretion of each business. There will be no impact on a business that chooses not to sell E15. For businesses that choose to sell E15, the level of impact will

be dependent on the level of infrastructure changes necessary for the business to meet these requirements.

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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