

Request approval from the board to initiate the administrative rulemaking process to amend Nevada Administrative Code Chapter 590 –MOTOR VEHICLE FUEL, PETROLEUM PRODUCTS AND ANTIFREEZE to implement the provisions of Assembly Bill 411 of the 81st session of the Nevada Legislature, to include revision of the maximum allowable percent ethanol by volume contained in gasoline sold for use in a vehicle which is primarily driven on a highway. – Dr. William Striejewske, Ph.D., Chemist V

Assembly Bill 411 of the 81st Session of the Nevada Legislature was sponsored by the Assembly Committee on Growth and Industry. The bill requires that the regulations adopted by the State Board of Agriculture setting forth specifications for motor vehicle fuel must allow for the sale of motor vehicle fuel containing not more than 15 percent ethanol by volume. As introduced, the effective date of the bill was January 1, 2022. After concerns were raised by various stakeholders about the ability to complete the administrative rulemaking process by January 1, 2022, Amendment 378 was adopted, revising the effective date of the bill to July 1, 2022. The bill was passed by both houses of the Legislature and as of the writing of this report was awaiting Governor Sisolak’s signature.

While the language of Assembly Bill 411 references motor vehicle fuel in general, testimony on the bill was centered around the maximum allowable amount of ethanol by volume in gasoline, which is currently established in Nevada Administrative Code (NAC) 590.065 at not more than 10 percent. Gasoline containing more than 10 percent, but not more than 15 percent ethanol by volume is commonly referred to as E15.

The United States Environmental Protection Agency defines E15 as gasoline blended with 10.5-15% ethanol. In 2011, the EPA approved E15 for use in light-duty conventional vehicles of model year 2001 and newer, including cars, light-duty trucks, medium-duty passenger vehicles (SUVs), and all flex-fuel vehicles. This approval was granted through a Clean Air Act waiver request, based on significant testing and research funded by the U.S. Department of Energy. Gasoline containing not more than 10 percent ethanol by volume remains the limit for passenger vehicles older than model year 2001 and for other non-road and small engines and vehicles that use gasoline, such as boats, motorcycles, lawnmowers and snowblowers.

To comply with the provisions of Assembly Bill 31, staff is requesting approval from the Board of Agriculture to begin the administrative rulemaking process to amend NAC Chapter 590 to allow for the sale of E15 in Nevada, to include labeling regulations intended to prevent misfuelling and ensure compatibility of dispensing equipment.

Our timeline for the rulemaking process is as follows: draft language will be presented at the September 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. Staff anticipates that there will be significant industry participation in the regulatory process for this matter. 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 June 2022 meeting of the Board of Agriculture, with submission immediately thereafter to the Legislative Commission for approval.