

STEVE SISOLAK
Governor

Las Vegas Office:
2300 East St. Louis Ave.
Las Vegas, NV 89104
Telephone (702) 668-4590
Fax (702) 668-4567



JENNIFER OTT
Director

Elko Office:
4780 East Idaho St.
Elko, NV 89801-4672
Telephone (775) 738-8076
Fax (775) 738-2693

STATE OF NEVADA
DEPARTMENT OF AGRICULTURE

405 South 21st St.
Sparks, Nevada 89431-5557
Telephone (775) 353-3601 Fax (775) 353-3661
agri.nv.gov

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

**LCB FILE No. R027-21
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. The notice and survey link were also 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 December 14, 2021, through January 14, 2022.

In total, the survey received 22 responses, 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 10 respondents to the question as to whether the changes proposed in LCB R027-21 would impact their ability to do business; 20% responded "Yes", 60% responded "No", and 20% responded "Maybe."
- Of the 10 respondents above, 20% of the survey respondents stated the proposed changes will have a major impact on their business, 30% stated that there would be a minor or moderate impact, and 50% stated that there would be insignificant or no impact.
- There were 9 respondents to the question of estimated annual financial impact. 55% indicated that there would be no financial impact to their operations, 22% indicated an annual financial impact of less than \$5,000, 11% indicated an annual financial impact of greater than \$5,000, but less than \$10,000, and 11% indicated an annual financial impact of greater than

\$10,000.

- Responses to the open-ended questions were limited and included:
 - “How would the proposed changes to NAC 590 in LCB R027-21 impact your ability to do business?” Respondents answered, “Unnecessary fees” and “Additional costs.”
 - “Would you need to make operational changes to your business as a result of the financial impact of the proposed changes LCB R027-21? If so, what would those changes be?” The lone respondent answered, “Price increases to consumers.”
 - “How could the proposed section in LCB R027-21 be adjusted to mitigate their level of negative financial impact?” The lone respondent answered, “We would have to alter our operations and explore alternative sources.”
 - “Please feel free to provide any feedback you would like us to consider in relation to the proposed changes in LCB R027-21.” Respondents answered, “Keep asking for feedback,” and “Continue providing information publicly so citizens understand the issue and can weigh in based on their perspective.”

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 R027-21 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.

The proposed regulation adds a new section to NAC Chapter 590 establishing a schedule of civil penalties for certain violations of the Nevada Petroleum Products Inspection Act (Act). The penalty for a first offense will be between \$25 and \$100, between \$50 and \$500 for a second offense, and between \$100 and \$1,000 for a third offense and subsequent offenses. Subsection 2 allows for a warning rather than a monetary penalty on a first violation.

Regulated businesses will only see adverse economic effects in cases of violations of the Nevada Petroleum Products Inspection Act, and subsection 2 allows for a warning rather than a monetary penalty on a first violation. Therefore, it is expected that there will be minimal adverse economic effect on regulated businesses. The civil penalties may increase the level of compliance with regulations within NAC Chapter 590, leveling the marketplace for all regulated businesses and leading to potential beneficial economic effects on those regulated businesses.

The NDA does not anticipate that there will be any adverse economic effects on the public; however, because of potential penalties levied on businesses for the sale of non-compliant products, the public may see beneficial economic effects in the form of higher quality products in the marketplace.

A direct benefit for both the regulated businesses and the public would potentially be an overall improvement in fuel quality throughout the market, as businesses will show more care so as to not be assessed monetary penalties. The NDA does not foresee any indirect economic effects from 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.

The proposed regulation adds a new section to NAC Chapter 590 establishing a schedule of civil penalties for certain violations of the Act. Only violators of the Act will be subject to the monetary penalties outlined in File R027-21, and Subsection 2 allows for a warning rather than a monetary penalty on a first violation. There is no method the NDA can use to reduce the impact on small businesses if they are found to be in violation of the Act.

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

The NDA does not anticipate increased costs to enforce the proposed revised 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 implement a new fee or increase to an existing fee. It adds a new section establishing a schedule of civil penalties for certain violations of the Act. As such, only violators of the Act will be subject to the monetary penalties outlined in File R027-21, and Subsection 2 allows for a warning rather than a monetary penalty on a first violation. It is difficult to estimate the amount that the agency may collect annually. Historically speaking, most violations of the Act identified by the NDA are determined to be unintentional and, therefore, would not have resulted in the assessment of monetary penalties. Fifty percent of any monies collected for the civil penalties authorized by the proposed regulation will be used to fund a program selected by the Director of the NDA that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger, and the remaining 50 percent of the money will be deposited in the Account for the Control of Weeds established by NRS 555.035.

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

Because the proposed regulation establishes a schedule of civil penalties for certain violations of the Act, the NDA concludes that the majority of small businesses will see no impact or a minor impact, both financially and to the operation of the business. While a few respondents expected more

significant impacts, we believe that they may have misinterpreted what the proposed legislation is meant to do. 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.

Jennifer Ott
Director
Nevada Department of Agriculture