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STATE OF NEVADA
DEPARTMENT OF AGRICULTURE

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**PROPOSED REGULATION OF THE NEVADA DEPARTMENT OF AGRICULTURE
LCB FILE Nos R080-20 and R081-20**

NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATION

The Nevada Department of Agriculture, 405 South 21st Street, Sparks, Nevada 89431, is proposing the Amendment of regulations pertaining to Nevada Administrative Code Chapter 590. A workshop has been set for:

**Wednesday, October 14, 2020
10:00 AM PDT**

**Remote Meeting
Information:**

Nevada Department of Agriculture

Location: Web-ex meeting:

<https://nevadadepartmentofagriculture.my.webex.com/nevadadepartmentofagriculture.my/j.php?MTID=mdfb6bbb6873787dc4630238a1a688611>

Meeting Number: 126 609 7134

Meeting Password: Gw2m3PimY7n; 49263746 from phones and video systems

Phone Join: 1-408-418-9388

Phone Access Code: 126 609 7134

Phone Access Password: 49263746

COVID-19 Notice

ALL PERSONS WISHING TO ATTEND THE MEETING MUST ATTEND VIA WEBEX OR TELEPHONICALLY.

- The open meeting law (Nevada Revised Statutes Chapter 241) requires public bodies to conduct their meetings with at least one physical location.
- Under Declaration of Emergency Directive 006, issued March 22, 2020, the physical location requirement has been suspended.

NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATION

Agenda

10:00 AM PDT Wednesday, October 14, 2020

Note: Items on this agenda may be taken in a different order than listed, items may be combined for consideration, and items may be pulled or removed from the agenda at any time.

- I. ****Public Comment –** In consideration of others who may also wish to provide public comment, please avoid repetition and limit your comments to no more than three (3) minutes. Unused time may not be reserved by the speaker nor allocated to another speaker.
- II. The Nevada Department of Agriculture (NDA) will hold a workshop to solicit comments from interested persons on the following general topics that may be addressed in proposed regulations (LCB File Nos. R080-20 and R081-20):

LCB File No. R080-20 includes updates and additions to the following sections of NAC Chapter 590:

- NAC 590.045 - updates the address of the NDA office in Las Vegas
- NAC 590.050 - updates the title and purchase price (from ASTM, International) for the adopted standard specification for diesel fuel; conforms some language due to title change
- NAC 590.051 - updates the title for the standard specification for diesel fuel and purchase prices (from ASTM, International) for the adopted standard specifications for biodiesel fuel blend stock, biodiesel blends (B6 to B20), and diesel fuel
- NAC 590.052 - updates the title and purchase price (from ASTM, International) for the adopted standard specification for Methanol Fuel Blends
- NAC 590.053 - updates the purchase price (from ASTM, International) for the adopted standard specification for Ethanol Fuel Blends
- NAC 590.054 - updates the purchase price (from ASTM, International) for the adopted standard specification for Chemical Composition of Gases
- NAC 590.059 - updates the address of the NDA office in Sparks
- NAC 590.061 - establishes allowed descriptors for each grade for gasoline and blends of gasoline and oxygenate.
- NAC 590.065 - updates the purchase price (from ASTM, International) for the adopted standard specification for Spark-Ignition Engine Fuel; updates the name of a table referenced in this section
- A new section adopts the most recent standards for viscosity grade classifications and the specifications for engine oil performance and engine service classification published by SAE International
- A new section establishes certain standards for diesel fuel labeled “premier,” “premium,” “super” or “supreme” on retail dispensers, including standard test methods from ASTM, International and NACE

LCB File No. R081-20 includes changes to the following sections of NAC Chapter 590:

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- NAC 590.010 - updates the title and purchase price (from ASTM, International) for the adopted standard specification for glycol base engine coolants
- NAC 590.035 - updates the title and purchase price (from ASTM, International) for the volume containing standard methods for the analysis of glycol base engine coolants; updates the addresses of NDA offices in Sparks and Las Vegas and adds the address of the NDA office in Elko
- NAC 590.045 - updates the addresses of NDA offices in Sparks and Las Vegas and adds the address of the NDA office in Elko
- NAC 590.055 - updates the purchase price (from ASTM, International) for the adopted ASTM standard specifications for aviation gasoline and aviation turbine (jet) fuel
- A new section establishes civil penalties for violations of any provision of NRS 590.160 to 590.330, inclusive

III. **Public Comment – In consideration of others who may also wish to provide public comment, please avoid repetition and limit your comments to no more than three (3) minutes. Unused time may not be reserved by the speaker nor allocated to another speaker.

IV. Adjourn

**This item is to receive public comment on any issue, provided that comment will be limited to areas relevant to and within the authority of the Nevada Department of Agriculture. No action will be taken on any items raised in the public comment period. At the direction of the Department, public comment may be received prior to action on individual agenda items. Public comment may not be limited based on viewpoint.

A copy of materials relating to the meeting and proposed regulations will be available at the workshop, online at <http://agri.nv.gov/CE/> or by contacting:

William Striejewske
 Chemist V, Division of Consumer Equitability
 Nevada Department of Agriculture
 405 S. 21st Street
 Sparks, NV 89431
 (775) 353-3792
wstriejewske@agri.nv.gov

Written comments on the proposed regulations may be directed to the address above.

Reasonable efforts will be made for members of the public who have disabilities and require special accommodations for assistance at the meeting. Requests for accommodations or assistance may be submitted to the Department in writing to the address above or by calling 775-353-3783 prior to the meeting.

Notice of this meeting has been sent to all persons on the agency’s mailing list for administrative regulations, posted on the internet through the Department of Agriculture’s website at www.agri.nv.gov, and on the Nevada Public Notices website at <https://notice.nv.gov/> on or before 9 a.m. fifteen (15) calendar days prior to the meeting. Additionally, notice of this meeting was sent to the Nevada Legislative Counsel Bureau for posting at: <https://leg.state.nv.us/App/Notice/A/>.

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**SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY
NRS 233B.0608**

**LCB File No. R080-20
September 21, 2020**

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 432 individual petroleum product distributors, wholesalers, and retailers. Three notices were returned as undeliverable. The notice included the website address for an electronic survey and a request that the recipient participate in the survey to assist the Department of Agriculture 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 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 August 10, 2020 through September 4, 2020. A total of 14 responses were received, though not all respondents answered every survey question.

- 15% of the survey respondents (2 of 13) stated the proposed changes will have a significant impact on their business. However, 100% (9 of 9) of survey respondents indicated that the level of financial impact to their operations would be low.
- Related to the proposed changes, the survey participants identified the following sections which would have the highest financial impact on their business: Section 1, which encompasses the contents of Sections 2 (addition of a section to NAC Chapter 590 setting specifications for motor oil) and Section 3 (updates prices of documents available from other organizations and establishes a definition and specifications required for a fuel to be marketed as Premium Diesel) and Section 12 (clarifies what terms are allowed to be used in labeling and advertising relative to specific gasoline grades).
- Other than what is stated in the previous bullet point, survey participants did not indicate any effects, fiscal or otherwise, as a result of the proposed changes.

Persons interested in obtaining the survey results and summary may do so by contacting the Division of Consumer Equitability at 775-353-3783 or by email ce@agri.nv.gov.

2. The manner in which the analysis was conducted.

A statistical analysis of the survey results was compiled and considered. While 2 respondents indicated the proposed changes would have a Major or Severe impact on their business, the majority of respondents (11 of 13) indicated that the level of financial impact caused would be Moderate at worst, and 8 of 13 respondents indicated a Minor impact or less. 0 respondents indicated that the level of financial impact caused would be high.

3. The estimated economic effect of the proposed regulation on small businesses.

Section 2 updates the price to purchase documents published by standards ASTM International and SAE International. However, there is no requirement for businesses to purchase these publications and therefore the agency estimates the economic effect of this Section to be \$0. Section 12, which clarifies terms to be used in labeling and advertising relative to specific gasoline grades, may result in certain businesses needing to purchase new labels or other display media. The cost to purchase and install these labels and display media is estimated to total between \$100 and \$1,000, depending upon the number of fuel dispensers located at the retail motor vehicle fuel station. One respondent referenced Section 3, which establishes a definition for Premium Diesel, as potentially having an economic impact on their business. However, a small business receiving fuel purported to be Premium Diesel would be informed of this fact by the supplier and would not be required to perform their own verification.

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 titles and/or prices of documents available from other organizations and as such are outside of the agency's control. Several changes would update and include additional addresses of agency locations where these documents may be reviewed, thereby increasing the availability of these publications to businesses, particularly in northeastern Nevada. Section 12 carries a potential one-time expense to replace labels and/or display media to align with allowed descriptive terms for gasoline grades, but this expense will affect only a small number of businesses. However, the agency feels that the proposed regulation is aligned with the mission of ensuring a fair marketplace, and therefore reasonable and that the total expense will not be detrimental to the affected business.

As the agency 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 that may be proposed.

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

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The agency does not anticipate that its ongoing costs to enforce the proposed revised provisions of NAC 590 will increase.

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 of those respective organizations; the agency does not receive any of the proceeds for the sale of these publications.

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.

While there may be an impact on small businesses as a result of the adoption of the proposed regulation, the agency concludes that the regulations are reasonable and necessary for the Division of Consumer Equitability to perform all of its statutorily mandated duties, and that these impacts will be minor, both financially and to the operation of the business. Based on the survey responses received, the agency believes the number of small businesses that will experience a strong financial impact as a result of the proposed regulations is less than 10 percent.

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

Jennifer Ott
Director
Nevada Department of Agriculture

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**SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY
NRS 233B.0608**

**LCB File No. R081-20
September 21, 2020**

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 432 individual petroleum product distributors, wholesalers, and retailers. Three notices were returned as undeliverable. The notice included the website address for an electronic survey and a request that the recipient participate in the survey to assist the Department of Agriculture 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 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 August 10, 2020 through September 4, 2020. A total of 14 responses were received, though not all respondents answered every survey question.

- 15% of respondents (2 of 13) to a survey question regarding level of impact to their business stated the proposed changes will have a significant impact. However, 100% (9 of 9) of respondents to a question of financial impact indicated that the impact to their operations would be low.
- Related to the proposed changes, the survey participants expect the impacts on their business to be limited to updating existing signage or dispenser labeling and the consequences of Section 1, a new section that establishes civil penalties for violations of the advertisement and display requirements of NRS Chapter 590.
- Survey participants did not quantify any effects, fiscal or otherwise, as a result of the proposed changes.

Persons interested in obtaining the survey results and summary may do so by contacting the Division of Consumer Equitability at 775-353-3783 or by email ce@agri.nv.gov.

2. The manner in which the analysis was conducted.

A statistical analysis of the survey results was compiled and considered. While 2 respondents indicated the proposed changes would have a Major or Severe impact on their business, the majority of respondents (11 of 13) indicated that the level of financial impact caused would be Moderate at worst, and 8 of 14 respondents indicated a Minor impact or less. 0 respondents indicated that the level of financial impact caused would be high.

3. The estimated economic effect of the proposed regulation on small businesses.

Section 1 of the proposed regulations provides for progressive civil penalties for violation of the provisions of NRS Chapter 590.160 to 590.330, inclusive. There would be no economic effect for businesses that comply with these laws and therefore are not subject to the penalties. The economic impact on most small businesses is estimated to be \$0, while for some it would be limited to an amount under \$1,000.

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 titles and/or prices of documents available from other organizations and as such are outside of the agency's control. Several proposed changes update or add addresses of agency locations where publications may be accessed. As a result, availability of the publications to small businesses, particularly in northeastern Nevada, will be increased. Section 1, a new section that establishes civil penalties for violations of advertising or display statutes, is a necessary component of the agency's regulatory responsibility and would only have an impact on those persons not complying with statute or regulation. The agency received no comments from respondents directly mentioning the proposed civil penalty dollar amounts.

As the agency continues through the regulatory adoption process required under the Nevada Administrative Procedure Act, it will consider any methods to reduce the impact on small businesses that may be proposed.

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

The agency does not anticipate that its ongoing costs to enforce the proposed revised provisions of NAC 590 will increase.

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 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 of those respective organizations; the agency does not receive any of the proceeds for the sale of these publications.

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.

While there is the potential for impact on certain small businesses as a result of the adoption of the proposed regulation, the agency concludes that the regulations are reasonable and necessary for the Division of Consumer Equitability to perform its statutorily mandated duties.

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

Jennifer Ott
Director
Nevada Department of Agriculture

**SECOND REVISED PROPOSED REGULATION OF THE
STATE BOARD OF AGRICULTURE**

LCB File No. R080-20

July 29, 2020

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1 and 4, NRS 561.105; §2, NRS 561.105, 590.040 and 590.080; §§3 and 6-13, NRS 561.105 and 590.070; §5, NRS 590.070 and 590.073.

A REGULATION relating to engine products; establishing standards for the viscosity grade classification of motor oil; establishing standards for certain types of diesel fuel; updating the titles of certain standards adopted by reference by the State Board of Agriculture; updating the purchase prices for certain standards adopted by reference by the Board; establishing antiknock index requirements for certain types of gasoline and blends of gasoline and oxygenate; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires all motor oil sold in this State to: (1) have a label that identifies the viscosity grade classification of the motor oil; and (2) meet the specifications for engine oil performance and engine service classification set by SAE International. (NRS 590.040, 590.080) **Section 2** of this regulation adopts by reference the most recent standards for viscosity grade classifications and the specifications for engine oil performance and engine service classification published by SAE International.

Existing law requires the State Board of Agriculture to adopt regulations regarding specifications for motor vehicle fuel. (NRS 590.070) **Section 3** of this regulation establishes certain standards for diesel fuel labeled “premier,” “premium,” “super” or “supreme” on retail dispensers.

Under existing regulations, the Board has adopted by reference ASTM D975, “Standard Specification for Diesel Fuel Oils” as published by ASTM International. (NAC 590.050, 590.051) **Sections 6 and 7** of this regulation: (1) update the name of that standard to ASTM D975, “Standard Specification for Diesel Fuel” to reflect a name change approved by ASTM International; (2) update the purchase price for that publication; and (3) make conforming changes.

Under existing regulations, the Board has adopted by reference ASTM D6751, “Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels” and ASTM D7467, “Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20).” (NAC 590.051) **Section 7** of this regulation updates the purchase prices for those publications.

Under existing regulations, the Board has adopted by reference ASTM D5797, “Standard Specification for Fuel Methanol (M70-M85) for Automotive Spark-Ignition Engines.” (NAC 590.052) **Section 8** of this regulation updates the name of that standard to ASTM D5797, “Standard Specification for Methanol Fuel Blends (M51-M85) for Methanol-Capable Automotive Spark-Ignition Engines.”

Under existing regulations, the Board has adopted by reference ASTM D5798, “Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines.” (NAC 590.053) **Section 9** of this regulation updates the purchase price for that publication.

Under existing regulations, the Board has adopted by reference ASTM D2650, “Standard Test Method for Chemical Composition of Gases By Mass Spectrometry.” (NAC 590.054) **Section 10** of this regulation updates the purchase price for that publication.

Existing regulations require a person who sells motor vehicle fuel that contains manganese or any other compound containing manganese to post a label on the pump or dispensing device that satisfies certain requirements. (NAC 590.059) **Section 11** of this regulation updates the address for the office of the Division of Consumer Equitability of the State Department of Agriculture where a person may obtain such labels free of charge.

Existing law requires the Board to adopt regulations that establish specifications that ensure motor vehicle fuel is of a sufficient quality for appropriate performance. (NRS 590.070) **Section 12** of this regulation establishes antiknock index standards for gasoline and blends of gasoline and oxygenate.

Under existing regulations, the Board has adopted by reference ASTM D4814 “Standard Specification for Automotive Spark-Ignition Engine Fuel” contained in the *Annual Book of ASTM Standards* published by ASTM International. (NAC 590.065) **Section 13** of this regulation updates the purchasing price for that publication and the name of a table from that publication.

Section 1. Chapter 590 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *The State Board of Agriculture hereby adopts by reference the most recent version of the following standards published by SAE International:*

(a) SAE J183, “Engine Oil performance and Engine Service Classification”; and

(b) SAE J300, “Engine Oil Viscosity Classification.”

2. *Each new revision of the standards adopted by reference in subsection 1 shall be deemed approved by the Board unless the revision is disapproved by the Board or its designee*

within 120 days after the date of publication of the revision by SAE International. A copy of each standard is available for inspection pursuant to NAC 590.045 and may be purchased from SAE International, 400 Commonwealth Drive, Warrendale, PA 15096-0001, or at the Internet address <http://www.sae.org> for the price of \$83.

3. All motor oil offered for sale in this State must meet the standard set forth in SAE J183. Motor oil offered for sale in this State that is labeled with a viscosity grade specification must also meet the standard of that specification pursuant to SAE J300.

4. Any other test method may be used if the State Sealer of Consumer Equitability determines that another method produces results equivalent to the results of the specified method. A method approved by SAE International or ASTM International that has not yet been published shall be deemed to meet the appropriate criteria.

Sec. 3. 1. The State Board of Agriculture hereby adopts by reference the most recent version of the standards set forth in paragraphs (a) to (k), inclusive, as set forth in the Annual Book of ASTM Standards published by ASTM International. Each new revision of the standards set forth in paragraphs (a) to (k) shall be deemed approved by the Board unless the revision is disapproved by the Board or its designee within 120 days after the date of publication of the revision by ASTM International. A copy of each standard is available for inspection pursuant to NAC 590.045 and may be purchased from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the following prices:

(a) ASTM D975, "Standard Specification for Diesel Fuel" for the price of \$72;

(b) ASTM D613, "Standard Test Method for Cetane Number of Diesel Fuel Oil" for the price of \$56;

(c) ASTM D6890, “Standard Test Method for Determination of Ignition Delay and Derived Cetane Number (DCN) of Diesel Fuel Oils by Combustion in a Constant Volume Chamber” for the price of \$56;

(d) ASTM D7668, “Standard Test Method for Determination of Derived Cetane Number (DCN) of Diesel Fuel Oils—Ignition Delay and Combustion Delay Using a Constant Volume Combustion Chamber Method” for the price of \$56;

(e) ASTM D2500, “Standard Test Method for Cloud Point of Petroleum Products and Liquid Fuels” for the price of \$50;

(f) ASTM D4539, “Standard Test Method for Filterability of Diesel Fuels by Low-Temperature Flow Test (LTFT)” for the price of \$50;

(g) ASTM D6371, “Standard Test Method for Cold Filter Plugging Point of Diesel and Heating Fuels” for the price of \$50;

(h) ASTM D6079, “Standard Test Method for Evaluating Lubricity of Diesel Fuels by the High-Frequency Reciprocating Rig (HFRR)” for the price of \$50;

(i) ASTM D7688, “Standard Test Method for Evaluating Lubricity of Diesel Fuels by the High-Frequency Reciprocating Rig (HFRR) by Visual Observation” for the price of \$50;

(j) ASTM D7548 “Standard Test Method for Determination of Accelerated Iron Corrosion in Petroleum Products” for the price of \$56; and

(k) ASTM D2068, “Standard Test Method for Determining Filter Blocking Tendency” for the price of \$50.

2. The State Board of Agriculture hereby adopts by reference the most recent version of NACE TM0172, “Determining Corrosive Properties of Cargoes in Petroleum Product Pipelines” published by NACE International. Each new revision of that standard shall be

deemed approved by the Board unless the revision is disapproved by the Board or its designee within 120 days after the date of publication of the revision. A copy of the standard is available for inspection pursuant to NAC 590.045 and may be purchased from NACE International, 15835 Park Ten Place, Houston, Texas 77084, or at the Internet address <http://nace.org>, for the price of \$79.

3. Any diesel fuel identified on retail dispensers as “premier,” “premium,” “super” or “supreme”:

(a) Must have a cetane number of 47 or more as determined by ASTM D613, ASTM D6890 or ASTM D7668.

(b) Must have a maximum wear scar diameter of 460 micrometers as determined by ASTM D6079 or ASTM D7688.

(c) Must have a corrosion rating of “B+” or better as determined by NACE TM0172 or ASTM D7548.

(d) Must have filter blocking tendency of 2.2 or less as determined by procedure B of ASTM D2068.

(e) If sold between October 1 and March 31, must have a cold flow performance measurement which satisfies the tenth percentile minimum ambient air temperature charts from ASTM D975 as determined by ASTM D2500 or ASTM D4539. ASTM D6371 may be used when the test results are 6 degrees Celsius (42.8 degrees Fahrenheit) or less below the cloud point.

4. Any diesel fuel:

(a) Sold under an select grade classification other than “premier,” “premium,” “super” or “supreme”;

(b) Sold under a product name that implies improved performance; or

(c) Advertised as providing improved performance on any marketing device, including, without limitation, a dispenser, pump topper, pole sign or bollard,

↪ must provide a substantial functional benefit that is measurable using industry accepted test methodologies developed by the ASTM, SAE or other standards organization approved by the State Board of Agriculture.

Sec. 4. NAC 590.041 is hereby amended to read as follows:

590.041 As used in NAC 590.041 to 590.070, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, “gallon” means 231 cubic inches.

Sec. 5. NAC 590.045 is hereby amended to read as follows:

590.045 A copy of each standard adopted by reference pursuant to NAC 590.041 to 590.070, inclusive, *and sections 2 and 3 of this regulation*, is available for inspection at the offices of the State Department of Agriculture located at 405 South 21st Street, Sparks, Nevada 89431, and 2300 ~~[McLeod Street,]~~ *E. St. Louis Avenue*, Las Vegas, Nevada 89104.

Sec. 6. NAC 590.050 is hereby amended to read as follows:

590.050 1. Except as otherwise provided in subsection 2, the State Board of Agriculture hereby adopts by reference the most recent version of ASTM D975, “Standard Specification for Diesel Fuel ,” ~~[Oils,]~~ contained in the *Annual Book of ASTM Standards* published by ASTM International. Each new revision of that standard shall be deemed approved by the Board unless the revision is disapproved by the Board or its designee within 120 days after the date of publication of the revision by ASTM International. A copy of the standard is available for inspection pursuant to NAC 590.045 and may be purchased from ASTM International, 100 Barr

Harbor Drive, *P.O. Box C700*, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the price of ~~[\$67.]~~\$72.

2. The flash point for No. 2 diesel fuel ~~{oil}~~ must not be lower than 37.8 degrees Celsius (100 degrees Fahrenheit) when the No. 2 diesel fuel ~~{oil}~~ has been treated to prevent gelling and the No. 2 diesel fuel ~~{oil}~~ has been labeled “winterized.”

3. The grade assigned by ASTM International for diesel fuel : ~~{oil}~~

(a) Dispensed from a pump or other device for dispensing the diesel fuel ~~{oil}~~ must be posted on that pump or device, except that such posting does not need to include the term “Ultra Low Sulfur Diesel” or “ULSD.”

(b) Transported or stored in a vehicle which is used for the delivery of diesel fuel ~~{oil}~~ must be posted on the label of that vehicle as required pursuant to NRS 590.040.

4. Any other test method may be used if the State Sealer of Consumer Equitability determines that another method produces results equivalent to the results of the specified method. A method approved by ASTM International that has not yet been published shall be deemed to meet the appropriate criteria.

Sec. 7. NAC 590.051 is hereby amended to read as follows:

590.051 1. Except as otherwise provided in this section, the State Board of Agriculture hereby adopts by reference the most recent version of the following standards for biodiesel and diesel fuel set forth in the *Annual Book of ASTM Standards* published by ASTM International:

(a) ASTM D6751, “Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels”;

(b) ASTM D7467, “Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)”;

and

(c) ASTM D975, “Standard Specification for Diesel Fuel .” ~~{Oils.}”~~

↳ Each new revision of those standards shall be deemed approved by the Board unless the revision is disapproved by the Board or its designee within 120 days after the date of publication of the revision by ASTM International. Each standard is available for inspection pursuant to NAC 590.045 and may be purchased from ASTM International, 100 Barr Harbor Drive, *P.O. Box C700*, West Conshohocken, Pennsylvania 19428, or at the Internet address <http://www.astm.org>. The price of ASTM D6751 is ~~{ \$52,} \$56~~, the price of ASTM D7467 is ~~{ \$52} \$72~~, and the price of ASTM D975 is ~~{ \$67,} \$72~~.

2. The ratio for biodiesel fuel blended in accordance with ASTM D7467 must be not less than 6 percent but not more than 20 percent by volume of biodiesel fuel which complies with the specifications for feedstock and composition set forth in ASTM D6751. The remainder of the biodiesel blend which contains not less than 6 percent but not more than 20 percent by volume of biodiesel fuel must comply with the requirements for diesel fuel set forth in NAC 590.050.

3. Biodiesel fuel blends which contain not more than 5 percent by volume of biodiesel fuel must comply with the requirements for diesel fuel set forth in NAC 590.050.

Sec. 8. NAC 590.052 is hereby amended to read as follows:

590.052 1. The State Board of Agriculture hereby adopts by reference the most recent version of ASTM D5797, “Standard Specification for ~~{Fuel Methanol (M70-M85) for} *Methanol Fuel Blends (M51-M85) for Methanol-Capable* Automotive Spark-Ignition Engines,” as set forth in the *Annual Book of ASTM Standards* published by ASTM International. Each new revision of that standard shall be deemed approved by the Board unless the revision is disapproved by the Board or its designee within 120 days after the date of publication of the revision by ASTM International.~~

2. The standard is available for inspection pursuant to NAC 590.045 and may be purchased from ASTM International, 100 Barr Harbor Drive, *P.O. Box C700*, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the price of ~~[\$52.]~~ *\$56.*

Sec. 9. NAC 590.053 is hereby amended to read as follows:

590.053 1. The State Board of Agriculture hereby adopts by reference the most recent version of ASTM D5798, “Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines,” set forth in the *Annual Book of ASTM Standards* published by ASTM International. Each new revision of that standard shall be deemed approved by the Board unless the revision is disapproved by the Board or its designee within 120 days after the date of publication of the revision by ASTM International.

2. The standard is available for inspection pursuant to NAC 590.045 and may be purchased from ASTM International, 100 Barr Harbor Drive, *P.O. Box C700*, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the price of ~~[\$46.]~~ *\$50.*

Sec. 10. NAC 590.054 is hereby amended to read as follows:

590.054 1. The State Board of Agriculture hereby adopts by reference the most recent version of ASTM D2650, “Standard Test Method for Chemical Composition of Gases By Mass Spectrometry,” set forth in the *Annual Book of ASTM Standards* published by ASTM International. Each new revision of that standard shall be deemed approved by the Board unless the revision is disapproved by the Board or its designee within 120 days after the date of publication of the revision by ASTM International. The standard is available for inspection pursuant to NAC 590.045 and may be purchased from ASTM International, 100 Barr Harbor

Drive, *P.O. Box C700*, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the price of ~~[\$46.]~~ \$50.

2. A person shall not sell, offer for sale, supply or offer to supply in this State any hydrogen that is intended for use in a vehicle if the hydrogen, after it is analyzed in accordance with ASTM D2650, contains:

- (a) Less than 98 percent per mole of hydrogen;
- (b) Less than 99.9 percent per mole of any combination of hydrogen, water and oxygen; or
- (c) More than 0.01 percent per mole of total hydrocarbons.

3. Any hydrogen specified in subsection 2 must not contain any dust, sand, dirt, gum, oil or other substance in an amount which may damage any equipment located at a fueling station or a vehicle being fueled at that station. If the hydrogen is introduced in gaseous form into a vehicle's system for storing fuel, the hydrogen under ambient conditions must have a distinctive odor which may be detected in a concentration in air of not more than one-fifth of the lower limit of flammability.

Sec. 11. NAC 590.059 is hereby amended to read as follows:

590.059 1. The octane rating number of the motor vehicle fuel from the proof of transfer must be posted on the pump or other device for dispensing the motor vehicle fuel.

2. The octane rating number of the product that is in the pump or other device for dispensing motor vehicle fuel must not be lower than the octane rating that is posted on the pump or device.

3. In addition to the requirements set forth in subsections 1 and 2, any person who sells motor vehicle fuel at retail shall, if the motor vehicle fuel contains manganese or any compound containing manganese, including, without limitation, MMT, post on the pump or other device for dispensing the motor vehicle fuel a label which:

- (a) Meets the requirements of subsections 4 and 6;
- (b) Is affixed during any period required by subsection 5; and
- (c) Includes the following language:

WARNING: Read label before dispensing fuel.

Motor vehicle fuel contains manganese, manganese compound or MMT.

Recommend vehicle operator consult owner's manual before using this motor fuel.

4. The label required pursuant to subsection 3 must:

- (a) Be legible and conspicuous;
- (b) Be at least as large as 4 inches wide by 4 inches long;
- (c) Consist of black ink on a background that is white; and
- (d) Be written in at least 12-point font.

5. The label required pursuant to subsection 3 must be affixed to the applicable pump or other device for dispensing motor vehicle fuel in the manner described in subsection 6:

(a) At the time motor vehicle fuel containing manganese or any compound containing manganese, including, without limitation, MMT, is loaded into or otherwise placed in a storage tank from which the pump or other device for dispensing motor vehicle fuel draws its supply of fuel, and before the pump or other device for dispensing motor vehicle fuel may be used to dispense such fuel;

(b) For 6 months immediately after the time specified in paragraph (a); and

(c) For an additional 6 months immediately after any subsequent instance in which motor vehicle fuel containing manganese or any compound containing manganese, including, without

limitation, MMT, is loaded into or otherwise placed in a storage tank from which the pump or other device for dispensing motor vehicle fuel draws its supply of fuel.

6. The label required pursuant to subsection 3 must, during any period specified in subsection 5, be affixed:

(a) To the exterior of each side of the pump or other device for dispensing motor vehicle fuel from which a consumer may dispense the fuel; and

(b) In a manner that is conspicuous and readily observable by the consumer.

7. The labels described in subsections 3 to 6, inclusive, may be obtained free of charge from the Division of Consumer Equitability of the State Department of Agriculture, ~~[2150 Frazer Avenue,]~~ *405 South 21st Street*, Sparks, Nevada 89431.

8. As used in this section, “MMT” means methylcyclopentadienyl manganese tricarbonyl.

Sec. 12. NAC 590.061 is hereby amended to read as follows:

590.061 1. The State Board of Agriculture hereby adopts by reference the antiknock index for testing the octane rating of gasoline that is defined in the most recent version of ASTM D4814, “Standard Specification for Automotive Spark-Ignition Engine Fuel,” adopted by reference pursuant to NAC 590.065.

2. Gasoline that is brought into this State for delivery to a person in this State must have an octane rating number which is determined by the antiknock index method described in subsection 1.

3. Gasoline and any blend of gasoline and ethanol that is sold outside the area of this State which is east of the 117th degree of west longitude and north of the 38th degree of north latitude must have an octane rating number of 87 or more.

4. *Effective 90 days after the effective date of this regulation, gasoline and any blend of gasoline and oxygenate that is sold outside the area of this State which is east of the 117th degree of west longitude and north of the 38th degree of north latitude:*

(a) *Labeled as “premium,” “super,” “supreme” or “high test” must have an octane rating number of 91 or more.*

(b) *Labeled as “mid-grade” or “plus” must have an octane rating number of 89 or more.*

(c) *Labeled as “regular” or “unleaded” must have an octane rating number of 87 or more.*

5. *Effective 90 days after the effective date of this regulation, gasoline and any blend of gasoline and oxygenate sold inside the area of this State which is east of the 117th degree of west longitude and north of the 38th degree of north latitude:*

(a) *Labeled as a “premium,” “super,” “supreme” or “high test” must have an octane rating number of 90 or more.*

(b) *Labeled as “mid-grade” or “plus” must have an octane rating number of 87 or more.*

(c) *Labeled as “regular” or “unleaded” must have an octane rating number of 85 or more.*

6. A person who transfers fuel to a person in this State, other than the consumer of the fuel, shall provide a proof of transfer to the person receiving the fuel. The proof of transfer must be:

(a) A delivery ticket;

(b) An invoice;

(c) A bill of lading;

(d) A bill of sale;

(e) A terminal ticket; or

(f) Any other proof of transfer that is approved by the State Board of Agriculture.

~~5.7.~~ 7. The proof of transfer must contain:

- (a) The name of the person making the transfer;
- (b) The name of the person to whom the fuel is transferred;
- (c) The date of the transfer; and
- (d) If the fuel is gasoline, the octane rating number of the gasoline.

~~16.1~~ **8.** The person receiving the fuel must keep a copy of the proof of transfer at the location at which the fuel was received for not less than 30 days after the date of the delivery of the fuel. After that period, the proof of transfer must be retained at any location for not less than 1 year after the date of the delivery of the fuel and be made available to the State Department of Agriculture upon request.

~~17.1~~ **9.** Any other test method may be used if the State Sealer of Consumer Equitability determines that another method produces results equivalent to the results of the specified method. A method approved by ASTM International that has not yet been published shall be deemed to meet the appropriate criteria.

Sec. 13. NAC 590.065 is hereby amended to read as follows:

590.065 1. Except as otherwise provided in this section, the State Board of Agriculture hereby adopts by reference the most recent version of ASTM D4814, “Standard Specification for Automotive Spark-Ignition Engine Fuel,” contained in the *Annual Book of ASTM Standards* published by ASTM International. Each new revision of that standard shall be deemed approved by the Board unless the revision is disapproved by the Board or its designee within 120 days after the date of publication of the revision by ASTM International. The standard is available for inspection pursuant to NAC 590.045 and may be purchased from ASTM International, 100 Barr Harbor Drive, *P.O. Box C700*, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the price of ~~167.~~ **172.**

2. Notwithstanding the provisions of Table 4 (“Schedule of *U.S.* Seasonal and Geographical Volatility Classes”) of ASTM D4814 that apply to this State, the schedule that is designated in Table 4 for the area of this State that lies north of the 38th degree of north latitude applies to the entire area of this State unless the United States Environmental Protection Agency requires a county to comply with a different requirement relating to vapor pressure.

3. Except as otherwise provided in subsection 4, gasoline:

(a) Sold between June 1 and September 15 of each calendar year containing:

(1) Not less than 9 percent ethanol by volume and not more than 10 percent ethanol by volume must not exceed the limits for vapor pressure set forth in ASTM D4814 by more than 1 pound per square inch.

(2) Less than 9 percent ethanol by volume must not exceed the limits specified in ASTM D4814.

(b) Sold during any other period in a calendar year containing not more than 10 percent ethanol by volume must not exceed the limits specified in ASTM D4814 by more than 1 pound per square inch.

4. Gasoline and any blend of gasoline and ethanol sold in Clark County between October 1 and the following March 31 must not exceed a vapor pressure of 13.5 pounds per square inch.

5. A person shall not sell, offer for sale, supply or offer to supply in this State any gasoline intended for use in a vehicle which is primarily driven on a highway if:

(a) It contains more than 0.05 gram of lead per gallon;

(b) It contains more than 0.005 gram of phosphorus per gallon;

(c) It contains more than 10 percent ethanol by volume; or

(d) It contains more than 95 parts per million of sulfur.

6. Any other test method may be used if the State Sealer of Consumer Equitability determines that another method produces results equivalent to the results of the specified method. A method approved by ASTM International that has not yet been published shall be deemed to meet the appropriate criteria.

**PROPOSED REGULATION OF THE
STATE SEALER OF CONSUMER EQUITABILITY**

LCB File No. R081-20

July 16, 2020

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §1, NRS 590.322; §§2 and 3, NRS 590.400; §§4 and 5, NRS 590.100.

A REGULATION relating to engine products; establishing a schedule of civil penalties for violating certain provisions relating to the advertising of motor vehicle fuel and petroleum products; updating certain information relating to specification standards for antifreeze adopted by reference; updating certain information relating to specification standards for certain fuels adopted by reference; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Sealer of Consumer Equitability to adopt regulations establishing a schedule of civil penalties for a violation of various statutory provisions relating to the advertising of motor vehicle fuel and petroleum products. (NRS 590.322) **Section 1** of this regulation sets forth the schedule of civil penalties.

Existing law requires antifreeze sold or offered for sale in this State to be licensed by the State Sealer of Consumer Equitability. (NRS 590.380) Existing regulations adopt by reference specification standards for antifreeze. (NAC 590.010, 590.035) **Sections 2 and 3** of this regulation update: (1) the title of the volume of specification standards, which includes the standard specifications for antifreeze; (2) the purchase price of the specification standard; (3) the purchase price of the volume of specification standards; and (4) the office locations of the Division of Consumer Equitability of the State Department of Agriculture where a copy of the volume of standards is available for inspection.

Existing law requires the State Department of Agriculture and the State Sealer of Consumer Equitability to adopt regulations regarding specification standards for certain fuels sold or offered for sale in this State. (NRS 590.070, 590.100) Existing regulations adopt by reference certain published standards and set forth where such standards are available for inspection or purchase. (NAC 590.041-590.070) **Section 4** of this regulation updates the office locations of the Division of Consumer Equitability of the State Department of Agriculture where a copy of each specification standard adopted by reference is available for inspection. **Section 5** of this regulation updates the purchase price of the specification standards adopted by reference for aviation fuel.

Section 1. Chapter 590 of NAC is hereby amended by adding thereto a new section to read as follows:

1. Any person who violates a provision of NRS 590.160 to 590.330, inclusive, shall be subject to the following civil penalties:

(a) Except as otherwise provided in subsection 2, for a first offense, not less than \$25 and not more than \$100.

(b) For a second offense, not less than \$50 and not more than \$500.

(c) For a third offense or subsequent offense, not less than \$100 and not more than \$1000.

2. If the Division of Consumer Equitability of the State Department of Agriculture determines that a first offense was unintentional, the Division will issue a notice of warning in writing to the person without imposing a civil penalty if the person takes action to remedy the violation. The notice of warning must be in writing and set forth:

(a) The statute that was violated;

(b) The action necessary to remedy the violation; and

(c) The date by which the person must take action to remedy the violation before a civil penalty will be imposed.

↪ The failure to take action by the date set forth in the notice of warning constitutes a second offense subject to a civil penalty set forth in this section.

Sec. 2. NAC 590.010 is hereby amended to read as follows:

590.010 1. The specifications for antifreeze based on ethylene glycol and the specifications for antifreeze based on propylene glycol, including, without limitation, prediluted and concentrated antifreeze, contained in the most recent version of ASTM D3306, "Standard Specification for Glycol Base Engine Coolant for Automobile and Light-Duty Service," set forth

in Volume 15.05, “Engine Coolants and Related Fluids; Halogenated Organic Solvents and Fire Extinguishing Agents ” ~~” [; Industrial and Specialty Chemicals,]”~~ of the *Annual Book of ASTM Standards* published by ASTM International are hereby adopted by reference. Each new revision of that standard shall be deemed approved by the State Sealer of Consumer Equitability unless the revision is disapproved by the State Sealer of Consumer Equitability or his or her designee within 120 days after the date of publication of the revision by ASTM International. A copy of the standard is available for inspection pursuant to NAC 590.045 and may be purchased from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania, 19428-2959, or at the Internet address <http://www.astm.org>, for the price of ~~[\$46.]~~ **\$50**.

2. Any other test method may be used if the State Sealer of Consumer Equitability determines that another method produces results equivalent to the results of the specified method. A method approved by ASTM International that has not yet been published shall be deemed to meet the appropriate criteria.

Sec. 3. NAC 590.035 is hereby amended to read as follows:

590.035 Volume 15.05, “Engine Coolants and Related Fluids; Halogenated Organic Solvents and Fire Extinguishing Agents ” ~~” [; Industrial and Specialty Chemicals,]”~~ of the *Annual Book of ASTM Standards*, is available for inspection at the ~~[office]~~ **offices** of the State Department of Agriculture, Division of Consumer Equitability, ~~[2150 Frazer Avenue,]~~ **405 South 21st Street**, Sparks, Nevada 89431, ~~[and]~~ 2300 ~~[McLeod Street,]~~ **East Saint Louis Avenue**, Las Vegas, Nevada 89104 ~~[,]~~, **and 4780 East Idaho Street, Elko, Nevada 89801**. The volume may be purchased at a cost of ~~[\$190]~~ **\$204** for a printed copy and ~~[\$256]~~ **\$269** for an electronic copy from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>.

Sec. 4. NAC 590.045 is hereby amended to read as follows:

590.045 A copy of each standard adopted by reference pursuant to NAC 590.041 to 590.070, inclusive, is available for inspection at the offices of the State Department of Agriculture, *Division of Consumer Equitability* located at 405 South 21st Street, Sparks, Nevada 89431, ~~and~~ 2300 ~~McLeod Street,~~ *East Saint Louis Avenue*, Las Vegas, Nevada 89104 ~~],~~, *and 4780 East Idaho Street, Elko, Nevada 89801.*

Sec. 5. NAC 590.055 is hereby amended to read as follows:

590.055 1. The State Sealer of Consumer Equitability hereby adopts by reference the most recent ~~[specifications for aviation fuel]~~ *version of the following standards* contained in ~~[Volume 05.01, "Petroleum Products and Lubricants (I)," of]~~ the *Annual Book of ASTM Standards* ~~[]~~ :

(a) ASTM ~~[designations]~~ D910, "Standard Specification for Leaded Aviation Gasolines ~~[]~~ "; and

(b) *ASTM* D1655, "Standard Specification for Aviation Turbine Fuels."

↪ Each new revision of these standards shall be deemed approved by the State Sealer of Consumer Equitability unless the revision is disapproved by the State Sealer of Consumer Equitability or his or her designee within 120 days after the date of publication of the revision by ASTM International. A copy of the standards are available for inspection pursuant to NAC 590.045 and may be purchased from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania, 19428-2959, or at the Internet address <http://www.astm.org>, for the price of ~~[\$46]~~ *\$50* for ASTM D910 and ~~[\$67]~~ *\$56* for ASTM D1655.

2. Any other test method may be used if the State Sealer of Consumer Equitability determines that another method produces results equivalent to the results of the specified

method. A method approved by ASTM International that has not yet been published shall be deemed to meet the appropriate criteria.