

# **PROPOSED REGULATION OF THE NEVADA DEPARTMENT OF AGRICULTURE**

**LCB File No. Temp NDA R-k**

**DIVISION OF CONSUMER EQUITABILITY**

## **NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATION**

The Nevada Department of Agriculture, 405 South 21<sup>st</sup> Street, Sparks, Nevada, 89431, is proposing the Amendment of regulations pertaining to chapter NAC 590 of Nevada Administrative Code. A workshop has been set for Thursday, September 10, 2015, 1pm-2pm at:

Nevada Department of Agriculture  
405 South 21<sup>st</sup> Street  
Sparks, Nevada, 89431

The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations: Adopt national standards by reference and implement various changes in labeling and amend various provisions regarding fuels and antifreeze.

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting:

Bart O'Toole  
Consumer Equitability Division  
Nevada Department of Agriculture  
405 South 21<sup>st</sup> Street  
Sparks, NV 89431  
(775) 353-3726  
[botoole@agri.nv.gov](mailto:botoole@agri.nv.gov)

A reasonable fee for copying may be charged.

This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

Nevada Department of Agriculture  
405 South 21<sup>st</sup> Street  
Sparks, NV 89431

Nevada Department of Agriculture  
2300 McLeod  
Las Vegas, NV 89104

Nevada Department of Agriculture  
4780 E. Idaho Street  
Elko, NV 89445

State Capitol Building  
Nevada State Library and Archives, 100 N. Stewart Street, Carson City, NV  
Dennis Belcourt – AG's Office  
LCB website: [www.leg.state.nv.us](http://www.leg.state.nv.us)  
Nevada Public Notice website: [www.notice.nv.gov](http://www.notice.nv.gov)  
Nevada Department of Agriculture Website: [www.agri.nv.gov](http://www.agri.nv.gov)

## **SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY**

**NRS 233B.0608**

**Temp NDA R-k**

- 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.**

- There are three separate actions being proposed to amend NAC 590. The provisions of two of these proposed changes involve only the updating or removal of language that has become outdated. The third will have only a one-time effect on small businesses, and is being pursued in the interest of the marketplace and the consumers of the state of Nevada. The regulations were available on the website of the Department of Agriculture, [www.agri.nv.gov](http://www.agri.nv.gov) and posted at the following locations:

Department of Agriculture

405 S. 21<sup>st</sup> Street

Sparks, NV 89431

Department of Agriculture

2300 McLeod Street

Las Vegas, NV 89104

Department of Agriculture

4780 E. Idaho Street

Elko, NV 89801

- 2. The manner in which the analyses was conducted.**
  - No analyses was conducted for the reasons stated above. Two of these proposed changes involve only the updating or removal of outdated language. The third will have only a one-time effect on a relatively few small businesses, and is being pursued in the interest of the marketplace and the consumers of the state of Nevada.
- 3. The estimated economic effect of the proposed regulation on the small businesses it is to regulate, including, without limitation:**
  - Only one of the three actions will have any economic effect, and this will be in the form of a one-time cost for additional labeling.
- 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.**
  - Does not apply.
- 5. The estimated cost to the agency for enforcement of the proposed regulation.**

- Does not apply.
- 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.**
- Does not apply.
- 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.**
- This regulation will allow for the continued sale of 85 octane gasoline, while addressing, through labeling, the concerns of consumers and the marketplace.
- 8. **The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**
- This regulation will affect only a small portion of the industry, and will be a one-time expense for those affected.

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.

A handwritten signature in blue ink, appearing to read "James R. Barbee", is written over a horizontal dashed line.

James R. Barbee

Director

Nevada Department of Agriculture

## Statutory Authority – NRS 590

## Regulatory Authority – Board of Agriculture

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

**Section 1.** NAC 590.050 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, the State Board of Agriculture hereby adopts by reference ASTM D975, “Standard Specification for Diesel Fuel Oils,” contained in Volume 05.01, “Petroleum Products and Lubricants,” of the 2010 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, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the price of \$~~[59]~~*62*.

2. *(a)* 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.”

*(b) It is not necessary for labeling on diesel dispensers to use the terms “ULSD” or “Ultra Low Level Sulfur Diesel.”*

**Section 2.** NAC 590.051 is hereby amended to read as follows:

1. (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, West Conshohocken, Pennsylvania 19428, or at the Internet address <http://www.astm.org>. The price of ASTM D6751 is \$~~[41]~~43, the price of ASTM D7467 is \$~~[47]~~62 and the price of ASTM D975 is \$~~[59]~~62.

**Section 3.** NAC 590.052 is hereby amended to read as follows:

2. 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 \$~~[47]~~49.

**Section 4.** NAC 590.053 is hereby amended to read as follows:

2. 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 \$~~[41]~~43.

**Section 5.** NAC 590.054 is hereby amended to read as follows:

1. The State Board of Agriculture hereby adopts by reference ASTM D2650, “Standard Test Method for Chemical Composition of Gases By Mass Spectrometry,” set forth in Volume 05.01, “Petroleum Products and Lubricants,” of the 2010 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, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the price of \$~~[41]~~43.

**Section 6.** NAC 590.055 is hereby amended to read as follows:

1. The State Sealer of Consumer Equitability hereby adopts by reference the specifications for aviation fuel contained in Volume 05.01, "Petroleum Products and Lubricants (I)," of the ~~[2002]~~ 2014 Annual Book of ASTM Standards, ASTM designations D910 "*Standard Specification for Leaded Aviation Gasolines*" and D1655 "*Standard Specification for Aviation Turbine Fuels*". *Each new revision of these standards shall be deemed approved by the State Sealer unless the revision is disapproved by the State Sealer or his 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>. The price of ASTM D910 is \$43 and the price of ASTM D1655 is \$49.*

**Section 7.** NAC 590.065 is hereby amended to read as follows:

1. Except as otherwise provided in this section, the State Board of Agriculture hereby adopts by reference ASTM D4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel," contained in Volume 05.02, "Petroleum Products and Lubricants," of the 2010 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, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the price of \$~~[59]~~62.

**Section 8.** NAC 590.065 is hereby amended to read as follows:

~~{4.—Until May 1, 2012, or until ASTM D4814 is amended to incorporate changes to the minimum temperature for vapor lock for the following classes to include the effects of volatility of not more than 10 percent of ethanol by volume, whichever occurs first, the minimum temperature for a vapor liquid ratio of 20 for the applicable class of vapor lock protection for a blend of gasoline and ethanol is:~~

- ~~—(a) For class 1, 54 degrees Centigrade (129 degrees Fahrenheit).~~
- ~~—(b) For class 2, 50 degrees Centigrade (122 degrees Fahrenheit).~~
- ~~—(c) For class 3, 47 degrees Centigrade (116 degrees Fahrenheit).~~
- ~~—(d) For class 4, 41.5 degrees Centigrade (107 degrees Fahrenheit).~~
- ~~—(e) For class 5, 39 degrees Centigrade (102 degrees Fahrenheit).~~
- ~~—(f) For class 6, 35 degrees Centigrade (95 degrees Fahrenheit).~~

~~Gasoline and any blend of gasoline and ethanol that is sold in 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 meet the minimum temperatures for vapor lock protection set forth in ASTM D4814.]~~

~~{5.}~~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.

~~{6.}~~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.

~~17.1~~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.

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**Section 1.** NAC 590.059 is hereby amended to read as follows:

*3. Based on the requirements set forth in subsections 1 and 2, the grade of any gasoline or blend of gasoline and ethanol that is sold outside of 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 be expressed as follows:*

<i>Term</i>	<i>Minimum Antiknock Index</i>
<i>Premium, Super, Supreme, High Test</i>	<i>91</i>
<i>Midgrade, Plus</i>	<i>89</i>
<i>Regular, Unleaded</i>	<i>87</i>
<i>Economy</i>	<i>85</i>

~~13.1~~4. In addition to the requirements set forth in subsections 1 ~~and 2~~ *through 3, inclusive*, 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~~5. 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~~6. 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]~~7. 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]~~8. 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, Sparks, Nevada 89431.

~~[8]~~9. As used in this section, “MMT” means methylcyclopentadienyl manganese tricarbonyl.

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**Section 1.** NAC 590.010 is hereby amended to read as follows:

[Except as otherwise provided in NAC 590.030:

~~[1. The specifications for antifreeze based on ethylene glycol and the specifications for antifreeze based on propylene glycol contained in Volume 15.05, “Engine Coolants,” of the 2001 Annual Book of ASTM Standards, ASTM designation D3306-00a, are hereby adopted by reference.]~~*The State Board of Agriculture hereby adopts by reference ASTM D3306, “Standard Specification for Glycol Base Engine Coolant for Automobile and Light-Duty Service,” contained in Volume 15.05, “Engine Coolants; Halogenated Organic Solvents and Fire Extinguishing Agents; Industrial and Specialty Chemicals,” of the 2015 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, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the price of \$43.*

~~{2. The chemical and physical properties of any antifreeze other than those classified in subsection 1 must be:~~

<del>-</del>	
<del>—Water, mass %.....</del>	<del>5 max</del>
<del>—Specific gravity 60°F/60°F.....</del>	<del>1.11 to 1.15</del>
<del>—pH (33% by volume) 7.5 to 11.....</del>	<del>7.5 to 11</del>
<del>—Equilibrium boiling point.....</del>	<del>300°F min</del>
<del>—Freezing point, 50% by volume.....</del>	<del>34°F max</del>
<del>—Foaming test</del>	<del>-</del>
<del>—Increase in volume at 5 minutes.....</del>	<del>150 ml max</del>
<del>—Break time.....</del>	<del>5 sec max</del>

~~—3. In addition to the properties listed in subsection 2, any antifreeze other than those classified in subsection 1 must meet the following specifications for corrosion (loss of weight per specimen):~~

<del>—Copper.....</del>	<del>10 mg max</del>
<del>—Solder.....</del>	<del>20 mg max</del>
<del>—Brass.....</del>	<del>10 mg max</del>
<del>—Steel.....</del>	<del>10 mg max</del>
<del>—Cast iron.....</del>	<del>10 mg max</del>
<del>—Aluminum.....</del>	<del>30 mg max]</del>

**Section 2.** NAC 590.015 is hereby amended to read as follows:

A manufacturer, packer, seller or distributor of antifreeze shall pay an inspection fee of ~~\$(50)~~100 for each brand of antifreeze submitted to the State Sealer of Consumer Equitability for inspection pursuant to NRS 590.380.

**Section 3.** NAC 590.030 is hereby amended to read as follows:

1. The minimum standards of chemical and physical properties for an antifreeze which:

(a) Is labeled as prediluted antifreeze; and

(b) Displays prominently on the front label the words “DO NOT ADD WATER,”

contained in Volume 15.05, “Engine Coolants; *Halogenated Organic Solvents and Fire Extinguishing Agents; Industrial and Specialty Chemicals*,” of the ~~{2001}~~2015 Annual Book of ASTM Standards, ASTM designation D3306~~{-00a}~~, are hereby adopted by reference. *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.*

**Section 4.** NAC 590.035 is hereby amended to read as follows:

Volume 15.05, “Engine Coolants; *Halogenated Organic Solvents and Fire Extinguishing Agents; Industrial and Specialty Chemicals*,” of the ~~{2001}~~2015 Annual Book of ASTM Standards, is available for inspection at the office of the State Department of Agriculture *Division of Consumer Equitability*, ~~{350 Capitol Hill Avenue, Reno, Nevada 89502}~~2150 *Frazer Avenue, Sparks, NV 89431, and 2300 McLeod Street, Las Vegas, Nevada 89104*. The volume may be purchased at a cost of ~~\$(140)~~226 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 \$263.*