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STATE OF NEVADA
DEPARTMENT OF AGRICULTURE

405 South 21st St.
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agri.nv.gov

PROPOSED REGULATION OF THE NEVADA DEPARTMENT OF AGRICULTURE

**NOTICE OF INTENT TO ACT UPON A REGULATION
AND
HEARING AGENDA**

Notice of Hearing for the Adoption of Permanent Regulations Nevada Administrative Code chapter 590.

LCB File No. R027-21

The Nevada Department of Agriculture (NDA) will hold a public hearing at 2:00 p.m. on June 7, 2022. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations pertaining to chapter 590 of the Nevada Administrative Code (NAC).

Date: Tuesday, June 7, 2022
Time: 2:00 p.m. PDT
Location: This meeting will be held virtually via Zoom

Remote Meeting Information:

To join the meeting virtually, click on the URL and enter the meeting number and password when prompted:

<https://us02web.zoom.us/j/88658105086?pwd=d1ZlakpMejAyOEplV05yR0h6WlVzQ>

T09

Meeting Number: 886 5810 5086
Access code: 198248

To join by telephone, call one of the phone-in numbers below and enter the passcode when prompted.

Dial by your location

+1 669 900 9128 US (San Jose)
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 646 558 8656 US (New York)
+1 301 715 8592 US (Washington DC)
+1 312 626 6799 US (Chicago)

Meeting Number: 886 5810 5086
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***Per 2021 AB253**

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

Nevada Revised Statute Chapter 287 has been amended through [2021 AB 253](#) to allow public meetings to be completed by use of remote technology and without a physical location.

INFORMATIONAL STATEMENTS

Pursuant to [NRS 233B.0603](#), the NDA is providing the following statements pertaining to the public hearing on proposed changes to Chapter 590 of NAC.

1. The need for and the purpose of the proposed regulation or amendment.

This regulation is necessary to:

- Establish monetary penalties for a first offense of the Nevada Petroleum Inspection Act, for a second offense, and for a third and subsequent offense
- Allow for a notice of warning without imposing a civil penalty for a first offense, under certain conditions

2. If the regulation is a permanent one, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

A copy of all materials relating to the proposal may be obtained by visiting the Department's website at agri.nv.gov or by contacting the Division of Measurement Standards at 775-353-3783 or ce@agri.nv.gov. Copies may also be requested or inspected by visiting the NDA offices located in Elko, Las Vegas or Sparks or the Nevada State Library and Archives at 100 Stewart Street, Carson City, NV 89701. A reasonable fee for copying or postage may be charged for those requesting a print copy. Members of the public who would like additional information about a proposed regulation may contact the Division of Measurement Standards by 775-353-3783 and ce@agri.nv.gov.

3. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

- Adverse economic effect on regulated business
Because the proposed regulation establishes a schedule of civil penalties for certain violations of the Nevada Petroleum Products Inspection Act, only violators will be subject to the monetary penalties outlined in the proposed regulation. Further, 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.
- Beneficial economic effect on regulated business
The establishment of a schedule of civil penalties may increase the level of compliance with the

regulations within NAC Chapter 590, with the effect of leveling the marketplace for all regulated businesses.

- Immediate economic effect on regulated business
The proposed regulation would go into effect upon adoption of the regulation. As of that date businesses would be further responsible for the quality of the products that they sell, at risk of being assessed the adopted civil penalties.
- Long-term economic effect on regulated business
The possibility that a regulated business may be assessed civil penalties as set out in the proposed regulation will continue until such time as the regulation may be repealed.
- Adverse economic effect on the public
The NDA does not anticipate any adverse economic effect on the public.
- Beneficial economic effect on the public
Because the proposed regulation establishes a schedule of civil penalties for non-compliant product, the public may see beneficial economic effect in the form of higher quality product.
- Immediate economic effect on the public
The proposed regulation would go into effect upon adoption of the regulation. The public could potentially begin seeing benefits immediately, due to the possibility of regulated businesses facing civil penalties.
- Long-term economic effect on the public
The NDA believes that the beneficial economic effects on the public described above will be maintained on a long-term basis.

4. 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.

5. The methods used by the agency in determining the impact on a small business.

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.

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.

6. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulation is not duplicative, nor does it overlap any federal, state, or local standards.

7. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required pursuant to federal law.

8. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulation is not more stringent than federal, state, or local standards.

9. Whether the proposed regulation establishes a new fee or increases an existing fee.

The proposed regulation does not provide a new fee or increase an existing fee.

Copies of this notice and proposed regulations will be mailed to members of the public upon request. Copies may also be requested or inspected by visiting the NDA offices located in Elko, Las Vegas or Sparks or the Nevada State Library and Archives at 100 Stewart Street, Carson City, NV 89701. A reasonable fee may be charged for copies or postage if it is deemed necessary. Requests for mailed copies may be directed to

Nevada Department of Agriculture
Division of Measurement Standards
405 South 21st Street
Sparks, NV 89431
Phone: 775-353-3783; Email: ce@agri.nv.gov

Notice of this meeting was sent to all persons on the Department's mailing list for administrative regulations and posted on or before 9 a.m. thirty days before the meeting at the following locations:

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

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

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

- Nevada Department of Agriculture website at agri.nv.gov
- Nevada Public Notice website at <https://notice.nv.gov/>
- Nevada Legislature Administrative Regulation Notices at <https://www.leg.state.nv.us/App/Notice/A/>

Persons wishing to make oral comment upon the regulation draft of the Nevada Department of Agriculture may participate at the scheduled hearing. Persons wishing to submit written testimony or documentary evidence may submit the material by emailing ce@agri.nv.gov or via mail to the following address: Nevada Department of Agriculture, Attn: William Striejewske, 405 S. 21st St, Sparks, NV 89431. Written submissions must be received by the NDA on or before June 8, 2022.

Reasonable efforts will be made for members of the public who have disabilities and require special accommodations for assistance at the meeting. Please contact the Department at 775-353-3783 or ce@agri.nv.gov at least three (3) business days prior to the meeting.

If no person who is directly affected by the proposed action appears to request time to make and oral presentation, the NDA may proceed immediately to act upon any written submissions.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

ADOPTION HEARING AGENDA
NEVADA DEPARTMENT OF AGRICULTURE
June 8, 2022
9:00 a.m. PDT

Note: Items on the agenda may be taken out of the posted order, items may be combined for consideration, and items may be pulled or removed from the agenda.

I. Call to Order

II. Public Comment: In consideration of others who may wish to provide public comment, please avoid repetition, and limit your comment to three minutes per person. Unused time may not be reserved by the speaker nor allocated to another speaker. The agency is precluded from action on items raised during Public Comments that are not on the agenda.

III. For possible action: Discussion and Adoption of Proposed Permanent Regulations
a. Amendment of regulations that pertain to Chapter 590 of the Nevada Administrative Code, as contained in LCB File Number R027-21.

IV. Public Comment: In consideration of others who may wish to provide public comment please avoid repetition and limit your comment to three minutes per person. Unused time may not be reserved by the speaker nor allocated to another speaker. The agency is precluded from action on items raised during Public Comments that are not on the agenda.

V. Adjourn