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STATE OF NEVADA
DEPARTMENT OF AGRICULTURE

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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. R037-21

The Nevada Department of Agriculture (NDA) will hold a public hearing at 9:00 a.m. on June 8, 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: Wednesday, June 8, 2022
Time: 9:00 a.m. PDT
Location: This meeting will be held both in-person and virtually via Zoom

Location: Nevada Department of Agriculture
405 S. 21st Street
Sparks, NV 89431
Phone: (775) 353-3601

Video conference to:

Nevada Department of Agriculture
2300 E. St. Louis Avenue
Las Vegas, NV 89104
Phone: (702) 668-4590

Nevada Department of Agriculture
4780 E. Idaho Street
Elko, NV 89445
Phone: (775) 738-8076

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/85443903340>

Meeting Number: 854 4390 3340

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

Dial by your location

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

Meeting Number: 854 4390 3340

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:

- Create a new section wherein certain specification standards for diesel emission fluid (DEF) available from the International Organization for Standardization are adopted by regulation
- Create a new section wherein certain specification standards for petroleum heating products available from ASTM, International are adopted by regulation
- Update the purchase price (from ASTM, International) for the standard specification for diesel fuel adopted by reference
- Update the purchase prices (from ASTM, International) for the standard specifications for biodiesel fuel blend stock, biodiesel blends (B6 to B20), and diesel fuel adopted by reference
- Update the purchase price (from ASTM, International) for the standard specification for Methanol Fuel Blends adopted by reference
- Update the purchase price (from ASTM, International) for the standard specification for Ethanol Fuel Blends adopted by reference
- Update the purchase price (from ASTM, International) for the standard specification for Chemical Composition of Gases adopted by reference
- Adopt by reference certain specification standards for the regulation of Aviation Gasoline and Aviation Turbine Fuels (Jet Fuel) following the passage of Assembly Bill 31 of the 81st Session of

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the Nevada Legislature, which transferred authority for this section of NAC Chapter 590 from the State Sealer of Consumer Equitability to the State Board of Agriculture

- Update the purchase price (from ASTM, International) for the standard specification for Spark-Ignition Engine Fuel adopted by reference
- Amends the text of NAC 590.070 to reflect passage of Assembly Bill 31 by the 81st Session of the Nevada Legislature

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

Sections 2 and 3 adopt new specifications for diesel emission fluid and petroleum heating products after the Nevada Legislature granted the NDA authority over these products during the 81st Legislative Session. Included in these sections is information on the prices and method by which copies of these specifications may be obtained by regulated members of the industry or by the public. Because these are products that have not previously been regulated by the NDA, there may be industry interest in ensuring proper storage and quality of these products, and a desire to acquire these specifications. In the case of documents related to diesel emission fluid, there are five specifications available for purchase, with the prices for each ranging from \$48 to \$200. Purchase of all five would cost \$543. In the case of documents related to petroleum heating products, there are two specifications available for purchase, with a cost of \$60 for the heating oil specification and a cost of \$54 for the kerosene specification. Purchase of both would cost \$114. It should be noted that interested parties may inspect these documents at any of the NDA's office upon request.

Sections 4 through 8 inclusive, and Section 10 update the prices to purchase documents published by ASTM International. Again, there is no requirement for businesses to purchase any of these publications and interested parties may request to inspect any of the documents referenced in NAC Chapter 590 at any of the NDA's offices.

- Beneficial economic effect on regulated business

Sections 2 and 3 adopt new specifications for diesel emission fluid and petroleum heating products after the Nevada Legislature granted the NDA authority over these products during the 81st Legislative Session. This may lead to increased compliance, leading to a more level marketplace for all regulated businesses.

- Immediate economic effect on regulated business
The proposed regulations will take effect upon adoption. As stated above under ‘Adverse economic effect on regulated business,’ Sections 2 and 3 adopt new specifications for diesel emission fluid and petroleum heating products. There may be industry interest in ensuring proper storage and quality of these products, and a desire to acquire these specifications. In the case of DEF there are five specifications available for purchase, with the prices for each ranging from \$48 to \$200. Purchase of all five would cost \$543. In the case of petroleum heating products there are two specifications available for purchase, with a cost of \$60 for the heating oil specification and a cost of \$54 for the kerosene specification. Purchase of both would cost \$114. It should be noted that interested parties may inspect these documents at any of the NDA’s office upon request.

Sections 4 through 8 inclusive, and Section 10 update the prices to purchase documents published by ASTM International. Again, there is no requirement for businesses to purchase any of these publications and interested parties may request to inspect any of the documents referenced in NAC Chapter 590 at any of the NDA’s offices.

- Long-term economic effect on regulated business
The NDA does not anticipate long-term economic effects on regulated business because of the proposed regulations.
- Adverse economic effect on the public
The NDA does not anticipate any adverse economic effects on the public because of the proposed regulations.
- Beneficial economic effect on the public
Regulation of DEF and petroleum heating products may help to prevent non-compliant product from causing harm to automotive or heating systems used by the public.
- Immediate economic effect on the public
The proposed regulations will take effect upon adoption. Regulation of DEF and petroleum heating products may help to prevent non-compliant product from causing harm to automotive or heating systems used by the public.
- Long-term economic effect on the public
As stated above, regulation of DEF and petroleum heating products may help to prevent non-compliant product from causing harm to automotive or heating systems used by the public.

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

The NDA estimates that it will incur costs of approximately \$1,100 to purchase instruments necessary to confirm compliance of DEF with the adopted standard.

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. Additionally, 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 December 14, 2021, through January 14, 2022.

A total of 22 responses were received, 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 R037-21 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

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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:

- 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.

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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 R037-21.

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