

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

**LCB File No. R010-09**

July 8, 2009

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

AUTHORITY: §§1 and 2, NRS 590.070.

A REGULATION relating to gasoline; setting forth the procedure for granting a variance to supply motor vehicle fuel which does not meet certain standards in certain circumstances; and providing other matters properly relating thereto.

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

*1. Except as otherwise provided in subsection 6, a supplier may submit a request to the Director of the State Department of Agriculture or the Director's designee for a variance of not more than 30 days to supply motor vehicle fuel that does not meet the standards set forth in NAC 590.065 if the supplier demonstrates that a disruption in supply exists or is imminent.*

*2. If a supplier requests a variance pursuant to subsection 1, the supplier shall provide the following information in writing to the Director or the Director's designee:*

*(a) The specific supply conditions that may result in a shortage of motor vehicle fuel, without disclosing any proprietary information of the supplier;*

*(b) The specific geographic area to which the variance will apply;*

*(c) The period for which the variance will be in effect; and*

*(d) The type of motor vehicle fuel proposed for distribution or sale.*

*3. The Director or the Director's designee shall notify:*

*(a) The supplier in writing within 24 hours after receipt of the request for a variance as to whether the request is granted, unless otherwise agreed upon by both parties. Approval of a variance must be based on information which demonstrates that a disruption in supply exists or is imminent and is applicable to all suppliers within the specified geographic area for the approved period.*

*(b) The Motor Carrier Division of the Department of Motor Vehicles and other interested parties of any variance granted by the State Department of Agriculture. A list of interested parties must be kept on file by the State Department of Agriculture.*

*4. The Director or the Director's designee may authorize an extension of a variance approved pursuant to this section, not to exceed 30 days, if the supplier demonstrates in writing that the conditions identified in the initial request continue to exist.*

*5. Except as otherwise provided in NRS 239.010, the Director or the Director's designee shall keep confidential any proprietary or competitively sensitive information specific to the supplier which the Director or the Director's designee acquires during the process of granting or denying a variance pursuant to this section and shall not disclose the information to the public or any other state agency or entity.*

*6. A variance may not be granted pursuant to this section if the motor vehicle fuel is to be sold in a geographic area for which air quality criteria for an air pollutant have been issued pursuant to 42 U.S.C. § 7408 and for which fuel specifications are prescribed in the State Implementation Plan. If a disruption in supply occurs in such an area, the Director or the Director's designee, in consultation with the local air pollution control agency, shall request a waiver from the United States Environmental Protection Agency pursuant to 42 U.S.C. § 7545(c)(4)(C)(ii) and (iii).*

*7. Approval of a variance by the Director or the Director's designee does not waive the reporting requirements or any applicable taxes and fees pursuant to chapters 360A, 365, 366, 373 and 590 of NRS.*

*8. As used in this section:*

*(a) "Disruption in supply" means an unusual condition, either natural or man-made, that may impede the production, transportation, distribution or sale of motor vehicle fuel which meets the standards set forth in NAC 590.065 in sufficient quantity to meet sustainable demands.*

*(b) "Local air pollution control agency" has the meaning ascribed to it in NAC 445B.091.*

*(c) "State Implementation Plan" has the meaning ascribed to it in NAC 486A.125.*

*(d) "Supplier" has the meaning ascribed to it in NRS 365.084.*

**Sec. 2.** NAC 590.041 is hereby amended to read as follows:

590.041 As used in NAC 590.041 to 590.070, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, "gallon" means 128 ounces.