

**ADOPTED REGULATION OF
THE STATE BOARD OF AGRICULTURE**

LCB File No. R189-12

Effective January 1, 2014

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

AUTHORITY: §§1 and 2, NRS 590.070 and 590.131.

A REGULATION relating to motor vehicle fuel; revising the requirements for posting the octane rating number of motor vehicle fuel; requiring a person who sells at retail motor vehicle fuel which contains manganese or a compound containing manganese to post on the pump or other device for dispensing the fuel a label indicating that the fuel contains manganese; specifying the form and contents of the label; setting forth when such a label must be affixed; and providing other matters properly relating thereto.

Section 1. NAC 590.063 is hereby amended to read as follows:

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

2. The octane rating number of the product that is in the pump or other device for dispensing ~~gasoline~~ *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, Sparks, Nevada 89431.

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

Sec. 2. This regulation becomes effective on January 1, 2014.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
Revised LCB File No. R189-12

1. A clear and concise explanation of the need for the adopted regulation.

The proposed change to NAC 590 was prompted by the 2013 Legislature (Senate Bill 433) requiring the State Board of Agriculture to adopt regulations that require a warning label to be affixed to any pump which dispenses any motor vehicle fuel to which any manganese or manganese compound has been added: requiring a person who sells motor vehicle fuel that contains manganese or any manganese compound to provide certain documentation to the purchaser of that fuel; and providing other matters properly relating thereto.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

- Copies of the proposed regulations, notices of workshop, notices of hearing and notices of intent to act upon the regulation were sent by U.S. mail and email to persons who were known to have an interest in the subject of motor fuel containing manganese or a manganese compound as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Department of Agriculture, www.agri.nv.gov, mailed to all county libraries in Nevada and posted at the following locations:

Department of Agriculture
405 South 21st Street
Sparks, Nevada 89431

Division of Consumer Equitability
2150 Frazer Avenue
Sparks, Nevada 89431

Department of Agriculture
2300 McLeod Street
Las Vegas, Nevada 89104

Department of Agriculture
4780 E. Idaho Street
Elko, Nevada 89801

- A public workshop and public hearing were held which included stakeholders from the local, state and national organizations. The summaries of the workshop held on October 2, 2013 and the hearing held on November 4, 2013 are contained within the meeting minutes (attached). Thereafter (November 5, 2013), the Administrator of Consumer Equitability issued a Notice of Intent to Act Upon a Regulation which either incorporated or considered input and recommendations from both the public and impacted businesses.
- The adoption meeting was held December 5, 2013 in which the Board of Agriculture adopted the revised LCB File No. R189-12.
- A copy of this summary of the public response to the proposed regulation may be obtained from the Division of Consumer Equitability, 2150 Frazer Avenue, Sparks, Nevada 89431, 775-353-3782, or email djones@agri.nv.gov.

3. The number of persons who:

- (a) Attended the meeting:
Workshop: October 2, 2013 - 11
Hearing: November 4, 2013 - 12
- (b) Testified the meeting:
Workshop: October, 2, 2013 - 6
Hearing: November 4, 2013 - 6
- (c) Submitted written comments:
Workshop: 2
Hearing: 3

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:

Workshop

Lawrence Waugh
775-741-8429
13490 Evening Song Ln
Reno, NV
Lwaugh1742@gmail.com
Nevada Petroleum Marketers Association

Lea Tauchen
775-882-1700
410 South Minnesota St.
Carson City, NV 89703
lea@rannv.org
Nevada Retail Association

Michael Hillerby
775-852-3900

mhillerby@kcnvlaw.com
Honda

Nick Economides
925-336-1720
6001 Bollinger Canyon Rd.,
San Ramon, CA 94583
Nick.Economides@Chevron.com
Chevron Corporation

Paul Anderson
775-848-0834
315 Nugget Ave
Sparks, NV
PAnderson@CLThomas.com
Thomas Petroleum
Hearing (Same as workshop list plus)

Sean Higgins
702-796-5555
3960 Howard Hughes Pkwy
Las Vegas, NV 89169
shiggins@portergs.com
AFTON Chemical

Alfredo Alonso
775-823-2900
50 West Liberty, Ste 410
Reno, NV 89510
aalonso@lrklaw.com
Auto Alliance

5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The Summaries may be obtained as instructed in the response to question #1.

6. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The proposed revised LCB File No. R189-12 regulation was not changed. Note that input and recommendations regarding SB 433 were solicited at the workshop. That input and those recommendations were considered at that point which developed the revised LCB File No. R189-12. Proposed hearing changes were reviewed by the Department's executive management, Deputy Attorney General's office, and the Legislative Council Bureau's Legal office. The Department's executive management interpreted the SB 433 to be clear; when crafting the regulation language little change was required.

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

- (a) **Estimated economic effect on the businesses which they are to regulate.**

Unknown – this is regards to the economic effect; business practices may have to change regarding label placements, fueling transfer documents and storage fuel tank motor fuel testing.

- (b) **Estimated economic effect on the public which they are to regulate.**

Unknown – should the manganese additive generate a savings per the price per gallon it is unknown if the public or retailer or business supplier would incur the costs savings.

8. **The estimated cost to the agency for enforcement of the proposed regulation:**

Initially \$2,500.00 for producing the Manganese Warning Labels.

9. **A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The proposed regulation does not overlap or duplicate other state or local governmental agencies, and, it does not overlap or duplicate federal regulations. This regulation is an implementation of an express requirement of Nevada state law, found in SB 433 (2013).

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

N/A

11. If the 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.

No manganese labeling regulation fee exists. The agency is not planning on initiating a new fee; the agency does not know to what extent the manganese fuel additive will be used.

_____/s/
James R. Barbee
Director
Department of Agriculture

enclosures