

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

LCB File No. R094-15

Effective April 4, 2016

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

AUTHORITY: §1, NRS 590.380, as amended by section 204 of Assembly Bill No. 77, chapter 526, Statutes of Nevada 2015, at page 3640; §2, NRS 561.105 and 590.070; §§3-8, NRS 590.070.

A REGULATION relating to engine products; establishing the license fee for certain brands of antifreeze; updating information regarding fuel standards adopted by the State Board of Agriculture; clarifying certain requirements for the posting of diesel fuel grades on diesel fuel oil pumps; establishing the minimum octane rating number for gasoline and any blend of gasoline and ethanol that is sold outside a certain area of this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires any antifreeze sold in this State to be licensed each fiscal year by the State Sealer of Consumer Equitability and authorizes the State Board of Agriculture to establish a license fee. (NRS 590.380, as amended by section 204 of Assembly Bill No. 77, chapter 526, Statutes of Nevada 2015, at page 3640) **Section 1** of this regulation establishes a license fee of \$50 for each brand of antifreeze submitted.

Existing law requires the Board to adopt specifications for motor vehicle fuel in this State. (NRS 590.070) Existing regulations adopt by reference certain published standards for diesel fuel oils, biodiesel and diesel fuel, fuel methanol, ethanol fuel blends and gasoline, and standards for testing methods of the chemical composition of gases by mass spectrometry. (NAC 590.050-590.054, 590.065) **Sections 2-6 and 8** of this regulation update the costs for which the printed standards are available from the publisher. **Section 8** also deletes certain standards relating to gasoline which have expired by limitation.

Existing regulations require pumps or other devices which dispense diesel fuel oil to display the grade of the diesel fuel oil. (NAC 590.050) **Section 2** amends this requirement to clarify that such a posting need not include the designation of ultra low sulfur diesel.

Existing regulations establish standards for determining the octane rating of gasoline and require the posting of those ratings. (NAC 590.059, 590.061) **Section 7** of this regulation establishes the minimum octane rating number for gasoline and gasoline and ethanol blends sold outside a certain area of this State.

Section 1. NAC 590.015 is hereby amended to read as follows:

590.015 A manufacturer, packer, seller or distributor of antifreeze shall pay ~~{an inspection}~~ *a license* fee of \$50 for each brand of antifreeze submitted to the State Sealer of Consumer Equitability ~~{for inspection}~~ pursuant to NRS 590.380 ~~{H}~~, *as amended by section 204 of Assembly Bill No. 77, chapter 526, Statutes of Nevada 2015, at page 3640.*

Sec. 2. NAC 590.050 is hereby amended to read as follows:

590.050 1. Except as otherwise provided in subsection 2, the State Board of Agriculture hereby adopts by reference *the most recent version of* 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.}~~ *\$64.*

2. 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.”

3. The grade assigned by ASTM International for diesel fuel oil:

(a) Dispensed from a pump or other device for dispensing the diesel fuel oil must be posted on that pump or device ~~{H}~~, *except that such posting does not need to include the term “Ultra Low Sulfur Diesel” or “ULSD.”*

(b) Transported or stored in a vehicle which is used for the delivery of diesel fuel oil must be posted on the label of that vehicle as required pursuant to NRS 590.040.

4. 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.

Sec. 3. NAC 590.051 is hereby amended to read as follows:

590.051 1. Except as otherwise provided in this section, the State Board of Agriculture hereby adopts by reference the *most recent version of the* following standards for biodiesel and diesel fuel set forth in ~~Volumes 05.01, 05.03 and 05.04, "Petroleum Products and Lubricants,"~~ ~~of the 2010~~ *Annual Book of ASTM Standards* published by ASTM International:

(a) ASTM D6751, "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels";

(b) ASTM D7467, "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)"; and

(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 ~~1~~ ~~\$41~~ ~~1~~ *\$44*, the price of ASTM D7467 is ~~1~~ ~~\$47~~ ~~1~~ *\$64* and the price of ASTM D975 is ~~1~~ ~~\$59~~ ~~1~~ *\$64*.

2. The ratio for biodiesel fuel blended in accordance with ASTM D7467 must be not less than 6 percent but not more than 20 percent by volume of biodiesel fuel which complies with the specifications for feedstock and composition set forth in ASTM D6751. The remainder of the biodiesel blend which contains not less than 6 percent but not more than 20 percent by volume of biodiesel fuel must comply with the requirements for diesel fuel set forth in NAC 590.050.

3. Biodiesel fuel blends which contain not more than 5 percent by volume of biodiesel fuel must comply with the requirements for diesel fuel set forth in NAC 590.050.

Sec. 4. NAC 590.052 is hereby amended to read as follows:

590.052 1. The State Board of Agriculture hereby adopts by reference *the most recent version of* ASTM D5797, “Standard Specification for Fuel Methanol (M70-M85) for Automotive Spark-Ignition Engines,” as set forth 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.

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.]~~ **\$50.**

Sec. 5. NAC 590.053 is hereby amended to read as follows:

590.053 1. The State Board of Agriculture hereby adopts by reference *the most recent version of* ASTM D5798, “Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines,” set forth 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.

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 ~~1541.1~~ \$44.

Sec. 6. NAC 590.054 is hereby amended to read as follows:

590.054 1. The State Board of Agriculture hereby adopts by reference *the most recent version of* 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 ~~1541.1~~ \$44.

2. A person shall not sell, offer for sale, supply or offer to supply in this State any hydrogen that is intended for use in a vehicle if the hydrogen, after it is analyzed in accordance with ASTM D2650, contains:

- (a) Less than 98 percent per mole of hydrogen;
- (b) Less than 99.9 percent per mole of any combination of hydrogen, water and oxygen; or
- (c) More than 0.01 percent per mole of total hydrocarbons.

3. Any hydrogen specified in subsection 2 must not contain any dust, sand, dirt, gum, oil or other substance in an amount which may damage any equipment located at a fueling station or a vehicle being fueled at that station. If the hydrogen is introduced in gaseous form into a vehicle's system for storing fuel, the hydrogen under ambient conditions must have a distinctive odor which may be detected in a concentration in air of not more than one-fifth of the lower limit of flammability.

Sec. 7. NAC 590.061 is hereby amended to read as follows:

590.061 1. The State Board of Agriculture hereby adopts by reference the antiknock index for testing the octane rating of gasoline that is defined in *the most recent version of* ASTM D4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel," adopted by reference pursuant to NAC 590.065.

2. Gasoline that is brought into this State for delivery to a person in this State must have an octane rating number which is determined by the antiknock index method described in subsection 1.

3. *Gasoline and any blend of gasoline and ethanol that is sold outside 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 have an octane rating number of 87 or more.*

4. A person who transfers fuel to a person in this State, other than the consumer of the fuel, shall provide a proof of transfer to the person receiving the fuel. The proof of transfer must be:

- (a) A delivery ticket;
- (b) An invoice;
- (c) A bill of lading;
- (d) A bill of sale;

- (e) A terminal ticket; or
- (f) Any other proof of transfer that is approved by the State Board of Agriculture.

~~{4}~~ 5. The proof of transfer must contain:

- (a) The name of the person making the transfer;
- (b) The name of the person to whom the fuel is transferred;
- (c) The date of the transfer; and
- (d) If the fuel is gasoline, the octane rating number of the gasoline.

~~{5}~~ 6. The person receiving the fuel must keep a copy of the proof of transfer at the location at which the fuel was received for not less than 30 days after the date of the delivery of the fuel. After that period, the proof of transfer must be retained at any location for not less than 1 year after the date of the delivery of the fuel and be made available to the State Department of Agriculture upon request.

~~{6}~~ 7. 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.

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

590.065 1. Except as otherwise provided in this section, the State Board of Agriculture hereby adopts by reference *the most recent version of* 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 ~~159~~ 64.

2. Notwithstanding the provisions of Table 4 (“Schedule of Seasonal and Geographical Volatility Classes”) of ASTM D4814 that apply to this State, the schedule that is designated in Table 4 for the area of this State that lies north of the 38th degree of north latitude applies to the entire area of this State unless the United States Environmental Protection Agency requires a county to comply with a different requirement relating to vapor pressure.

3. Except as otherwise provided in subsection ~~5~~ 4, gasoline:

(a) Sold between June 1 and September 15 of each calendar year containing:

(1) Not less than 9 percent ethanol by volume and not more than 10 percent ethanol by volume must not exceed the limits for vapor pressure set forth in ASTM D4814 by more than 1 pound per square inch.

(2) Less than 9 percent ethanol by volume must not exceed the limits specified in ASTM D4814.

(b) Sold during any other period in a calendar year containing not more than 10 percent ethanol by volume must not exceed the limits specified in ASTM D4814 by more than 1 pound per square inch.

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.~~

~~—5.1~~ 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.

~~16.1~~ **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.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R094-15

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

One purpose of this action is to update the language relative to a number of fuels, simplifying language and updating prices for the purchase of specifications. A second purpose is to clarify the dispenser labeling for diesel fuel.

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 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 fuel regulations, as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Nevada Department of Agriculture (NDA) www.agri.nv.gov, mailed to all county libraries in Nevada and posted at the following locations:

Nevada Department of Agriculture
405 South 21st Street
Sparks, NV 89431-5566

Nevada Department of Agriculture
2150 Frazer Avenue
Sparks, NV 89431

Nevada Department of Agriculture
2300 McLeod Street
Las Vegas, NV 89104-4314

Nevada Department of Agriculture
4780 E. Idaho Street
Elko, NV 89801-4672

Interested persons may obtain a copy of the summary by contacting:

Nevada Department of Agriculture
Attn: William Striejewski
405 South 21st Street
Sparks, NV 89431

3. The number of persons who:

(a) Attended each hearing:

(b) Testified at each hearing:

(c) Submitted written comments:

Workshop date: September 10, 2016
Number in attendance: 3; all in person
Number testifying: None
Written statements submitted: None

Hearing date: November 30, 2015
Number in attendance: 3; two in person and one teleconferenced
Number testifying: None
Written statements submitted: None

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:**
- (a) **Name;**
 - (b) **Telephone number;**
 - (c) **Business address;**
 - (d) **Business telephone number;**
 - (e) **Electronic mail address; and**
 - (f) **Name of entity or organization represented.**

Does not apply.

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.**

Among the stakeholders who were contacted about the changes proposed in LCB File R094-15 were: Regulatory Affairs Officers with refiners; the Western States Petroleum Association (WSPA), which represents the larger refiners and retailers, as well as WSPA's Nevada representative; the Nevada representative of the Petroleum Marketers Association, which represents smaller retailers; and a representative of the Retail Association of Nevada.

There were no comments submitted either in person or in writing for any of the changes and updates within R094-15.

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.**

Does not apply.

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.**

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

The updating of language will be invisible to business, having neither a beneficial or adverse effect; the diesel dispenser labeling section will have little effect on business, but that effect will be beneficial.

The updating of language will be invisible to the public as well, having neither a beneficial or adverse effect; the diesel dispenser labeling section will have little to no effect on the public, and any effect will be neither beneficial nor adverse.

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

Does not apply.

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.

Does not apply.

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

Does not apply.

- 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.**

Does not apply.