

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

LCB FILE NO. R037-211

**The following document is the initial draft regulation proposed
by the agency submitted on 09/08/2021**

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

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

AUTHORITY: §1 NRS 590.090 and section 1 of Assembly Bill 31 of the 81st Session of the Nevada Legislature; §2 section 1 of Assembly Bill 31 of the 81st Session of the Nevada Legislature; §3 NRS 590.090; §4 NRS 561.105, 590.070, 591.100; §§ 5-8 NRS 590.070, NRS 590.100; §9 NRS 590.073, 590.100; §10 NRS 561.105, NRS 590.070; §11 NRS 590.070, 590.071, 590.073, 590.090, and section 1 of Assembly Bill 31 of the 81st Session of the Nevada Legislature

PURPOSE: To implement the provisions of Assembly Bill 31 of the 81st Legislative Session pertaining to adopting standards for and prohibiting certain commercial activities relating to diesel exhaust fluid, transferring the duty to adopt standards for aviation fuel from the State Sealer of Consumer Equitability to the State Board of Agriculture, adopting standards for petroleum heating products, not including liquefied petroleum gas and natural gas, eliminating certain powers and duties of the State Sealer of Consumer Equitability relating to petroleum products, establishing a schedule of fines for violation of the provisions the standards adopted for aviation fuel, petroleum heating products, not including liquified petroleum gas and natural gas, and diesel exhaust fluid; updating certain information relating to specification standards for certain fuels adopted by reference; and providing other matters properly relating thereto.

Section 1. Chapter 590 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation:

Sec. 2. 1. The State Board of Agriculture hereby adopts by reference the most recent version of ISO 22241, “Diesel engines – NOx reduction agent AUS 32,” published by ISO (International Organization for Standardization). 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 the ISO.

2. The standard is available for inspection pursuant to NAC 590.045 and may be purchased from ANSI (American National Standards Institute), 25 West 43rd Street, 4th Floor, New York, NY 10036, or at the Internet address <http://www.webstore.ansi.org>.

(a) “Part 1: Quality requirements” may be purchased for the price of \$48;

(b) “Part 2: Test methods” may be purchased for the price of \$200;

(c) “Part 3: Handling, transportation, and storage” may be purchased for the price of \$73;

(d) “Part 4: Refilling interface” may be purchased for the price of \$111; and

(e) “Part 5: Refilling interface for passenger cars” may be purchased for the price of \$111.

3. 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 ISO or ASTM International that has not yet been published shall be deemed to meet the appropriate criteria.

Sec. 3. 1. *The State Board of Agriculture hereby adopts by reference the most recent specifications for petroleum heating products contained in Volume 05.01, “Petroleum Products and Lubricants (I),” of the Annual Book of ASTM Standards, ASTM designation D396, “Standard Specification for Fuel Oils,” and ASTM designation D3699, “Standard Specification for Kerosine.” Each new revision of these standards shall be deemed approved by the State Board of Agriculture unless the revision is disapproved by the State Sealer of Consumer Equitability or his or her 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 \$58 for ASTM D396 and \$52 for ASTM D3699.*

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

NAC 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 the 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 \$~~67~~75.

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, 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. 5. NAC 590.051 is hereby amended to read as follows:

NAC 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 the 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 \$~~[52]~~58, the price of ASTM D7467 is \$~~[52]~~75 and the price of ASTM D975 is \$~~[67]~~75.

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. 6. NAC 590.052 is hereby amended to read as follows:

NAC 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 the 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 \$~~[52]~~58.

Sec. 7. NAC 590.053 is hereby amended to read as follows:

NAC 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 the 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 \$~~[46]~~52.

Sec. 8. NAC 590.054 is hereby amended to read as follows:

NAC 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 the 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 \$~~46~~52.

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. 9. NAC 590.055 is hereby amended to read as follows:

590.055 1. The ~~[State Sealer of Consumer Equitability]~~ *State Board of Agriculture* hereby adopts by reference the most recent specifications for aviation fuel contained in Volume 05.01, “Petroleum Products and Lubricants (I),” of the Annual Book of ASTM Standards, ASTM designations D910, “Standard Specification for Leaded Aviation Gasolines,” and D1655, “Standard Specification for Aviation Turbine Fuels.” Each new revision of these standards shall be deemed approved by the State Sealer of Consumer Equitability unless the revision is disapproved by the State Sealer of Consumer Equitability or his or her designee within 120 days after the date of publication of the revision by ASTM International. A copy of the standards are 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 \$~~46~~52 for ASTM D910 and \$~~67~~58 for ASTM D1655.

2. 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. 10. NAC 590.065 is hereby amended to read as follows:

NAC 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 the 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 \$~~67~~75.

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 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. 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.

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.

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.

Sec. 11. NAC 590.070 is hereby amended to read as follows:

NAC 590.070 For any violation of the provisions of NRS 590.070, *NRS 590.073, NRS 590.090, and section 1 of Assembly Bill 31 of the 81st Session of the Nevada Legislature*, including any violation of standards relating to diesel fuel, the State Board of Agriculture may:

1. For the first violation, issue a written warning, impose a fine of not more than \$2,000 for each day the violation continues, or issue a warning and impose a fine.

2. For the second violation, impose a fine of not more than \$3,500 for each day the violation continues.

3. For the third or subsequent violation, impose a fine of not more than \$5,000 for each day the violation continues.

Sec. 12. This section and sections 1 to 11, inclusive, of this regulation become effective on the date on which this regulation is filed by the Legislative Counsel with the Secretary of State.