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STATE OF NEVADA
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**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
AS REQUIRED BY NRS 233B.066**

INFORMATIONAL STATEMENT

LCB File No. R037-21

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 590.

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

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 prices (from ASTM, International) for the following standard specifications, all adopted by reference:
 - Diesel fuel
 - Biodiesel fuel blend stock
 - Biodiesel blends (B6 to B20)
 - Methanol Fuel Blends
 - Ethanol Fuel Blends
 - Chemical Composition of Gases
 - Spark-Ignition Engine Fuel
- 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 the Nevada Legislature, which transferred authority for this section of NAC Chapter 590 from the State Sealer of Measurement Standards to the State Board of Agriculture
- Amends the text of NAC 590.070 to reflect passage of Assembly Bill 31 by the 81st Session of the Nevada Legislature

2. A description of how public comment was solicited, a summary of public response, and an explanation 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 posted in accordance with NRS 233B.016 and sent by U.S. mail and email to persons who were known to have an interest in the subject of fuels, lubricants, and petroleum products as well as any persons who had specifically requested such notice. An electronic survey was emailed to the NDA’s customer list, those requesting notice, and posted on the NDA website at agri.nv.gov. The survey was open from December 14, 2021, to January 14, 2022. A total of 22 survey responses were received. A general summary of comments received are provided in question 5.

A workshop was held on March 15, 2022, and an adoption hearing was held on June 8, 2022. A recording of the workshop and hearing and any other meeting related documents can be found at <https://agri.nv.gov/Protection/Weights and Measures/Workshop and Hearing Meetings/WeightsandMeasuresHMW/>.

A copy of this public response summary to the proposed regulation may be obtained from the Nevada Department of Agriculture, Attn: William Striejewske, 405 S. 21st St., Sparks, NV 89431, 775-353-3792, or wstriejewske@agri.nv.gov.

3. The number persons who (a) Attended each hearing, (b) Testified at each hearing, (c) Submitted to the agency written comments.

- Workshop held on March 15, 2022
 - Number in attendance: 2
 - Number testifying: 0
 - Written statements submitted: 0

- Hearing held on June 8, 2022
 - Number in attendance: 30
 - Number testifying: 1
 - Written statements submitted: 0

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency.

a) March 15, 2022 workshop attendance

Name	Entity/Organization	Address	Phone	Email
William Striejewske	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3792	wstriejewske@agri.nv.gov
Cadence Matijeich	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3726	c.matijeich@agri.nv.gov

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b) June 8, 2022 hearing attendance

Name	Entity/Organization	Address	Phone	Email
Woody Worthington	Nevada Board of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3601	c/o sbellwood@agri.nv.gov
Varlin Higbee	Nevada Board of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3601	c/o sbellwood@agri.nv.gov
Pete Paris	Nevada Board of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3601	c/o sbellwood@agri.nv.gov
Charlie Frey	Nevada Board of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3601	c/o sbellwood@agri.nv.gov
Jim Snyder	Nevada Board of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3601	c/o sbellwood@agri.nv.gov
Duane Coombs	Nevada Board of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3601	c/o sbellwood@agri.nv.gov
Paul Noe	Nevada Board of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3601	c/o sbellwood@agri.nv.gov
Dave Coon	Nevada Board of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3601	c/o sbellwood@agri.nv.gov
Bernard Petersen	Nevada Board of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3601	c/o sbellwood@agri.nv.gov
Jennifer Ott	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3619	c/o sbellwood@agri.nv.gov
Cadence Matijevich	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3726	c.matijevich@agri.nv.gov
Homa Anoshepor	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3758	hanooshehpoor@agri.nv.gov
Jerri Conrad	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3737	jwilliams-conrad@agri.nv.gov

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Ciara Ressel	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3628	cressel@agri.nv.gov
Amy Mitchell	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3709	amitchell@agri.nv.gov
William Striejewske	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3792	wstriejewske@agri.nv.gov
Amber Smyer	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3769	asmyer@agri.nv.gov
Ashley Jeppson	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3600	ajeppson@agri.nv.gov
Adelina Helton	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3726	a.helton@agri.nv.gov
Scott Clifford	Nevada Department of Agriculture	405 S. 21 st Street, Sparks, NV 89436	(775) 353-3739	sclifford@agri.nv.gov
Richard Yien	Nevada Attorney General's Office	100 North Carson Street, Carson City, NV 89701	(775) 657-1100	AgInfo@ag.nv.gov
Bill Payne	Not provided	Not provided	Not provided	Not provided
Chris Rose	Not provided	Not provided	Not provided	Not provided
Curt Stock	Not provided	Not provided	Not provided	Not provided
Gary Keogh	Not provided	Not provided	Not provided	Not provided
Jimmy Lau	Not provided	Not provided	Not provided	Not provided

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Leana Carey	Not provided	Not provided	Not provided	Not provided
Peter Krueger	Nevada Petroleum and Convenience Store Marketers Association	1575 Delucchi Lane, Suite 201, Reno, NV 89502	(775) 622-9665	peter@fuelingnevada.com
wewolf@rtci.net	Not provided	Not provided	Not provided	Not provided
Doug Busselman	Nevada Farm Bureau	2165 Green Vista Dr., Suite 205, Sparks, NV 89431	(775) 674-4000	doug@nvfb.org

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation 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 posted in accordance with NRS 233B.016 and sent by U.S. mail and email to persons who were known to have an interest in the subject of fuels, lubricants, and petroleum products as well as any persons who had specifically requested such notice. An electronic survey was emailed to the NDA’s customer list, those requesting notice, and posted on the NDA website at agri.nv.gov. The survey was open for responses from December 14, 2021, to January 14, 2022. A total of 22 survey responses were received.

Summary of survey responses:

- There were 13 respondents to the question as to whether the changes proposed in LCB R037-21 would impact their ability to do business, and responses were split, with 46% responding “Yes”, 46% responding “No”, and 8% responding “Maybe.”
- There were 11 respondents to the question indicating the level on impact. 18% of the survey respondents stated the proposed changes will have a major impact on their business, 45% stated that there would be a minor or moderate impact, and 36% stated that there would be insignificant or no impact. However, 45% of survey respondents indicated that there would be no financial impact to their operations, 45% indicated an annual financial impact of less than \$5,000, and 1 respondent indicated an annual financial impact of greater than \$5,000, but less than \$10,000.
- Three survey participants answered question 8, which asked the respondent to identify the sections which would have the highest financial impact on their business. While every section of the file was cited, Section 4, (which updates the purchase price for the ASTM specification for diesel fuel adopted by the State Board of Agriculture) and Section 10 (which updates the purchase price for the ASTM specification for gasoline adopted by the State Board of Agriculture) all were cited by the participants.
- Survey participants also cited other sections of the file in which the prices for the purchase of the above noted reference documents available from ASTM, International and the International Organization for Standardization were updated as having a financial impact on their business. Purchase of these documents is not required, and the NDA does not set the prices for outside organizational documents. The documents

are available, upon request, to be inspected at any of the NDA's offices.

- Responses to the open-ended questions included:
 - “How would the proposed changes to NAC 590 in LCB R037-21 impact your ability to do business?” Respondents answered, “As a gas station owner, these are costly regulations to adhere to when equipment is already very expensive and its (sic) used by the general public who do not give a second thought before damaging property. Upkeep is extremely expensive, the state should provide signs and materials the first round to ensure that everyone has resources to begin with,” “Increased cost and complexity for compliance with required standards,” “Extra expenses erode profit,” “Cost of operations,” and “Cost of replacement equipment.”
 - “Would you need to make operational changes to your business as a result of the financial impact of the proposed changes LCB R037-21? If so, what would those changes be?” Three respondents answered, “No Changes,” “Price increase passed on to the consumers,” and “Additional costs, and expenses.”
 - “How could the proposed section(s) in LCB R037-21 be adjusted to mitigate their level of negative financial impact?” Three respondents answered, “Delay the changes. Stations have barely been able to catch up with the EMV regulations. Added on with almost 2 years of covid-19 limiting business, it is too much, too soon,” “Educate the benefit,” and “Leave it as is.”
 - “Please feel free to provide any feedback you would like us to consider in relation to the proposed changes in LCB R037-21.” There were no comments from respondents.

A copy of this public response summary to the proposed regulation may be obtained from the Nevada Department of Agriculture, Attn: William Striejewske, 405 S. 21st St., Sparks, NV 89431, 775-353-3792, or wstrijewske@agri.nv.gov.

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 permanent regulation was adopted on June 8, 2022. There were no changes suggested or requested either at the workshop or at the adoption hearing.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include: (a) Both adverse and beneficial effects; and (b) Both immediate and long-term effects.

(a) Adverse and beneficial effects on businesses and the public

- Adverse economic effect on regulated businesses and the public
 - Sections 2 and 3 adopt new specifications for DEF 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 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 documents related to petroleum

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heating products, there are two specifications available for purchase, with a cost of \$60 for the heating oil specification and \$54 for the kerosene specification. Purchase of both would cost \$114. It should be noted that interested parties may inspect these documents free of charge at any of the NDA's offices 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.
- The NDA does not anticipate any adverse economic effect on the public.
- Beneficial economic effect on the public
 - Sections 2 and 3 adopt new specifications for DEF 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.
 - 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, thereby avoiding expense by the public to repair or replace damaged systems.

(b) Immediate and long-term effects on businesses and the public

- 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 DEF 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 \$54 for the kerosene specification. Purchase of both would cost \$114. It should be noted that interested parties may inspect these documents free of charge at any of the NDA's offices 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.
 - 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 effects on businesses and the public
 - The NDA does not anticipate long-term economic effects on regulated business because of the proposed regulations.
 - 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.

8. The estimated cost to the agency for enforcement of the adopted 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.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The proposed regulation is not duplicative, nor does it overlap any federal, state, or local standards.

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

The proposed regulation is not more stringent than federal, state, or local standards.

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.

The proposed regulation does not provide a new fee or increase an existing fee.

I certify that to the best of my knowledge or belief a concerted effort was made to determine the impact of this proposed regulation on small businesses and that the information contained in this statement is accurate.

Jennifer Ott
Director
Nevada Department of Agriculture