

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

LCB File No. R037-21

November 12, 2021

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

AUTHORITY: § 1, NRS 561.105 and 590.090, as amended by section 7 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 140, and section 1 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 136 (NRS 590.072); § 2, section 1 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 136 (NRS 590.072); § 3, NRS 590.090, as amended by section 7 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 140; § 4, NRS 561.105, 590.070, as amended by section 1 of Assembly Bill No. 411, chapter 372, Statutes of Nevada 2021, at page 2219, and 590.100, as amended by section 8 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 141; §§ 5-8, NRS 590.070, as amended by section 1 of Assembly Bill No. 411, chapter 372, Statutes of Nevada 2021, at page 2219, and 590.100, as amended by section 8 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 141; § 9, NRS 590.073, as amended by section 6 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 140, and 590.100, as amended by section 8 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 141; § 10, NRS 561.105 and 590.070, as amended by section 1 of Assembly Bill No. 411, chapter 372, Statutes of Nevada 2021, at page 2219; § 11, NRS 590.070, as amended by section 1 of Assembly Bill No. 411, chapter 372, Statutes of Nevada 2021, at page 2219, 590.071, as amended by section 5 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 139, 590.073, as amended by section 6 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 140, and 590.090, as amended by section 7 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 140, and section 1 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 136 (NRS 590.072).

A REGULATION relating to substances regulated by the State Board of Agriculture; adopting by reference certain specification standards for diesel exhaust fluid; adopting by reference certain specification standards for petroleum heating products; updating information regarding fuel standards adopted by the Board; transferring the duty to adopt standards for aviation fuel from the State Sealer of Consumer Equitability to the Board; revising provisions governing civil penalties for certain violations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Agriculture to adopt by regulation specification standards for diesel exhaust fluid and authorizes the Board to follow the specification standards set forth by the International Organization for Standardization or by ASTM International. (Section 1 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 136 (NRS 590.072)) **Section 2** of this regulation adopts by reference the most recent version of the ISO 22241 standard for diesel exhaust fluid and provides information regarding the cost of acquiring and the availability of the adopted standards.

Existing law requires the Board to adopt specification standards for petroleum heating products and requires the standards to conform to the specification standards set forth by ASTM International. (NRS 590.090, as amended by section 7 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 140) **Section 3** of this regulation adopts by reference the most recent specifications for petroleum heating products set forth by ASTM International and provides information regarding the cost of acquiring and the availability of the adopted standards.

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 4-8 and 10** of this regulation update the costs for which the printed standards are available from the publisher and certain other information relating to acquiring the standards.

Existing law requires the Board to adopt specification standards for aviation fuel sold or offered for sale. (NRS 590.073, as amended by section 6 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 140) Existing regulations adopt by reference certain published standards for aviation fuel. (NAC 590.055) **Section 9** of this regulation transfers the duty of adopting specification standards for aviation fuel from the State Sealer of Consumer Equitability to the Board to conform with existing law. **Section 9** also updates information regarding the cost of the adopted standards.

Existing law provides that it is unlawful for a person to engage in certain commercial activities regarding diesel exhaust fluid unless the diesel exhaust fluid conforms to the specification standards prescribed by the Board. (Section 1 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 136 (NRS 590.072)) Existing law further provides that it is unlawful for a person to engage in certain commercial activities regarding any aviation fuel unless the aviation fuel conforms to the specification standards prescribed by regulation of the Board. (NRS 590.073, as amended by section 6 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 140) Existing law makes it unlawful to engage in certain commercial activities regarding any petroleum heating, not including liquefied petroleum gas or natural gas, unless the petroleum heating product conforms to specification standards prescribed by regulation of the Board. (NRS 590.090, as amended by section 7 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 140) **Section 11** of this regulation adds such violations to the existing schedule of administrative fines the Board may impose.

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 the 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 International Organization for Standardization.*

2. The standard is available for inspection pursuant to NAC 590.045 and may be purchased from the 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 Measurement Standards determines that another method produces results equivalent to the results of the specified method. A method approved by the International Organization for Standardization 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 D396, “Standard Specification for Fuel Oils,” and ASTM D3699, “Standard Specification for Kerosine.” 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. 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, P.O. Box C700, West Conshohocken, Pennsylvania, 19428-2959, or at the Internet address <http://www.astm.org>, for the price of \$60 for ASTM D396 and \$54 for ASTM D3699.

2. Any other test method may be used if the State Sealer of Measurement Standards 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:

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,” 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, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the price of ~~1\$75.1~~ **\$78**.

2. The flash point for No. 2 diesel fuel must not be lower than 37.8 degrees Celsius (100 degrees Fahrenheit) when the No. 2 diesel fuel has been treated to prevent gelling and the No. 2 diesel fuel has been labeled “winterized.”

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

(a) Dispensed from a pump or other device for dispensing the diesel fuel 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 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 Measurement Standards 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:

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)”;

(c) ASTM D975, “Standard Specification for Diesel Fuel.”

↪ 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, P.O.

Box C700, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>. The price of ASTM D6751 is ~~158~~ \$60, the price of ASTM D7467 is ~~72~~ \$78 and the price of ASTM D975 is ~~75~~ \$78.

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:

590.052 1. The State Board of Agriculture hereby adopts by reference the most recent version of ASTM D5797, "Standard Specification for Methanol Fuel Blends (M51-M85) for Methanol-Capable 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, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the price of ~~58~~ \$60.

Sec. 7. 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 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, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the price of ~~52~~ 54.

Sec. 8. 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 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, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the price of ~~52~~ 54.

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}~~ *Board of {Consumer-Equitability} Agriculture* hereby adopts by reference the most recent version of the following standards contained in the *Annual Book of ASTM Standards*:

- (a) ASTM D910, "Standard Specification for Leaded Aviation Gasolines"; and
- (b) ASTM D1655, "Standard Specification for Aviation Turbine Fuels."

↪ Each new revision of these standards shall be deemed approved by the ~~{State Sealer of Consumer-Equitability}~~ *Board* unless the revision is disapproved by the ~~{State Sealer of Consumer-Equitability or his or her}~~ *Board or its* 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, P.O. Box C700, West Conshohocken, Pennsylvania, 19428-2959, or at the Internet address <http://www.astm.org>, for the price of \$54 for ASTM D910 and \$60 for ASTM D1655.

2. Any other test method may be used if the State Sealer of Measurement Standards 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:

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, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959, or at the Internet address <http://www.astm.org>, for the price of ~~+\$75+~~ \$78.

2. Notwithstanding the provisions of Table 4 (“Schedule of U.S. 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 Measurement Standards 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:

590.070 For any violation of the provisions of NRS 590.070, *as amended by section 1 of Assembly Bill No. 411, chapter 372, Statutes of Nevada 2021, at page 2219, NRS 590.073, as*

amended by section 6 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 140, NRS 590.090, as amended by section 7 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 140, or section 1 of Assembly Bill No. 31, chapter 32, Statutes of Nevada 2021, at page 136 (NRS 590.072), 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.