

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

**LCB FILE NO. R038-211**

**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 561.105, NRS 590.070, and section 1 of Assembly Bill 411 of the 81<sup>st</sup> Session of the Nevada Legislature

PURPOSE: To implement the provisions of Assembly Bill 411 of the 81<sup>st</sup> Session of the Nevada Legislature requiring the State Board of Agriculture to adopt by regulation certain specifications for motor vehicle fuel; and providing other matters properly relating thereto.

**Section 1.** 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.

2. *The State Board of Agriculture hereby adopts by reference the provisions of 40 C.F.R. §§ 79.1 to 79.32, inclusive, §§ 79.50 to 79.56, inclusive, 40 C.F.R. §§ 1090.215, 1090.1110, 1090.1405, and 1090.1420, as they existed on September 8, 2021. A copy of the volumes containing these provisions are available for inspection at the offices of the State Department of Agriculture located at 405 South 21st Street, Sparks, Nevada 89431, 2300 East Saint Louis Avenue, Las Vegas, Nevada 89104, and 4780 East Idaho Street, Elko, Nevada 89801 pursuant to NAC 590.045 and may also be purchased from the U. S. Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 for the price of \$68 for 40 C.F.R. Part 79 and \$67 for 40 C.F.R. Part 1090. The volumes containing these provisions may also be inspected at the Internet addresses* <http://ecfr.federalregister.gov/current/title-40/chapter-I/subchapter-C/part-79> *and* <http://ecfr.federalregister.gov/current/title-40/chapter-I/subchapter-U/part-1090>.

~~[2-]~~3. 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-]~~4. Except as otherwise provided in subsection ~~[4-]~~5, 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]~~15 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 *as set forth in 40 C.F.R. § 1090.215(b)*.

(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]~~15 percent ethanol by volume must not exceed the limits specified in ASTM D4814 by more than 1 pound per square inch.

~~[4-]~~5. 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-]~~6. 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]~~15 percent ethanol by volume; or
- (d) It contains more than 95 parts per million of sulfur.

*7. 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 containing between 10.5 and 15.0 percent ethanol by volume unless:*

*(a) The gasoline, including any and all additives, has been produced by manufacturers in compliance with 40 C.F.R. §§ 79.1 to 79.32, inclusive and §§ 79.50 to 79.56, inclusive;*

*(b) The gasoline manufacturer, oxygenate blender, or oxygenate producers that produces, introduces into commerce, sells or offers such gasoline for sale has met the E15 misfueling mitigation survey requirement as set forth in 40 C.F.R. § 1090.1420;*

*(c) The retailer or wholesale-purchaser consumer has applied a label to the fuel dispenser which conforms to the requirements as set forth in 40 C.F.R. § 1090.1510;*

*(d) Underground storage tanks used to store such gasoline are compliant with the requirements as set forth in subsection 2 of NAC 459.993; and*

*(e) The product transfer documents for such gasoline conform to the requirements as set forth in 40 C.F.R. § 1090.1110.*

~~6.~~8. 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. 2.** This section and section 1 of this regulation become effective on the date on which this regulation is filed by the Legislative Counsel with the Secretary of State.