

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

LCB File No. R106-10

Effective February 20, 2013

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

AUTHORITY: §§1-8, NRS 561.105 and 590.070.

A REGULATION relating to motor vehicle fuel; adopting by reference certain standards concerning motor vehicle fuel published by ASTM International; and providing other matters properly relating thereto.

Section 1. NAC 590.045 is hereby amended to read as follows:

590.045 ~~{1. Volumes 05.01 and 05.02, “Petroleum Products and Lubricants,” of the 2002 Annual Book of ASTM Standards, are}~~ *A copy of each standard adopted by reference pursuant to NAC 590.041 to 590.070, inclusive, is* available for inspection at the ~~{office}~~ *offices* of the State Department of Agriculture ~~{, 350 Capitol Hill Avenue, Reno, Nevada 89502,}~~ *located at 405 South 21st Street, Sparks, Nevada 89431,* and 2300 McLeod Street, Las Vegas, Nevada 89104.

~~{2. The volumes may be purchased at a cost of \$361 from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428.}~~

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 ~~{~~

~~—(a) For diesel fuel intended for use in an internal combustion engine, if the internal combustion engine is not installed in a motor vehicle that is operated primarily on a highway, the specifications for diesel fuel; and~~

~~—(b) For diesel fuel intended for use in a motor vehicle that is operated primarily on a highway, the low sulfur specifications for diesel fuel;~~

→} *ASTM D975, “Standard Specification for Diesel Fuel Oils,”* contained in Volume 05.01, “Petroleum Products and Lubricants,” of the ~~{2002}~~ 2010 *Annual Book of ASTM Standards* ~~{}~~ published by ASTM ~~{designation D-975-01a.}~~ *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.*

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.

(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 Weights and Measures 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 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 ~~, as those standards existed on July 1, 2009, and any subsequent revision to those standards~~ published by ASTM International : ~~that has been approved by the Board pursuant to this section for use in this State.~~

(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 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 ~~and~~ *is \$41, the price of* ASTM D7467 ~~may be purchased for the price of \$43 each~~ *is \$47 and the price of* ASTM D975 ~~for the price of \$51.~~ *is \$59.*

2. ~~The Board will review each revision of the standards adopted pursuant to subsection 1 that is published after July 1, 2009, to ensure its suitability for use in this State. If the Board fails to approve or disapprove such a revision within 120 days after its date of publication, the revision shall be deemed approved by the Board for use in this State. The Board will file a copy of each revision which it approves or which is deemed approved pursuant to this section with the Secretary of State and the State Library and Archives Administrator. The most recent revision that has been approved or deemed approved by the Board will be available for inspection at the State Department of Agriculture, 405 South 21st Street, Sparks, Nevada 89431.~~

~~3.~~ 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 . ~~adopted by reference pursuant to subsection 1.~~ 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.

~~4.~~ 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 specifications for M-85 fuel methanol~~ *ASTM D5797, "Standard Specification for Fuel Methanol (M70-M85) for Automotive Spark-Ignition Engines,"* as set forth in Volume ~~05.03,~~ *05.02*, "Petroleum Products and Lubricants," of the ~~2000~~ *2010 Annual Book of* ~~the American Society for Testing and Materials (ASTM)~~ *ASTM Standards* ~~,~~ *published by* ASTM ~~designation D 5797-96.~~ *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 ~~{publication}~~ *standard is available for inspection pursuant to NAC 590.045 and may be purchased from ~~{the American Society for Testing and Materials,}~~ ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania ~~{19428,}~~ 19428-2959, or at the Internet address <http://www.astm.org>, for the price of ~~{35.}~~ \$47.*

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 specifications for E-85 fuel ethanol}~~ *ASTM D5798, “Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines,”* set forth in Volume ~~{05.03,}~~ 05.02, “Petroleum Products and Lubricants,” of the ~~{2000}~~ 2010 *Annual Book of ~~{the American Society for Testing and Materials (ASTM)}~~ ASTM Standards ~~{,}~~ published by ASTM ~~{designation D 5798-98a.}~~ 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 ~~{publication}~~ *standard is available for inspection pursuant to NAC 590.045 and may be purchased from ~~{the American Society for Testing and Materials,}~~ ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania ~~{19428,}~~ 19428-2959, or at the Internet address <http://www.astm.org>, for the price of ~~{30.}~~ \$41.*

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 specifications for hydrogen}~~ *ASTM D2650, “Standard Test Method for Chemical Composition of Gases By Mass Spectrometry,”* set forth in Volume ~~{05.02,}~~ 05.01, “Petroleum Products and Lubricants,”

of the ~~[2000]~~ 2010 *Annual Book of ~~[the American Society for Testing and Materials (ASTM)]~~ ASTM Standards ~~[,]~~ *published by* ASTM ~~[designation D-2650-99,]~~ *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 ~~[publication]~~ *standard is available for inspection pursuant to NAC 590.045 and* may be purchased from ~~[the American Society for Testing and Materials,]~~ *ASTM International*, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania ~~[19428,]~~ *19428-2959, or at the Internet address <http://www.astm.org>*, for the price of ~~[\$30,]~~ *\$41.**

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 ~~[D-2650-99,]~~ *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 *ASTM D4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel,"* [~~Volume 05.02, "Petroleum Products and Lubricants," of the 2002 Annual Book of ASTM Standards, ASTM designation D 4814-01a.~~] *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. 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. 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. 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. Any other test method may be used if the State Sealer of Weights and Measures 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 ASTM D4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel," contained in Volume 05.02, "Petroleum Products and Lubricants," of the ~~[2009]~~ 2010 *Annual Book of ASTM Standards* ~~[, as that standard existed on July 1, 2009, and any subsequent]~~ *published by ASTM International. Each new* revision of that standard ~~[published]~~ *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. ~~[that is approved by the State Board of Agriculture pursuant to this section for use in this State.]~~ 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 ~~[\$53.]~~ **\$59.**

2. ~~[The State Board of Agriculture will review each revision of ASTM D4814 that is published after July 1, 2009, to ensure its suitability for use in this State. If the State Board of Agriculture fails to approve or disapprove such a revision within 120 days after its date of publication, the revision shall be deemed approved by the State Board of Agriculture for use in~~

~~this State. The State Board of Agriculture will file a copy of each revision which it approves or which is deemed approved pursuant to this section with the Secretary of State and the State Library and Archives Administrator. The most recent revision that is approved by the State Board of Agriculture will be available for inspection at the State Department of Agriculture, 405 South 21st Street, Sparks, Nevada 89431.~~

~~—3.1~~ 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.

~~14.1~~ 3. Except as otherwise provided in subsection ~~16.1~~ 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 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.

~~15.1~~ 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.

~~16.1~~ 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.

~~17.1~~ 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 percent ethanol by volume; or
- (d) It contains more than 95 parts per million of sulfur.

~~18.1~~ 7. Any other test method may be used if the State Sealer of Weights and Measures 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.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R106-10**

The Nevada Board of Agriculture adopted regulations assigned LCB File No. R106-10 which pertain to chapter 590 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

1. 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.

In addition to the required public posting of workshop and hearing notices, information about this regulation change was sent via e-mail to an extensive list of potentially interested parties, including state and federal government entities, fuel suppliers (including representatives of pipelines), and organizations representing both large and small retailers. The individuals on this list were then kept abreast of the proposed action and comments about that action.

The actions in the file update NAC Chapter 590, but almost entirely in editorial ways. The exception is to incorporate a mechanism for the NV Board of Agriculture to approve or disapprove updates to the standards, which had already been added to selected sections of Chapter 590, and was only being extended to the rest of the chapter. Because all parties were in agreement about the changes being made, there were very few comments submitted. However, the workshop was attended by a cross section of the interested parties, both in person as well as by teleconferencing. The hearing was less well-attended, but the interested parties were satisfied with the file and proposed changes to it.

A summary of the comments received via e-mail, and CD and/or written copies of the hearing minutes are available from

William Striejewski
Senior Petroleum Chemist
NV Department of Agriculture
2150 Frazer Avenue
Sparks, NV 89431
775-353-3792
wstriejewski@agri.nv.gov

2. The number of persons who:

(a) Attended each hearing:

The workshop was attended by myself and five other people, one of whom was teleconferenced, another videoconferenced from Las Vegas and the other three present with me in the conference room at the Department of Agriculture in Sparks.

The hearing was attended by myself and five other people, with two of those teleconferenced, one videoconferenced from Las Vegas and the other two present with me in the conference room of the Department of Agriculture in Sparks.

(b) Testified at each hearing:

No one attending the hearing wished to present formal testimony. I reviewed the changes suggested at the workshop, and stated that I had spoken with LCB about them, and felt that they would be accommodated. This was satisfactory to the attendees.

(c) Submitted written comments:

The only written comment I was given was from someone who reminded me that an ASTM standard had had a recent name change. This was then incorporated into the changes to be made to NAC Chapter 590.

3. A description of how comment was solicited from businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

In addition to the public posting (as required) of workshop and hearing notices, information about this regulation change was sent via e-mail to an extensive list of potentially interested parties, including state and federal government entities, fuel suppliers (including representatives of pipelines), and organizations representing both large and small retailers.

A summary of the comments received via e-mail, and CD and/or written copies of the hearing minutes are available from:

William Striejewske
Senior Petroleum Chemist
NV Department of Agriculture
2150 Frazer Avenue
Sparks, NV 89431
775-353-3792
wstriejewske@agri.nv.gov

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

Not applicable, as changes were made to the proposed regulation.

5. The estimated economic effect of the regulation on the business 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.**

The following addresses the estimated economic effect of the proposed amendments on the **business** which it is to regulate:

- a. Adverse effects: **NONE**
- b. Beneficial effects: **NONE**
- c. Immediate and long-term effects: **NONE EXPECTED**

The following addresses the estimated economic effect of the proposed amendments on the **public** which it is to regulate:

- a. Adverse effects: **NONE**
- b. Beneficial effects: **NONE**
- c. Immediate and long-term effects: **NONE**

6. The estimated cost to the agency for enforcement of the adopted regulation:

There will be no additional costs to the Department for enforcement of the adopted amendments.

7. 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.

These amendments do not overlap or duplicate any other state, local or federal regulation.

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

The proposed amendments do not include any provisions more stringent than federal regulations for any of the fuels covered in File No. R106-10.

9. 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.

This proposed regulation will NOT establish a new fee; nor will it increase an existing fee.

10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

The proposed regulation only brings the NAC in line with current fuel specifications. There should be no economic effect on businesses at all, nor would it restrict the formation, operation, or expansion of a small business.