

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

**LCB File No. R032-10**

Effective June 30, 2010

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

AUTHORITY: §1, NRS 561.105 and 590.070.

A REGULATION relating to gasoline; deleting provisions which prohibit a person from selling, offering for sale, supplying or offering to supply in this State certain gasoline if manganese or any compound of manganese has been added to the gasoline; and providing other matters properly relating thereto.

**Section 1.** 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 Annual Book of ASTM Standards*, as that standard existed on July 1, 2009, and any subsequent revision of that standard published by ASTM International that is approved by the State Board of Agriculture pursuant to this section for use in this State. The standard 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.

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. 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.

4. Except as otherwise provided in subsection 6, 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.

5. 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.

6. 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.

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 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) ~~Manganese or any compound of manganese has been added to the gasoline;~~
- ~~(d)~~ It contains more than 10 percent ethanol by volume; or
- ~~(e)~~ (d) It contains more than 95 parts per million of sulfur.

8. 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. R032-10**

The Nevada Board of Agriculture adopted regulations assigned LCB File No. R032-10 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 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. The individuals on this list were then kept apprised of comments and progress of the proposed action.

This action to amend was undertaken to update NAC Chapter 590, due to a request on behalf of the manufacturer of a gasoline additive containing manganese. This issue generated a great deal of comment from both sides of the issue, those in favor of lifting the prohibition, and those in favor of retaining the prohibition. The workshop was well attended by a cross section of interested parties, both in person as well as by teleconferencing and videoconferencing. The hearing was somewhat less well-attended, although many of the same principal parties attended, as well as some individuals who didn't attend the workshop.

At both of these meetings, written or e-mailed comments that had been made were presented to the attendees, and comments, presentation materials, etc., were made available to the broadcast list mentioned above, as well as to members of the Board of Agriculture.

**2. The number of persons who:**

**(a) Attended each hearing:**

The workshop was attended by nine other people and myself in the conference room at the Department of Agriculture, as well as two individuals who were videoconferenced from the Department of Agriculture office in Las Vegas, and five others who were teleconferenced.

The hearing was attended by eight other people and myself in the conference room at the Department of Agriculture, as well as two individuals who were teleconferenced.

While I do not have an exact count of attendees at the Board of Agriculture meeting in December, there were ten or more individuals representing both sides of the issue attending in person, and several others videoconferenced from elsewhere in the state.

**(b) Testified at each hearing:**

At the workshop held on October 13, 2009, formal testimony in favor of lifting the manganese prohibition was presented by a representative of Afton Corporation, the manufacturer who brought the request to the Department of Agriculture. While this was the only formal testimony presented, this was followed by a significant amount of comment, both for and against this amendment to the NAC, by a number of the attendees, both those in-person as well as those participating remotely.

At the hearing held on November 12, 2009, formal testimony in favor of retaining the manganese prohibition was presented by a representative of an automobile alliance (AIAM), followed by testimony by two representatives of the Afton Corporation. Again, these presentations were followed by significant additional comment by attendees.

At the Board of Agriculture meeting on December 9, 2009, further testimony was provided by representatives both in favor of lifting the prohibition and those in favor of retaining the prohibition, including new presentations of material by Afton, and by AIAM. As before, additional comments were also provided by attendees, and there were additional questions and discussion by the Board members.

**(c) Submitted written comments:**

Even before the October workshop was held, written comments supporting both sides of the issue were received by the Department of Agriculture. In addition, at the workshop, the Western States Petroleum Association (WSPA) also sent comments. These comments were shared with attendees as well as the broadcast mailing list I mentioned above. Prior to the hearing, and the meeting of the Board of Agriculture in December, written comments were received by the Department. In addition, a private citizen offered written comments at the Board Meeting.

These comments, as well as other documentation presented at the workshop, hearing, and Board Meeting, are available upon request.

**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 number of these interested parties submitted information and comments before the workshop, at the workshop, between the time of the workshop and the hearing, and at the hearing.

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

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**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 EXPECTED**
- b. Beneficial effects: **UNCLEAR AT THIS TIME**
- 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 EXPECTED**
- b. Beneficial effects: **UNCLEAR AT THIS TIME**
- c. Immediate and long-term effects: **NONE EXPECTED**

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

We anticipate that there will be little or no additional costs to the Department for enforcement of the proposed amendments. After surveying other fuel quality programs in states where manganese is allowed in the fuel, we found that no testing is being done, and only two states had the necessary instrumentation. Therefore, at the present time, we won't be anticipating a need for purchasing testing equipment and related items. In addition, there are commercial testing labs who could be employed for complaints or concerns, and if this is not a routine occurrence, the cost will be minimal.

- 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.**

The proposed amendment does not overlap or duplicate regulations from any other agency.

- 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 amendment does not include any provisions more stringent than federal regulations.

- 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 change 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?**

There should be no economic effect on businesses at all, nor would it restrict the formation, operation, or expansion of a small business.