

**PROPOSED REGULATION OF
THE BOARD FOR THE REGULATION OF
LIQUEFIED PETROLEUM GAS**

LCB File No. R147-99

October 21, 1999

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

AUTHORITY: §§1-12, NRS 590.515.

Section 1. Chapter 590 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *“Dealer” means a dealer of LP gas.*

Sec. 3. *“Presiding officer” means the president of the board or a person selected by the board to preside over mediations and hearings.*

Sec. 4. *A mediation conducted pursuant to NAC 590.100 to 590.650, inclusive, must be conducted in an informal manner by the presiding officer. The presiding officer shall:*

1. Determine the order of proceedings; and

2. Terminate mediation if:

(a) A resolution is mutually agreed upon by the parties; or

(b) The presiding officer determines that the parties have reached an impasse.

Sec. 5. 1. *The presiding officer shall conduct a hearing in accordance with the following order of proceedings:*

(a) Calling of the hearing to order;

(b) Opening remarks by the presiding officer;

- (c) Opening statement by counsel for the board;*
- (d) Opening statement by the respondent or counsel for the respondent;*
- (e) Presentation of the case against the respondent by counsel for the board;*
- (f) Presentation of the respondent's case;*
- (g) Rebuttal of the respondent's case by counsel for the board;*
- (h) Rebuttal by the respondent or counsel for the respondent;*
- (i) Closing argument by counsel for the board;*
- (j) Closing argument by respondent or counsel for the respondent; and*
- (k) Rebuttal argument by counsel for the board.*

2. The members of the board may question any party or witness at the hearing.

3. The presiding officer shall:

(a) Rule on the admissibility of evidence at the hearing and any objections to the admissibility of evidence;

(b) Admit evidence that the presiding officer determines to be material and relevant to the issues presented at the hearing; and

(c) Exclude evidence that the presiding officer determines to be incompetent, cumulative or irrelevant.

4. An objection to the introduction of evidence at a hearing must be stated at the time the evidence is offered for introduction and must be accompanied by a brief statement of the grounds for objection.

Sec. 6. *Except as otherwise provided in this section, before or during a hearing, the board may grant a continuance for submission of further proof of any matter or for any other just cause. The board will not grant a continuance if the person who submitted the complaint*

fails to appear for the hearing and fails to provide the board with an adequate reason for his failure to appear.

Sec. 7. 1. *With the approval of the board or the presiding officer, the parties may stipulate to any facts at issue by introducing a written stipulation of facts into evidence at the hearing.*

2. A stipulation that is introduced into evidence is binding upon all parties to the stipulation and may be considered by the board and presiding officer as evidence at the hearing. The board or presiding officer may require the parties to provide proof of any fact contained in a stipulation.

Sec. 8. 1. *The board may order a party to file a written brief regarding an issue that is contested by the parties. The board will specify a time limit for the filing of such a brief.*

2. The party who receives an order pursuant to subsection 1 shall file nine copies of the brief with the board before the expiration of the time limit specified by the board.

Sec. 9. 1. *Unless otherwise ordered by the board, a proceeding stands submitted for a decision by the board after the taking of evidence, the filing of briefs and the presentation of oral arguments.*

2. A written order of the board is a final decision.

3. The board will serve a copy of the written order upon each party of record or the representative of a party by United States mail or personal service.

4. A party may receive additional copies of an order by filing a written request for such additional copies with the board.

Sec. 10. NAC 590.100 is hereby amended to read as follows:

590.100 As used in NAC 590.100 to 590.650, inclusive, *and sections 2 to 9, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 590.110 to 590.190, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 11. NAC 590.250 is hereby amended to read as follows:

590.250 Detailed plans of the physical properties and facilities of any applicant or licensee must be submitted with each application for a class 1, 4 or 5 license, and must be approved by the board before the commencement of construction or installation of any facilities. Such plans must be approved by ~~an~~ *a professional* engineer licensed pursuant to chapter 625 of NRS before they are submitted to the board.

Sec. 12. NAC 590.650 is hereby amended to read as follows:

590.650 1. ~~{A written complaint filed with a member of the board's staff against a dealer of LP gas will be referred to the dealer if that member deems it necessary for possible resolution. —2.— A member of the board's staff shall send to the complainant a complaint form and referral list. The referral list will include the names of agencies to whom the complaint may be referred. The complainant must complete the complaint form and return it to the board. —3.—}~~ *Upon the receipt of an inquiry, the board's staff shall determine whether the inquiry relates to:*

(a) A violation of a law or regulation or a matter of safety; or

(b) A consumer-related matter.

2. If an inquiry relates to a violation of a law or regulation or a matter of safety, or if the board otherwise becomes aware of a possible violation of a law or regulation or a matter of safety, a member of the board's staff shall take immediate action as the member of the board's

staff deems necessary under the circumstances, which must include, without limitation, an investigation of the alleged violation of the law or regulation. If the member of the board's staff determines that a violation has occurred, the member of the board's staff may issue a notice of violation to the dealer. The notice of violation may allow time for the dealer to remedy the violation. If the dealer remedies the violation within the time allowed in the notice of violation, the board will dismiss the inquiry. If the dealer is not allowed time to remedy the violation or if the dealer fails to remedy the violation within the time prescribed in the notice of violation, the member of the board's staff shall submit the matter to the legal counsel for the board. Upon receipt of a matter from the member of the board's staff, the legal counsel for the board shall send a notice of intended action to the dealer and proceed according to chapter 233B of NRS and NRS 590.605.

3. If an inquiry relates to a consumer-related matter, a member of the board's staff shall direct the consumer to contact the dealer or the dealer's management and attempt to resolve the matter with the dealer. The consumer and the dealer shall attempt in good faith to resolve the matter within 3 working days after the consumer contacts the dealer or the dealer's management. If the consumer and the dealer resolve the matter, the dealer shall notify the board of the resolution of the matter within 15 days after the matter has been resolved. If the consumer and the dealer fail to resolve the matter, a member of the board's staff shall discuss the inquiry with the consumer and dealer to attempt to resolve the matter. If the consumer and the dealer fail to resolve the matter through discussions with the member of the board's staff, the member of the board's staff shall provide to the consumer a complaint form prescribed by the board. Upon the receipt of a completed complaint form, a member of the board's staff shall

send copies of the written complaint to the dealer ~~[,]~~ *and* the dealer's management and ~~[the members of the board.~~

~~—4.— The dealer shall notify the board of the resolution of the written complaint within 15 days after receipt of the written complaint.~~

~~—5.— If the dealer is unable to resolve the written complaint, the board will hold a hearing to mediate the complaint. The hearing will be held in conjunction with a regularly scheduled meeting of the board.~~

~~—6.—] order the dealer to provide a written response to the complaint and all materials and documents related thereto, within 15 days after the dealer's receipt of the complaint. Upon receipt of the response and any related documents and materials from the dealer, the board will hold a mediation pursuant to section 4 of this regulation to attempt to resolve the matter. If the matter is not resolved through mediation, the board will dismiss the complaint.~~

4. A member of the board's staff shall log and record all records relating to inquiries and written complaints, including, but not limited to, memos of relevant conversations, all correspondence relating to the complaint, the minutes of the hearing and a copy of the resolution of the complaint.

5. *As used in this section:*

(a) *“Consumer” means the consumer of LP gas who submitted an inquiry.*

(b) *“Consumer-related matter” means the subject of an inquiry that does not relate to the violation of a law or regulation or to a matter of safety.*

(c) *“Inquiry” means an oral or written concern or complaint about a dealer. The term does not include a written complaint submitted on a complaint form pursuant to subsection 3.*

(d) “Matter of safety” means the subject of an inquiry that relates to action by a dealer that the board considers to be inimical and not to the best interests of the health, safety or welfare of the people of this state.