

## LCB File No. R147-99

### Notice of Hearing for the Adoption, Amendment, and Repeal of Regulations of the Board for the Regulation of Liquefied Petroleum Gas

The Board for the Regulation of Liquefied Petroleum Gas will hold a public hearing at 10:30 a.m. on Tuesday, October 26, 1999 at 106 E. Adams #216, Carson City, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, and repeal.

The adoption, amendment, and repeal pertains to chapter 590 of the Nevada Administrative Code as it relates to the regulation of and hearings and mediations before the Board.

The following information is provided pursuant to the requirements of NRS 233B.060:

1. *The need for and the purpose of the proposed regulation or amendment.* The Board presently has no regulatory procedures for the inspection of licensed facilities, the issuance of citations for violations, the hearing of violation, and the mediation of consumer disputes, all of which are addressed by the proposed regulation.

2. *Either the terms or the substance of the regulations to be adopted, amended, or repealed, or a description of the subjects and issues involved.* The text of the proposed regulations is attached.

3. *The estimated economic effect of the regulations on the business which it is to regulate and on the public. These must be stated separately and in each case must include:*

(a) *Both adverse and beneficial effects.* There are no estimated adverse or beneficial effects.

(b) *Both immediate and long-term effects.* The immediate and long-term effects will be beneficial to the business that is regulated since a quick, fair, and orderly process will be

established by which consumer complaints and life/safety concerns may be addressed and resolved.

4. *The estimated cost to the agency for enforcement of the proposed regulation.* There will be no additional cost to the agency for the enforcement of the proposed regulation because the agency already retains the services of an investigator and deputy attorney general who are already performing these functions.

5. *A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.* None.

6. *If the regulation is required pursuant to federal law, a citation and description of the federal law.* None.

7. *If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.* None.

8. *Whether the proposed regulation establishes a new fee or increases an existing fee.* None.

Persons wishing to comment upon the proposed action of the Board may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada Board for the Regulation of Liquefied Petroleum Gas, P.O. Box 338, Carson City, Nevada 89702. Written submissions must be received by the Board on or before October 15, 1999. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Board for the Regulation of Liquefied Petroleum Gas may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted, amended, and repealed will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted, amended, and repealed will be available at the Board's office at 106 E. Adams #216, Carson City, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code which is proposed for amendment or repeal. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

### **NEVADA COUNTY PUBLIC LIBRARIES**

Attn: Barbara Mathews, Director  
Churchill County Library  
5553 S. Maine Street  
Fallon, NV 89406

Attn: Diane Hartsock, Director  
Tonopah Public Library  
P.O. Box 449  
Tonopah, NV /89049  
(171 Central Street)

Attn: Darryl Batson, Director  
Las Vegas-Clark County Library  
833 Las Vegas Boulevard N.  
Las Vegas, NV 89101

Attn: Jeanne Munk, Director  
Pershing County Library  
P.O. Box 781  
Lovelock, NV 89419

Attn: Sara Jones, Director  
Elko County Library  
720 Court Street  
Elko, NV 89801

Esmerelda County:  
P.O. Box 430  
(Fourth & Crook Street)

Attn: Lauri Oki, Director  
Eureka Branch Library  
P.O. Box 293  
Eureka, NV 89316

Attn: Sherry Allen, Director  
Humboldt County Library  
85 East 5th Street  
Winnemucca, NV 89445

Lincoln County Library  
93 Main Street  
P.O. Box  
Pioche, NV 89043

Attn: Christian Freer-Parsons, Director  
Lyon County Library  
20 Nevin Way  
Yerington, NV 89447

Attn: Steve Schlatter, Director  
Mineral County Library  
P.O. Box 1390  
Hawthorne, NV 89415  
(First & A Street)

Goldfield Public Library  
P.O. Box 430  
Goldfield, NV 89013

(1125 Central Avenue)

Storey County Library  
P.O. Box 14  
Virginia City, NV 89440  
(95 South R Street)

Attn: Nancy Cummings, Director  
Washoe County Library  
P.O. Box 2151  
Reno, NV 89505  
(301 South Center)

Attn: Lori Romero, Director  
White Pine County Library  
950 Campton Street  
Ely, NV 89301

Attn: Lynn Chambliss, Director  
Battle Mountain Branch Library(Lander County)  
P.O. Box 141  
Battle Mountain, NV 89820

Attn: Sally Edwards, Director  
Carson City Library  
900 N. Roop Street  
Carson City, NV 89701

Attn: Carolyn Rawles-Heiser, Director  
Douglas County Library  
P.O. Box 337  
Minden, NV 89423

revised September 1997

LCB File No. R147-99

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

**Section 1. NAC 590 shall be amended to add the following new language:**

*“Complainant” means the person making a complaint against a dealer.*

*“Consumer-related matter” means a complaint by a consumer that does not address potentially dangerous conditions.*

*“Hearing” means a proceeding conducted pursuant to NRS 590.605.*

*“Mediation” means a proceeding conducted pursuant to NRS 590.513(3)(b).*

*“Presiding officer” means the person chosen by a majority of the board to preside over a hearing or mediation.*

*“Respondent” means the dealer about whom a complaint has been made.*

*“Safety concern” means any condition that violates the statutes or regulations enforced by the board or any condition that is potentially dangerous or harmful to people or property.*

**Section 2. NAC 590.650 shall be amended to read as follows:**

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.]~~ *When an injury is made by a person, board staff shall ascertain and determine whether the person’s inquiry concerns a consumer-related matter or whether it concerns a matter of violation of a statute or regulation of this board that could or has created a potentially dangerous condition.*

~~[2.]~~ *(a) If the inquiry concerns a matter involving a safety concern, or if a member of board staff otherwise becomes aware of a violation of Nevada law, [A] a member of the board’s staff shall [provide 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.]~~ *take immediate action as he deems necessary under the circumstances. Such action may include investigating the safety concern.*

~~[3.] (1) [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, the dealer's management and the members of the board and shall ask the dealer to provide a written response to the complaint and all related materials.]~~ *If the member of board staff investigates the complaint or the other information he has that a violation of Nevada law has occurred, and he determines that one or more violations of Nevada law have occurred, the member of board staff may cite the appropriate party with a notice of the violations. The notice of the violations may allow the cited party to remedy the violations within a time determined by the member of board staff, and if the violations have been timely remedied, then the citation will be dismissed.*

*(2) If the violations are such that they cannot be remedied or if the cited party does not timely remedy the violations, then the member of board staff shall notify board counsel and a notice of intended action shall be prepared and the matter shall proceed according to the provisions of NRS ch. 233B and NRS 590.605.*

~~[4.] (b) If the inquiry concerns a matter involving a consumer-related issue, a member of the board's staff shall direct the consumer to contact the dealer or the dealer's management. The consumer and the dealer or the dealer's management shall attempt in good faith to negotiate a resolution of the matter within three working days. If the matter is resolved to the satisfaction of the consumer, [The] the dealer shall notify the board of the resolution of the [written complaint] matter within 15 days after [receipt of the written complaint] the matter has been resolved.~~

~~[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.]~~

*(1) If the dealer is unable to resolve the complaint with the consumer, a member of board staff will discuss the complaint with the consumer and the dealer in an attempt to reach a mutually agreeable resolution.*

*(2) If the member of board staff is unable to assist the dealer and the consumer to reach a mutually agreeable resolution, the member of board staff shall provide to the consumer a complaint form prescribed by the board.*

*(3) Upon the receipt of the complaint form from the consumer, a member of the board's staff shall send copies of the written complaint to the dealer and the dealer's management and shall ask the dealer to provide a written response to the complaint and all related materials and documents within 15 days.*

*(4) Upon the receipt of the response and materials from the dealer, the matter shall be presented to the board for mediation.*

*(5) If the consumer's complaint is not resolved through mediation, then the board shall dismiss the matter and shall inform the consumer of his other avenues of redress.*

~~[6.]~~ 2. 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.

**Section 3. NAC 590 shall be amended to add the following new language:**

*Mediations shall be conducted informally and are not contested cases as defined in NRS ch. 233B. The presiding officer may decide the order of proceedings and how a given mediation shall be conducted. Each party shall be allowed to make statements and present such evidence as are allowed by the presiding officer. A mediation will terminate when either a resolution is mutually agreed upon by the parties or the parties reach an impasse.*

**Section 4. NAC 590 shall be amended to add the following new language:**

*1. In conducting a hearing under these regulations, the following shall be the order of proceedings unless otherwise modified for a particular hearing by the presiding officer or a majority of the board:*

- a. Call the hearing to order;*
  - b. Opening statement by the presiding officer;*
  - c. Opening statement by the board's counsel;*
  - d. Opening statement by the respondent or his counsel;*
  - e. Presentation of complainant's or the board's case by the board's counsel;*
  - f. Presentation of respondent's case;*
  - g. Rebuttal testimony presented by the board's counsel, if any;*
  - h. Rebuttal testimony by respondent, if any;*
  - i. Closing arguments by board counsel;*
  - j. Closing arguments by the respondent or his counsel;*
  - k. Rebuttal arguments by board counsel;*
- 2. The board members may ask questions of any witness at the hearing.*



3. *The presiding officer may, with or without objection, exclude inadmissible, incompetent, cumulative, or irrelevant evidence. Evidence admitted at the hearing must be material and relevant to the issues.*

4. *A party objecting to the introduction of evidence shall briefly state the grounds of objection at the time the evidence is offered.*

5. *The board may, before or during a hearing, and on a proper showing, grant continuance for submission of further proof of any matter, or for any other just cause. There may not be a continuance of the complainant does not attend and does not notify the board and has shown no good reason for his or her non-attendance.*

**Section 5. NAC 590 shall be amended to add the following new language:**

1. *With the approval of the board or the presiding officer, the parties may stipulate to any fact at issue by written stipulation, introduced in evidence as an exhibit.*

2. *Any stipulation is binding upon all parties to it, and may be treated as evidence at the hearing.*

3. *The board or the presiding member of the board may demand proof by requiring evidence of facts stipulated to.*

**Section 6. NAC 590 shall be amended to add the following new language:**

1. *The board may order briefs to be filed and specify a time limit for their filing.*

2. *Nine (9) copies of any requested brief must be filed with the board by the specified time.*

**Section 7. NAC 590 shall be amended to add the following new language:**

1. *Unless otherwise ordered, a proceeding stands submitted for a decision by the board after the taking of evidence, the filing of briefs or the presentation of oral arguments required by the board or the presiding officer.*

2. *A written order of a decision of the board is a final decision.*
3. *Orders of the board will be served by mailing a copy to each party of record or their representative, or by personal service.*
4. *Additional copies of orders may be obtained by making a written request to the board.*