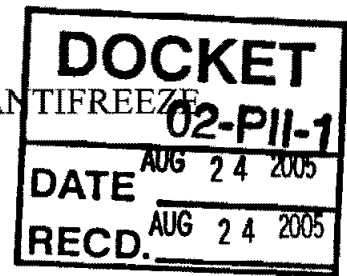


## CHAPTER 590 - PETROLEUM PRODUCTS AND ANTIFREEZE

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**ANTIFREEZE**

**NAC 590.010 Specifications for antifreeze.** ([NRS 590.380](#), [590.400](#)) Except as otherwise provided in [NAC 590.030](#):

1. The specifications for antifreeze based on ethylene glycol and the specifications for antifreeze based on propylene glycol contained in Volume 15.05, "Engine Coolants," of the *2001 Annual Book of ASTM Standards*, ASTM designation D 3306-00a, are hereby adopted by reference.

2. The chemical and physical properties of any antifreeze other than those classified in subsection 1 must be:

Water, mass %.....	5 max
Specific gravity 60°F/60°F.....	1.11 to 1.15
pH (33% by volume) 7.5 to 11.....	7.5 to 11
Equilibrium boiling point.....	300°F min
Freezing point, 50% by volume.....	-34°F max
Foaming test	
Increase in volume at 5 minutes.....	150 ml max
Break time.....	5 sec max

3. In addition to the properties listed in subsection 2, any antifreeze other than those classified in subsection 1 must meet the following specifications for corrosion (loss of weight per specimen):

Copper.....	10 mg max
Solder.....	20 mg max
Brass.....	10 mg max
Steel.....	10 mg max
Cast iron.....	10 mg max
Aluminum.....	30 mg max

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.

[Dep't of Agriculture, No. 90.30, eff. 5•1•73]—(NAC A 3•17•86; 8•9•94; A by St. Sealer of Weights & Measures by R149•98, 12•14•98; R200•01, 5•31•2002)

**NAC 590.015 Inspection fee.** ([NRS 590.380](#)) A manufacturer, packer, seller or distributor of antifreeze shall pay an inspection fee of \$50 for each brand of antifreeze submitted to the State Sealer of Weights and Measures for inspection pursuant to [NRS 590.380](#).

(Added NAC by Bd. of Agriculture by R097•99, 12•10•99, eff. 1•1•2000)

**NAC 590.020 Prohibited acts.** ([NRS 590.380](#), [590.400](#)) A person shall not sell or distribute an antifreeze that is not based on glycols for use in an internal combustion engine.

[Dep't of Agriculture, No. 90.31, eff. 5•1•73]—(NAC A 3•17•86; 8•9•94)

**NAC 590.030 Standards for prediluted antifreeze.** ([NRS 590.380](#), [590.400](#))

1. The minimum standards of chemical and physical properties for an antifreeze which:

(a) Is labeled as prediluted antifreeze; and

(b) Displays prominently on the front label the words “DO NOT ADD WATER,”

contained in Volume 15.05, “Engine Coolants,” of the *2001 Annual Book of ASTM Standards*, ASTM designation D 3306-00a, are hereby adopted by reference.

2. 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.

[Dep't of Agriculture, No. 90.32, eff. 5•1•73]—(NAC A 8•9•94; A by St. Sealer of Weights & Measures by R149•98, 12•14•98; R200•01, 5•31•2002)

**NAC 590.035 Availability of Volume 15.05, “Engine Coolants,” of 2001 Annual Book of ASTM Standards.** ([NRS 590.380](#), [590.400](#)) Volume 15.05, “Engine Coolants,” of the *2001 Annual Book of ASTM Standards*, is available for inspection at the office of the State Department of Agriculture, 350 Capitol Hill Avenue, Reno, Nevada 89502. The volume may be purchased at a cost of \$140 from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428.

(Added to NAC by Bd. of Agriculture, eff. 8•9•94; A by St. Sealer of Weights & Measures by R149•98, 12•14•98; R200•01, 5•31•2002)

## FUELS

**NAC 590.041 “Gallon” defined.** ([NRS 590.070](#)) As used in [NAC 590.041](#) to [590.070](#), inclusive, unless the context otherwise requires, “gallon” means 128 ounces.

(Added to NAC by Dep't of Agriculture, eff. 3•27•92; A by Bd. of Agriculture, 11•18•93; R145•98, 12•14•98; R064•01, 12•17•2001)

**NAC 590.045 Availability of Volumes 05.01 and 05.02, “Petroleum Products and Lubricants,” of 2002 Annual Book of ASTM Standards.** ([NRS 590.070](#), [590.073](#), [590.100](#))

1. Volumes 05.01 and 05.02, “Petroleum Products and Lubricants,” of the *2002 Annual Book of ASTM Standards*, are available for inspection at the office of the State Department of Agriculture, 350 Capitol Hill Avenue, Reno, Nevada 89502, 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.

(Added to NAC by St. Sealer of Weights & Measures, eff. 3•5•90; A by Dep't of Agriculture, 3•27•92; A by St. Sealer of Weights & Measures, 11•18•93; A by Bd. of Agriculture, 8•9•94; R145•98, 12•14•98; A by St. Sealer of Weights & Measures by R149•98, 12•14•98; A by Bd. of Agriculture by R176•01, 5•31•2002)

**NAC 590.050 Specifications for diesel fuel; posting of grade for diesel fuel oil.** ([NRS 590.070](#), [590.100](#))

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,  $\bar{E}$  contained in Volume 05.01, "Petroleum Products and Lubricants," of the *2002 Annual Book of ASTM Standards*, ASTM designation D 975-01a.

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.

(Added to NAC by Dep't of Agriculture, eff. 12•9•81; A by St. Sealer of Weights & Measures, 3•5•90; A by Dep't of Agriculture, 3•27•92; A by Bd. of Agriculture, 11•18•93; R145•98, 12•14•98; R176•01, 5•31•2002)

**NAC 590.051 Adoption by reference of specifications for biodiesel fuel; requirements for blended biodiesel fuel and density of certain biodiesel fuels. ([NRS 590.070](#))**

1. Except as otherwise provided in this section, the State Board of Agriculture hereby adopts by reference the specifications for biodiesel fuel set forth in Volume 05.04, "Petroleum Products and Lubricants," of the *2000 Annual Book of the American Society for Testing and Materials (ASTM) Standards*, ASTM Provisional Specification PS 121-99. The publication may be purchased from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428, for the price of \$30.

2. The ratio for B-20 blended biodiesel fuel must be not less than 20 percent but not more than 21 percent by volume of biodiesel fuel which complies with the specifications for feedstock and composition set forth in Provisional Specification PS 121-99 adopted by reference pursuant to subsection 1. The remainder of the biodiesel blend must comply with the requirements for diesel fuel set forth in [NAC 590.050](#).

3. Except as otherwise provided in this subsection, any biodiesel fuel that is used as biodiesel fuel or as blended biodiesel fuel consisting of more than 21 percent by volume of biodiesel fuel must not have a density of more than .880 grams per liter as determined by using Provisional Specification PS 121-99 adopted by reference pursuant to subsection 1. In lieu of complying with the requirement for density, a producer or supplier of fuel may, if approved by the Director of the State Department of Agriculture in consultation with the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources, demonstrate that emissions of nitrogen oxides do not exceed the standards for certifying heavy-duty highway engines set forth in 40 C.F.R. Part 86.

(Added to NAC by Bd. of Agriculture by R064•01, eff. 12•17•2001)

**NAC 590.052 Adoption by reference of specifications for M-85 fuel methanol. ([NRS 590.070](#))**

1. The State Board of Agriculture hereby adopts by reference the specifications for M-85 fuel methanol set forth in Volume 05.03, "Petroleum Products and Lubricants," of the *2000 Annual Book of*

*the American Society for Testing and Materials (ASTM) Standards*, ASTM designation D 5797-96.

2. The publication may be purchased from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428, for the price of \$35.

(Added to NAC by Bd. of Agriculture by R064•01, eff. 12•17•2001)

**NAC 590.053 Adoption by reference of specifications for E-85 fuel ethanol.** ([NRS 590.070](#))

1. The State Board of Agriculture hereby adopts by reference the specifications for E-85 fuel ethanol set forth in Volume 05.03, "Petroleum Products and Lubricants," of the *2000 Annual Book of the American Society for Testing and Materials (ASTM) Standards*, ASTM designation D 5798-98a.

2. The publication may be purchased from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428, for the price of \$30.

(Added to NAC by Bd. of Agriculture by R064•01, eff. 12•17•2001)

**NAC 590.054 Adoption by reference of specifications for hydrogen; restrictions on hydrogen sold or supplied in State.** ([NRS 590.070](#))

1. The State Board of Agriculture hereby adopts by reference the specifications for hydrogen set forth in Volume 05.02, "Petroleum Products and Lubricants," of the *2000 Annual Book of the American Society for Testing and Materials (ASTM) Standards*, ASTM designation D 2650-99. The publication may be purchased from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428, for the price of \$30.

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, 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.

(Added to NAC by Bd. of Agriculture by R064•01, eff. 12•17•2001)

**NAC 590.055 Aviation fuel: Adoption by reference of specifications.** ([NRS 590.073](#), [590.100](#))

1. The State Sealer of Weights and Measures hereby adopts by reference the specifications for aviation fuel contained in Volume 05.01, "Petroleum Products and Lubricants (I)," of the *2002 Annual Book of ASTM Standards*, ASTM designations D 910-00 and D 1655-01.

2. 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.

(Added to NAC by St. Sealer of Weights & Measures, eff. 3•5•90; A 11•18•93; R149•98, 12•14•98; R200•01, 5•31•2002)

**NAC 590.061 Adoption by reference of antiknock index for testing octane rating of gasoline; determination of octane rating number; proof of transfer of fuel.** ([NRS 590.070](#), [590.100](#))

1. The State Board of Agriculture hereby adopts by reference the antiknock index for testing the octane rating of gasoline that is defined in Volume 05.02, "Petroleum Products and Lubricants," of the *2002 Annual Book of ASTM Standards*, ASTM designation D 4814-01a.

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.

(Added to NAC by St. Sealer of Weights & Measures, eff. 10•23•91; A 11•18•93; A by Bd. of Agriculture by R145•98, 12•14•98; R176•01, 5•31•2002)

**NAC 590.063 Gasoline: Posting of octane rating number on pump or other device; required accuracy of rating number. ([NRS 590.070](#), [590.100](#))**

1. The octane rating number of the gasoline from the proof of transfer must be posted on the pump or other device for dispensing the gasoline.

2. The octane rating number of the product that is in the pump or other device for dispensing gasoline must not be lower than the octane rating that is posted on the pump or device.

(Added to NAC by St. Sealer of Weights & Measures, eff. 10•23•91; A by Bd. of Agriculture, 2•20•96)

**NAC 590.065 Gasoline: Adoption of specification guides by reference; exemption from strict compliance with standards; limitations on vapor pressure; limitations on contents. ([NRS 561.105](#), [590.070](#))**

1. Except as otherwise provided in this section, the State Board of Agriculture hereby adopts by reference the specification guides for gasoline contained in Volume 05.02, "Petroleum Products and Lubricants," of the *2002 Annual Book of ASTM Standards*, ASTM designation D 4814-01a. The publication may be purchased from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, for the price of \$43.

2. Notwithstanding the provisions of Table 4 ("Schedule of Seasonal and Geographical Volatility Classes") of ASTM designation D 4814-01a 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. Except as otherwise provided in subsection 4, gasoline containing 9.0 percent ethanol by volume or more is permitted an additional 1.0 pound per square inch on the vapor pressure specification.

4. Gasoline sold in Clark County between October 1 and the following March 31 must not exceed a vapor pressure of 9.0 pounds per square inch and must meet the specifications relating to distillation set forth for volatility class A, B or C in ASTM designation D 4814-01a.

5. 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; or
- (d) It contains more than 10 percent ethanol by volume.

6. A person shall not sell, offer for sale, supply or offer to supply in:

(a) The area of this State which is east of the 118th degree of west longitude and north of the 38th degree of north latitude, any gasoline which contains more than 800 parts per million of sulfur.

(b) Any other area of this State which is not described in paragraph (a), any gasoline which contains more than 300 parts per million of sulfur.

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.

(Added to NAC by Bd. of Agriculture, eff. 3•5•90; A by Dep't of Agriculture, 3•27•92; A by Bd. of Agriculture, 11•18•93; 11•2•94; 2•20•96; 10•22•97; R145•98, 12•14•98; R176•01, 5•31•2002; R002•04, 9•21•2004)

**NAC 590.070 Administrative penalties for sale of nonconforming fuel. ([NRS 590.071](#))** For any violation of the provisions of [NRS 590.070](#), including any violation of standards relating to diesel fuel, the State Board of Agriculture may:

1. For the first violation, issue a written warning, impose a fine of not more than \$2,000 for each day the violation continues, or issue a warning and impose a fine.

2. For the second violation, impose a fine of not more than \$3,500 for each day the violation continues.

3. For the third or subsequent violation, impose a fine of not more than \$5,000 for each day the violation continues.

(Added to NAC by Bd. of Agriculture, eff. 3•5•90; A 11•2•92)

## LIQUEFIED PETROLEUM GAS

### General Provisions

**NAC 590.100 Definitions. ([NRS 590.505](#))** As used in [NAC 590.100](#) to [590.687](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 590.110](#) to [590.190](#), inclusive, have the meanings ascribed to them in those sections.

(Supplied in codification; A by Bd. for Reg. of Liquefied Petrol. Gas, 7•19•90; 5•27•92; R141•01, 7•30•2002; R014•03, 2•18•2004)

**NAC 590.110 “Approved” defined. ([NRS 590.505](#))** “Approved” means approval by the Board. [Liquefied Petroleum Gas Bd., part Definitions, eff. 5•31•74]

**NAC 590.120 “Board” defined. ([NRS 590.505](#))** “Board” means the Board for the Regulation of Liquefied Petroleum Gas.

[Liquefied Petroleum Gas Bd., part Definitions, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91; 5•27•92)

**NAC 590.130 “Building” defined. ([NRS 590.505](#))** “Building” means any structure that is used or intended for supporting or sheltering any use or occupancy.

[Liquefied Petroleum Gas Bd., part Definitions, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91)

**NAC 590.140 “Container” defined. ([NRS 590.505](#))** “Container” has the meaning ascribed to it in



Publication 58, *Liquefied Petroleum Gas Code*, issued by the National Fire Protection Association.

[Liquefied Petroleum Gas Bd., part Definitions, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91; R014•03, 2•18•2004)

**NAC 590.150 “Cylinder” defined.** ([NRS 590.505](#)) “Cylinder” has the meaning ascribed to it in Publication 58, *Liquefied Petroleum Gas Code*, issued by the National Fire Protection Association.

[Liquefied Petroleum Gas Bd., part Definitions, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91; R014•03, 2•18•2004)

**NAC 590.160 “LP gas” defined.** ([NRS 590.505](#)) “LP gas” has the meaning ascribed to it in subsection 2 of [NRS 590.475](#).

[Liquefied Petroleum Gas Bd., part Definitions, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91)

**NAC 590.190 “Property line” defined.** ([NRS 590.505](#)) “Property line” means a line, imaginary or otherwise, separating a property from that of public or other ownership.

[Liquefied Petroleum Gas Bd., part Definitions, eff. 5•31•74]

### Licensing and Practice

**NAC 590.240 Fees of Board.** ([NRS 590.505](#), [590.515](#), [590.549](#)) The Board will charge and collect the following fees:

#### Class 1A:

Fee for an application for a license.....	\$70
Annual fee for a license for a dealer who sells or distributes 250,000 gallons or more of LP gas.....	925
Fee for inspecting each storage tank, plant facility or truck tank.....	105

#### Class 1B:

Fee for an application for a license.....	70
Annual fee for a license for a dealer who sells or distributes less than 250,000 gallons of LP gas.....	660
Fee for inspecting each storage tank, plant facility or truck tank.....	105

#### Class 2A:

Fee for an application for a license.....	70
Annual fee for a license.....	135
Fee for inspecting each storage tank or delivery truck.....	105

#### Class 2B:

Fee for an application for a license.....	70
Annual fee for a license.....	65
Fee for inspecting each site where a cage for the storage of cylinders which are available for exchange or sale is located.....	50

#### Class 3:

Fee for an application for a license.....	70
Annual fee for a license.....	135

#### Class 4:

Fee for an application for a license.....	70
Annual fee for a license.....	135
Fee for inspecting each dispensing unit.....	105
Class 5:	
Fee for an application for a license.....	70
Annual fee for a license.....	135
Fee for inspecting each storage tank or vaporizer.....	105
	plus any other expenses related to the inspection.
Miscellaneous Fees:	
Fee for the examination for a certificate of competency.....	100
Fee for the issuance or renewal of a certificate of competency.....	145

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas, eff. 12•17•87; A 12•23•91; 12•13•95; R141•01, 7•30•2002; R014•03, 2•18•2004)

**NAC 590.245 Renewal of expired license; fees.** ([NRS 590.505](#), [590.515](#), [590.549](#)) The holder of a license who fails to renew his license before the license expires may have his license reinstated if, within 30 days after the license expires, he pays to the Board an amount equal to 115 percent of the annual fee for the license and a reinstatement fee of \$250. If the holder does not have his license reinstated within 30 days after it expires, he must apply for a new license and pay the fees for the issuance of a new license.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas by R141•01, eff. 7•30•2002)

**NAC 590.250 Plans required to be submitted with application for class 1, 2, 4 or 5 license; approval of plans.** ([NRS 590.505](#), [590.515](#), [590.549](#)) Detailed plans of the physical properties and facilities of any applicant or licensee must be submitted with each application for a class 1, 2, 4 or 5 license and must be approved by the Board before the commencement of construction or installation of any facilities. When required because of a structural modification of the original design, issues relating to safety, or the application or standards of engineering load practice, such plans must be approved by a professional engineer licensed pursuant to [chapter 625](#) of NRS before they are submitted to the Board.

[Liquefied Petroleum Gas Bd., part Liquid Gas Reg., eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91; 12•13•95; R014•03, 2•18•2004)

**NAC 590.255 Class 3 license: Examination.** ([NRS 590.505](#), [590.515](#), [590.549](#)) An applicant for a class 3 license must pass an oral and written examination conducted by the Board unless he is the holder of a certificate of competency issued pursuant to [NAC 590.340](#).

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas, eff. 12•13•95)

**NAC 590.260 Residence.** ([NRS 590.505](#), [590.515](#))

1. Every person licensed under the Nevada Liquefied Petroleum Gas Act, [NRS 590.465](#) to [590.645](#), inclusive, or in the case of a licensed company or corporation, its authorized manager or agent, shall:

(a) Maintain an actual bona fide residence within the immediate area or territory of his petroleum business and personally be qualified and available to cope with any emergency connected with the business; or

(b) Have available personnel who are qualified for any emergency within the meaning of the Act.

2. Any transfer or change in the residence of the licensee, or the manager or agent of a licensed company or corporation, outside the immediate area of the business must be reported to the Board no later than 10 days after actual removal or transfer from the location or address filed with the Board.

[Liquefied Petroleum Gas Bd., part Liquid Gas Reg., eff. 5•31•74]

**NAC 590.270 Insurance.** ([NRS 590.505](#), [590.515](#), [590.549](#)) Licensed firms must have insurance against liability for injury to persons and damage to property. The insurance must be kept and remain in force during the lifetime of the operation. Certificates showing such coverage must be on file in the office of the Board and in the office of the company. No license or renewal of a license will be issued without satisfactory proof of insurance unless the Board agrees to the financial responsibility of the applicant. The certificate can be either forwarded to the Board by the licensee or by the insurance company covering the operation of the licensee before the expiration of his license. The licensee must include a proof of insurance form with his request for renewal.

[Liquefied Petroleum Gas Bd., Rule 13, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91)

**NAC 590.280 Disclosure of information.** ([NRS 590.505](#), [590.515](#))

1. A person licensed pursuant to [NRS 590.465](#) to [590.645](#), inclusive, shall disclose the following information to his customers and prospective customers:

(a) The prices per unit of sales of LP gas, the effective dates of those prices and any figures required to convert those prices to prices per gallon, cubic feet and therms.

(b) Any charges for special deliveries, including, but not limited to:

(1) Charges for deliveries which are not on a scheduled route.

(2) Charges for bulk deliveries.

(3) Differences in minimum delivery prices.

(4) Charges for deliveries made on weekends or after hours.

(5) Initial charges and conditions for beginning service.

(c) The annual fee for renting a tank for LP gas.

2. Each time LP gas is delivered to a customer, the person licensed pursuant to [NRS 590.465](#) to [590.645](#), inclusive, shall disclose upon the delivery ticket:

(a) The volume of LP gas delivered;

(b) The price per gallon, cubic foot or therm of LP gas delivered; and

(c) The total amount of the sale.

3. The information required to be disclosed pursuant to subsection 1 must be:

(a) Disclosed by telephone request.

(b) Printed in a standard format established by the licensee and displayed conspicuously in the licensee's place of business not later than the beginning of the business day on which the prices and charges become effective. The licensee may include any additional information if he so desires.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas, eff. 7•19•90; A 10•17•94; R141•01, 7•30•2002)

**NAC 590.290 Holder of class 1 or class 2 license: Provision of certain information and notice; response to certain requests.** ([NRS 590.505](#), [590.515](#)) A person licensed by the Board pursuant to [NRS 590.575](#) in class 1 or class 2 shall:

1. Provide each of his customers and prospective customers with a written description of the minimum services the customer may reasonably expect to receive from the licensee;

2. Provide immediate response, regardless of the time of day, to a request for assistance in an emergency from any public safety agency or his customers regarding the use or storage of LP gas; and

3. If disconnection was not requested by the customer, notify the customer at least 48 hours in advance before disconnecting the service to that customer.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas, eff. 5•27•92)

**NAC 590.300 Qualified person required; issuance of identification card.** ([NRS 590.505](#),

[590.515](#), [590.549](#), [590.605](#))

1. No original license will be issued, and no license for an established dealer or firm will be renewed unless it appears to the satisfaction of the Board at the time of issuance or renewal that a qualified person who has been issued a certificate of competency pursuant to [NAC 590.340](#) is connected with the business and vested with supervisory authority. If, during the operation of a licensed firm pursuant to the provisions of [NRS 590.465](#) to [590.645](#), inclusive, the licensee no longer has a qualified person connected with the firm in a supervisory capacity, it constitutes grounds for revocation or suspension of the license pursuant to the provisions of [NRS 590.605](#).

2. Upon the issuance of an original license or the renewal of a license by the Board, the Board will issue to the qualified person connected with the licensee in a supervisory capacity a card which identifies him as the qualified person for that licensee.

3. The provisions of subsection 1 do not prohibit the management of a licensed LP gas business from having in its employ, a qualified person on a standby basis who is not vested with supervisory power or authority in the business.

[Liquefied Petroleum Gas Bd., Rule 9 § E, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91; 12•13•95)

**NAC 590.320 Certificate of competency: Examination.** ([NRS 590.505](#), [590.515](#), [590.549](#))

1. Each applicant for a certificate of competency must submit to an oral and written examination.

2. The Board may, upon good cause shown, require the holder of a certificate of competency to submit to an oral and written examination. The Board will provide to the holder at least 30 days' written notice of the time and place of the examination.

[Liquefied Petroleum Gas Bd., Rule 9 § B, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•13•95; R141•01, 7•30•2002)

**NAC 590.340 Certificate of competency: Issuance.** ([NRS 590.505](#), [590.515](#), [590.549](#)) Upon qualification or renewal as provided in [NAC 590.300](#) to [590.380](#), inclusive, a person will receive a certificate of competency, properly dated and numbered, from the Board.

[Liquefied Petroleum Gas Bd., Rule 9 part § F, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•13•95)

**NAC 590.350 Certificate of competency: Expiration.** ([NRS 590.505](#), [590.515](#), [590.549](#)) Each certificate of competency expires on June 30 of the third year following the year the certificate is issued.

[Liquefied Petroleum Gas Bd., Rule 9 § C & part § F, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•13•95; R141•01, 7•30•2002)

**NAC 590.360 Certificate of competency: Renewal.** ([NRS 590.505](#), [590.515](#), [590.549](#)) A person may renew a certificate of competency if he submits to the examination required pursuant to [NAC 590.320](#) not later than June 30 of the year in which the certificate expires.

[Liquefied Petroleum Gas Bd., Rule 9 § G, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•13•95; R141•01, 7•30•2002)

**NAC 590.380 Certificate of competency: Lapse; suspension; revocation; reapplication.** ([NRS 590.505](#), [590.515](#), [590.549](#))

1. If a certificate expires for failure to apply for renewal in a timely manner, a new certificate will be issued by the Board to the holder of the expired certificate only upon his passing an oral and written examination.

2. An order by the Board suspending a certificate will be followed in all cases by a further order:

(a) Vacating the order of suspension, thereby renewing the original certificate; or

(b) Permanently revoking the certificate.

3. Upon the suspension of a certificate, the Board will not renew the original certificate until the holder of the certificate passes the prescribed oral and written examination.

4. An application for the issuance of a new certificate will not be accepted, entertained or acted upon while an order of suspension of the certificate of the applicant is in effect.

5. If the Board has revoked a certificate pursuant to the provisions of [NRS 590.605](#), a new certificate will not be issued to the person whose certificate was revoked until he passes the prescribed oral and written examination.

6. A period of at least 6 months from the date of the order of revocation of a certificate must elapse before a person who has had a certificate revoked may reapply for examination and issuance of a new certificate.

[Liquefied Petroleum Gas Bd., Rule 9 § H, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•13•95; R141•01, 7•30•2002)

### Installations

#### **NAC 590.450 Installations for resale of gas.** ([NRS 590.505](#), [590.515](#), [590.519](#), [590.521](#))

1. Any installation built for the purpose of dispensing LP gas for resale must be approved by the Board before installation.

2. A detailed plan of piping, crash posts, fencing, tank size and clearances and other safety features must be submitted to, and be approved by, the Board before installation.

[Liquefied Petroleum Gas Bd., Rule 5, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91)

**NAC 590.460 Installation of tanks.** ([NRS 590.505](#), [590.515](#), [590.519](#), [590.521](#)) All loading and unloading connections at dealer plants must be secured to a steel bulkhead or an equivalent device designed to withstand a horizontal pull of at least 2,000 pounds in any direction unless other adequate protection is provided. This bulkhead must not be located underneath the tank. The loading and unloading connections must be firmly secured to the bulkhead, and the line between the bulkhead and tank must be installed in a manner to provide for expansion, contraction, jarring, vibrations and settling. The bulkhead must be located at least 25 feet away from the nearest important building or line of adjoining property. When in the opinion of the Board the bulkhead is necessary for the safety of the place of employment, it must be required at storage plants other than dealer plants.

[Liquefied Petroleum Gas Bd., Rule 6, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91)

**NAC 590.470 Skid tanks.** ([NRS 590.505](#), [590.515](#), [590.519](#), [590.521](#)) Unless installed in compliance with [NAC 590.450](#) to [590.530](#), inclusive, skid tanks must not be used at any location for more than 180 days without written approval from the Board.

[Liquefied Petroleum Gas Bd., Rule 7, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91)

#### **NAC 590.480 Installation of underground tank; removal of abandoned tank.** ([NRS 590.505](#), [590.515](#), [590.519](#), [590.521](#))

1. Permission to install an underground tank must be obtained from the Board before any commencement of work. The permission will be given to the dealer in writing with a copy placed on file in the office of the Board.

2. The form will have the name of the dealer installing the underground tank with the date of installation and all pertinent information pertaining to the type of tank, capacity, manufacturer and the date of manufacture.

3. When an underground tank is abandoned, that is no longer being serviced by the dealer, the tank

must be removed 90 days after termination of use or service. Before removal of any underground tank, the dealer must first notify the inspector.

[Liquefied Petroleum Gas Bd., Rule 12, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91)

**NAC 590.500 Transfer of gas.** ([NRS 590.505](#), [590.515](#), [590.519](#), [590.521](#), [590.610](#))

1. Except as may be authorized by variance granted by the Board upon a written application, no container of LP gas larger in capacity than 1 gallon may be filled for resale by gravity flow.

2. Any cylinder not equipped with an outage valve must be filled by weight.

[Liquefied Petroleum Gas Bd., Rule 4, eff. 5•31•74]

**NAC 590.520 Reports of accidents.** ([NRS 590.505](#), [590.515](#))

1. Any accident where a licensee is involved, and where it is possible that LP gas was a contributing factor, must be reported to the Board in writing by the affected licensee immediately upon receipt of information of the accident. The report must contain any pertinent information such as the location, names of persons involved and the type of accident.

2. If death or serious personal injury or injuries requiring hospitalization of persons or property damage of \$2,000 or more results from the accident, the report must be made to the Board by telephone and followed by a written report.

[Liquefied Petroleum Gas Bd., Rule 3, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91; 10•17•94)

**NAC 590.530 Condemnation of installations.** ([NRS 590.505](#), [590.515](#), [590.519](#), [590.521](#))

1. The safety inspector may condemn any installation that is faulty or hazardous and any container of LP gas that does not meet the requirements of this chapter.

2. Condemnation of any containers must be accomplished by attaching to the container a notice of condemnation with a seal.

3. The inspector shall notify the supplier and the property owner at the time he condemns any installation and inform them in writing of the condemnation with instructions that the violation must be corrected within 10 days or as otherwise specified by the inspector. A copy of the condemnation must be forwarded to the Board for its files.

4. The Board will furnish the appointed inspector with adequate identification issued by the State of Nevada.

[Liquefied Petroleum Gas Bd., Rule 1, eff. 5•31•74]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91)

### Containers

**NAC 590.540 Limitations regarding transportation.** ([NRS 590.505](#), [590.515](#), [590.519](#), [590.521](#))

In accordance with § 6-5.2.1 of Publication 58 issued by the National Fire Protection Association and adopted by reference in [NAC 590.600](#), the Board hereby specifies the following limitations regarding the transportation of containers which contain LP gas:

1. Without a permit issued pursuant to this section, a person shall not transport a container which has a volumetric water capacity of 125 or more gallons if the container contains more LP gas than 5 percent of its water capacity.

2. Except as otherwise provided in this subsection, the safety inspector employed by the Board may, through the issuance of a permit, authorize a licensee to transport such containers. In no case may the containers so transported exceed a volumetric water capacity of 600 gallons.

3. The safety inspector shall not issue such a permit unless the licensee applies for such a permit and, before the issuance of the permit, demonstrates to the inspector's satisfaction that the licensee possesses the equipment, trained personnel and personal expertise which are necessary to remove and

transport such containers safely.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas, eff. 5•27•92)

**NAC 590.550 Maintenance of access.** ([NRS 590.505](#), [590.515](#), [590.519](#), [590.521](#)) The person who has legal control of the premises upon which a container is installed shall, at all times, maintain clear access to that container for safety, service or removal.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas, eff. 5•27•92)

**NAC 590.560 Disconnection from service; removal at request of customer.** ([NRS 590.505](#), [590.515](#), [590.519](#), [590.521](#), [590.537](#))

1. Any person who disconnects a container from service shall immediately:

(a) Secure the container against tampering; and

(b) Secure the container against leakage by plugging the service valve or by any other method approved by the Board.

2. Upon receipt of a written request from a customer to remove a container from his premises, a person licensed by the Board pursuant to [NRS 590.575](#) in class 1 or class 2 shall, except as otherwise provided in subsection 3, remove the container within 30 days after the receipt of the request.

3. The time limitation set forth in subsection 2 may be extended:

(a) By not more than 15 days, if both the customer and licensee agree in writing to the extension;

(b) By not more than 30 days, if the safety inspector employed by the Board determines that extenuating circumstances, such as severe weather, necessitate the extension; or

(c) By more than 30 days, if the Board, upon the request of the customer or licensee, determines that circumstances necessitate the extension.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas, eff. 5•27•92)

#### Regulations Adopted by Reference

**NAC 590.600 Adoption of regulations for liquefied petroleum gas.** ([NRS 590.505](#), [590.515](#)) The Board adopts by reference the regulations contained in Publication 58, *Liquefied Petroleum Gas Code*, 2001 edition, and any subsequent edition issued by the National Fire Protection Association which has been approved by the Board for use in Nevada. Each new edition shall be deemed approved by the Board unless the edition is disapproved by the Board within 120 days after the date on which the Board receives the printed publication from the National Fire Protection Association. The Board will review each edition issued after the 2001 edition to ensure its suitability for Nevada. The most current edition that has been approved by the Board is available for purchase from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, by telephone at (800) 344-3555 or on the Internet at <[www.nfpa.org](http://www.nfpa.org)>, for the price of \$38.25.

[Liquefied Petroleum Gas Bd., part Liquid Gas Reg., eff. 2•25•73]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91; 12•13•95; R014•03, 2•18•2004)

**NAC 590.610 Adoption of regulations for fuel gas.** ([NRS 590.505](#), [590.515](#)) The Board adopts by reference the regulations contained in Publication 54, *National Fuel Gas Code*, 2002 edition, and any subsequent edition issued by the National Fire Protection Association which has been approved by the Board for use in Nevada. Each new edition shall be deemed approved by the Board unless the edition is disapproved by the Board within 120 days after the date on which the Board receives the printed publication from the National Fire Protection Association. The Board will review each edition issued after the 2002 edition to ensure its suitability for Nevada. The most current edition that has been approved by the Board is available for purchase from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, by telephone at (800) 344-3555 or on the Internet at <[www.nfpa.org](http://www.nfpa.org)>, for the price of \$38.25.

[Liquefied Petroleum Gas Bd., part Liquid Gas Reg., eff. 2•25•73]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91; 12•13•95; R014•03, 2•18•2004)

**NAC 590.620 Adoption of regulations for manufactured homes.** ([NRS 590.505](#), [590.515](#)) The Board adopts by reference the regulations contained in Publication 501A, *Standard for Fire Safety Criteria for Manufactured Home Installations, Sites and Communities*, 2000 edition, and any subsequent edition issued by the National Fire Protection Association which has been approved by the Board for use in Nevada. Each new edition shall be deemed approved by the Board unless the edition is disapproved by the Board within 120 days after the date on which the Board receives the printed publication from the National Fire Protection Association. The Board will review each edition issued after the 2000 edition to ensure its suitability for Nevada. The most current edition that has been approved by the Board is available for purchase from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, by telephone at (800) 344-3555 or on the Internet at <[www.nfpa.org](http://www.nfpa.org)>, for the price of \$24.50.

[Liquefied Petroleum Gas Bd., part Liquid Gas Reg., eff. 2•25•73]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91; 12•13•95; R014•03, 2•18•2004)

**NAC 590.640 Adoption of regulations for recreational vehicles.** ([NRS 590.505](#), [590.515](#)) The Board adopts by reference the regulations contained in Publication 1192, *Standard on Recreational Vehicles*, 2002 edition, and any subsequent edition issued by the National Fire Protection Association which has been approved by the Board for use in Nevada. Each new edition shall be deemed approved by the Board unless the edition is disapproved by the Board within 120 days after the date on which the Board receives the printed publication from the National Fire Protection Association. The Board will review each edition issued after the 2002 edition to ensure its suitability for Nevada. The most current edition that has been approved by the Board is available for purchase from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101, by telephone at (800) 344-3555 or on the Internet at <[www.nfpa.org](http://www.nfpa.org)>, for the price of \$28.75.

[Liquefied Petroleum Gas Bd., part Liquid Gas Reg., eff. 2•25•73]—(NAC A by Bd. for Reg. of Liquefied Petrol. Gas, 12•23•91; 12•13•95; R014•03, 2•18•2004)

#### Administrative Proceedings

**NAC 590.644 Definitions.** ([NRS 590.505](#), [590.515](#)) As used in [NAC 590.644](#) to [590.687](#), inclusive, unless the context otherwise requires:

1. “Licensee” includes:

- (a) A person who is licensed by the Board or who holds a certificate of competency issued by the Board pursuant to [NRS 590.465](#) to [590.645](#), inclusive, and [NAC 590.100](#) to [590.687](#), inclusive; and
- (b) An applicant for such a license or certificate.

2. “Presiding officer” means the Chairman of the Board or any member of the Board designated by the Chairman to preside over a hearing or matter before the Board.

3. “Staff” means the staff of the Board.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas by R014•03, eff. 2•18•2004)

**NAC 590.647 Staff of Board: Logging and recording of certain records.** ([NRS 590.505](#), [590.515](#)) The staff shall log and record all records relating to inquiries, requests for mediation and written complaints, including, without limitation, memos of relevant conversations, all correspondence relating to a request for mediation or a complaint, the minutes of any hearing and a copy of the resolution of the request for mediation or the complaint.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas by R014•03, eff. 2•18•2004)



**NAC 590.650 Filing of accusation against licensee; resolution of matter. ([NRS 590.505, 590.515](#))**

1. A person may file an accusation against a licensee concerning the prices, rates, services or other acts of the licensee. An accusation filed with a member of the staff against a licensee will be referred to the licensee if that member deems it necessary for possible resolution. An accusation filed against a licensee will be processed as a request for mediation unless the person filing the accusation specifically requests that disciplinary action be taken against the licensee.

2. If a person wishes to file an accusation against a licensee which does not specifically request that disciplinary action be taken against the licensee, a member of the staff shall send to the person a request for mediation and a referral list. The referral list will include the names of agencies to which the accusation may be referred. The person must complete the request for mediation and return it to the Board.

3. Upon the receipt of a completed request for mediation, a member of the staff shall send copies of the request for mediation to the licensee and, if applicable, the management of the licensee.

4. Within 15 days after receipt of the request for mediation, the licensee shall notify the staff as to whether the licensee and the person who filed the request for mediation were able to resolve the matter raised in the request for mediation.

5. If the licensee and the person who filed the request for mediation were not able to resolve the matter raised in the request for mediation, the Board will hold a hearing to mediate the accusation. The mediation hearing will be held in conjunction with a regularly scheduled meeting of the Board.

6. If the matter raised in the request for mediation cannot be resolved at the mediation hearing, the Board will advise the licensee and the person who filed the request for mediation of that fact and inform the person who filed the request for mediation of the option to file a disciplinary complaint against the licensee pursuant to [NAC 590.654](#).

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas, eff. 7•19•90; A by R014•03, 2•18•2004)

**NAC 590.654 Informal complaint: Filing and processing; notification of licensee; response; review and investigation; production and copying of records and other evidence. ([NRS 590.505, 590.515](#))**

1. A person may file a complaint with the Board concerning the acts of or services provided by a licensee if:

(a) The person wishes to file an accusation against the licensee and specifically requests that disciplinary action be taken against the licensee; or

(b) The person filed a request for mediation pursuant to [NAC 590.650](#) and the Board, the licensee and the person who filed the request for mediation were unable to resolve the matter raised in the request for mediation.

2. The Board will process:

(a) A citation issued by the Board pursuant to subsection 2 of [NRS 590.605](#); and

(b) If the circumstances so warrant, a petition under [NRS 233B.120](#),

as a complaint filed pursuant to this section.

3. The Board will initially consider any complaint filed against a licensee pursuant to this section as an informal complaint. The informal complaint must be verified by the affidavit of the complainant and be filed with the Board on a form provided by the Board. The complainant shall include with his informal complaint information that is sufficiently detailed so as to enable the licensee to prepare a response.

4. Upon receipt of an informal complaint, the staff shall examine the informal complaint to determine whether it:

(a) Has been properly verified; and

(b) Alleges sufficient facts to warrant further proceedings.

5. If the staff determines that an informal complaint has been properly verified and alleges sufficient

facts, the staff shall notify the licensee of the informal complaint by sending a copy or summary of the informal complaint to the licensee by certified mail. The notification must set forth the potential violations of [NRS 590.465](#) to [590.645](#), inclusive, or [NAC 590.100](#) to [590.687](#), inclusive, raised in the informal complaint and request a written response from the licensee for review by the staff. The licensee shall submit a written response to the informal complaint or summary to the Board:

(a) Not later than 15 days after the date on which the informal complaint or summary is personally served on the licensee; or

(b) If the informal complaint or summary is not personally served on the licensee, not later than 15 days after the date on which the informal complaint or summary is deposited in the United States mail as certified mail addressed to the licensee at his address of record.

6. A written response to an informal complaint or a summary must respond to the allegations made in the informal complaint or summary and be accompanied by all documentation that would be useful to the staff in its review of the allegations made in the informal complaint or summary and the responses of the licensee to those allegations. If a licensee fails to respond as required by this section, the licensee shall be deemed to have admitted the allegations in the informal complaint or summary. Based on these admissions, the Board may impose appropriate discipline on the licensee in the same manner as if the allegations had been proven by substantial evidence at a hearing on a formal complaint.

7. Upon the filing of a written response pursuant to this section, the staff shall review the informal complaint and the responses made thereto, may enlist the aid of any member of the Board or other qualified person in conducting the review and may take any other reasonable action necessary to further the review. After its review of the informal complaint and the responses made thereto, the staff may:

(a) Investigate the allegations and employ such persons as the staff deems necessary to further the investigation;

(b) Consult persons with expertise in the appropriate field and employ those persons for the purposes of an investigation or a hearing;

(c) Investigate new leads and allegations that the staff learns of in the course of the investigation;

(d) Enlist the aid of any member of the Board or other qualified person in conducting the investigation; and

(e) Take any other reasonable action necessary to further the investigation.

8. During an investigation of an informal complaint, the staff or an investigator for the Board may demand that a licensee produce any record or other evidence for inspection or copying, with or without prior notice to the licensee and with or without a subpoena. A licensee shall not deny a request for a record or other evidence if the record or other evidence is not otherwise declared to be confidential by a specific statute. If a licensee refuses or fails to cooperate with a request for a record or other evidence in violation of this section, the Board may immediately suspend his license or certificate until the licensee complies with the request. If the licensee continues to refuse or to fail to cooperate with such a request in violation of this section, the Board may take such further disciplinary action against the licensee as the Board determines necessary.

9. If the staff or investigator determines that a specific record or other specific evidence that the licensee is required to produce is material to or necessary for an investigation, the staff or investigator may remove the record or evidence and provide a copy of the record or evidence to the licensee. If a record or other evidence can be readily copied at the location where the record or evidence is located, the staff or investigator shall make a copy of the record or evidence at that location. If the record or other evidence cannot be readily copied at that location, the staff or investigator may remove the record or evidence from that location for copying.

10. Upon the removal of a record or other evidence pursuant to this section, the staff or investigator shall provide the person to whom the record or evidence belongs with a receipt for the record or evidence and, not later than 5 business days after the record or evidence is removed, provide a copy of the record or evidence to that person.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas by R014•03, eff. 2•18•2004)

**NAC 590.657 Procedure following investigation of informal complaint; notice of hearing and formal complaint; answer.** ([NRS 590.505](#), [590.515](#))

1. When the investigation of an informal complaint is complete, the staff and, if applicable, the investigator for the Board shall determine whether substantial evidence exists to sustain the alleged violation of a statute or regulation set forth in the informal complaint. If the staff and investigator determine that no such allegation set forth in the complaint can be sustained, the staff shall notify, in writing, the complainant and licensee of that determination.

2. If the staff and investigator determine that a violation of a statute or regulation as alleged in the complaint can be sustained, the legal counsel for the Board shall:

(a) Offer to the complainant and licensee mediation, a settlement agreement, a stipulation of facts and liability, or an informal hearing; or

(b) Prepare a notice of hearing and a formal complaint.

3. If any mediation, settlement agreement, stipulation of facts and liability, or informal hearing offered by the legal counsel for the Board pursuant to paragraph (a) of subsection 2 fails to resolve the matter, the legal counsel for the Board shall prepare a notice of hearing and a formal complaint pursuant to paragraph (b) of subsection 2.

4. In addition to the requirements set forth in [NRS 233B.121](#), a notice of hearing and a formal complaint must be signed by the legal counsel for the Board and, if a member of the Board was active in the investigation, by that member.

5. The staff shall send a notice of hearing and a formal complaint prepared pursuant to this section to the licensee named in the notice by certified mail.

6. A licensee who receives a notice of hearing and a formal complaint shall file an answer to the notice of hearing and the formal complaint with the Board:

(a) Not later than 15 days after the date on which the notice of hearing and the formal complaint are personally served on the licensee; or

(b) If the notice of hearing and the formal complaint are not personally served on the licensee, not later than 15 days after the date on which the notice of hearing and the formal complaint are deposited in the United States mail as certified mail addressed to the licensee at his address of record.

7. An answer to a notice of hearing and a formal complaint must include a response to each allegation and statement made in the notice of hearing and the formal complaint by either admitting to or denying the allegation or statement.

8. If a licensee fails to file an answer as required by this section, the licensee shall be deemed to have admitted each allegation and statement contained in the notice of hearing and the formal complaint. Based on these admissions, the Board may enter a finding and impose appropriate discipline on the licensee in the same manner as if the allegations had been proven by substantial evidence at a hearing held on the formal complaint.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas by R014•03, eff. 2•18•2004)

**NAC 590.660 Joining of formal complaints.** ([NRS 590.505](#), [590.515](#)) The Board may join two or more formal complaints into one formal complaint if:

1. The causes of action of each formal complaint are against the same person and deal with substantially the same or similar violations of statutes or regulations; and

2. The Board determines that the joining of the formal complaints will serve the best interests of the Board and the parties involved.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas by R014•03, eff. 2•18•2004)

**NAC 590.664 Exchange of copies of documents and lists of witnesses.** ([NRS 590.505](#), [590.515](#))

1. Not later than 10 days after a licensee files an answer to a notice of hearing and a formal complaint pursuant to [NAC 590.657](#), the legal counsel for the Board and the licensee shall provide to each other, respectively:

(a) Copies of all documents that are reasonably available to him which he reasonably anticipates will

be used to support his position; and

(b) A written list of the names of the witnesses whom he reasonably anticipates calling to testify at the hearing to support his position. The list must include the name and address, and a general description of the anticipated subject matter of the testimony, of each such witness.

2. If, after initially providing the copies of documents and the list of witnesses pursuant to subsection 1, the legal counsel for the Board or the licensee reasonably anticipates that other documents or witnesses will be used to support his position, or if any document or information previously provided changes, he shall forthwith supplement and update his submission to the other party.

3. If the legal counsel for the Board or the licensee fails to provide copies of documents or the list of witnesses, or any updated information relating thereto, as required by this section, the presiding officer may exclude the undisclosed document, the testimony of the undisclosed witness or the undisclosed information at the hearing.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas by R014•03, eff. 2•18•2004)

**NAC 590.667 Discovery.** ([NRS 590.505](#), [590.515](#)) Discovery may only be undertaken in accordance with [NAC 590.644](#) to [590.687](#), inclusive. The Board will not allow the taking of depositions.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas by R014•03, eff. 2•18•2004)

**NAC 590.670 Prehearing conference; orders and rulings on preliminary matters.** ([NRS 590.505](#), [590.515](#))

1. The presiding officer may order a prehearing conference on a formal complaint and may enter such prehearing orders and rulings on preliminary matters as he determines are appropriate for the efficient conduct of the hearing on the formal complaint. Such orders and rulings may include, without limitation, orders and rulings concerning:

(a) The exchange of written direct testimony of witnesses.

(b) The exclusion of particular testimony or evidence.

(c) The admission of particular testimony and other exhibits by agreement of the parties.

(d) The marking in advance of all exhibits.

(e) The exchange by the parties of written prehearing statements or briefs similar to pretrial statements or briefs filed in district court.

(f) Settlement negotiations. Settlement negotiations, and the statements of the parties relating thereto, made at a prehearing conference are not admissible in evidence at the hearing unless the parties agree and the agreement is incorporated in a prehearing order.

(g) Scheduling matters.

(h) Protective orders.

(i) The admissibility of evidence.

(j) Any other procedural or prehearing matter.

2. A ruling on a preliminary matter is subject to reconsideration by the entire Board upon the request of a member of the Board or upon the motion of a party.

3. The failure of a party who is adversely affected by a ruling on a preliminary matter to move for reconsideration of the ruling does not constitute:

(a) Consent to the ruling; or

(b) A waiver of any objection previously made to the ruling.

4. For the purposes of this section, a matter is a preliminary matter if it is not dispositive of a contested case or a substantive issue in a contested case.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas by R014•03, eff. 2•18•2004)

**NAC 590.674 Motions.** ([NRS 590.505](#), [590.515](#))

1. A motion concerning any matter before the Board must be made in writing, unless the motion is made during a hearing on that matter. The presiding officer may deny as untimely:

(a) Any motion made during a hearing if the motion could have reasonably been made before the hearing; and

(b) Any motion that is filed on a date that does not provide the opposing parties a reasonable time to respond.

2. A written motion must set forth the nature of the relief sought by and the grounds for the motion.

3. A party may oppose a written motion by filing a written response to the motion with the Board and serving a copy of the response on all other parties to the proceeding to which the motion relates within 10 days after the written motion is filed.

4. If a written response to a written motion is filed, the party who made the written motion may file and serve a written reply to the response.

5. Except as otherwise provided in this section, the presiding officer shall rule on all written motions on a matter at or before the hearing scheduled on the matter. The presiding officer may rule on any motion without oral argument or may allow oral arguments to be made before ruling on the motion. If the presiding officer allows oral arguments on a written motion to be made, the presiding officer shall set a time and date for hearing the oral arguments.

6. The presiding officer may require the Board to vote to decide a motion.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas by R014•03, eff. 2•18•2004)

**NAC 590.677 Hearings: Procedure; documents included in record; posthearing briefs.** ([NRS 590.505](#), [590.515](#)) For any hearing before the Board:

1. The presiding officer shall call the hearing to order and take the appearances on behalf of the Board and the licensee.

2. The notice of hearing, any petition, answer, response or written stipulation, and if the hearing concerns a disciplinary matter, the notice of hearing and the formal complaint and any other responsive pleading relating thereto, become a part of the record without being read into the record unless a party requests that such a document be read into the record.

3. The legal counsel for the Board shall present the evidence for the Board first and, if the Board allows closing arguments, shall present the closing argument for the Board last.

4. Unless otherwise ordered by the presiding officer, and except as otherwise provided in this section, the order of presentation is as follows:

(a) Opening statement by the legal counsel for the Board.

(b) Opening statement by the respondent or the attorney for the respondent, who may choose to make the opening statement at the beginning of the respondent's case.

(c) Testimony of witnesses offered by the legal counsel for the Board as follows:

(1) Direct examination by the legal counsel for the Board;

(2) Cross-examination by the respondent or the attorney for the respondent;

(3) Redirect examination by the legal counsel for the Board; and

(4) Recross-examination by the respondent or the attorney for the respondent.

(d) Testimony of witnesses offered by the respondent, as follows:

(1) Direct examination by the respondent or the attorney for the respondent;

(2) Cross-examination by the legal counsel for the Board;

(3) Redirect examination by the respondent or the attorney for the respondent; and

(4) Recross-examination by the legal counsel for the Board.

(e) If applicable, closing arguments by the respondent or the attorney for the respondent.

(f) If applicable, closing arguments by the legal counsel for the Board.

5. A member of the Board may, at any time during the hearing:

(a) Question a witness; and

(b) Request or allow additional evidence, including additional or documentary evidence.

6. If the hearing is a consolidated hearing, the hearing must proceed in the same manner as described in this section with the order of the parties and the presentation of evidence to be determined by the presiding officer.

7. Posthearing briefs may be allowed by the presiding officer or upon a majority vote of the members of the Board. If such briefs are allowed, the Board will establish the time by which the briefs must be submitted

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas by R014•03, eff. 2•18•2004)

**NAC 590.680 Hearings: Appearance and representation of parties.** ([NRS 590.505](#), [590.515](#))

1. Except as otherwise provided in subsection 2, a party may appear at a hearing in person or by an attorney.

2. A party to a formal complaint shall attend the evidentiary hearing on the merits of the formal complaint in person unless the presiding officer waives the requirement of the attendance of the party.

3. If a party who is required to attend a hearing in person fails to do so without having obtained a waiver of the requirement of his attendance pursuant to subsection 2, the Board may:

(a) Determine that his failure to attend the evidentiary hearing in person shall be deemed:

(1) An admission of all matters and facts contained in the record with respect to the party; and

(2) A waiver of the right to an evidentiary hearing; and

(b) Take action based upon such admission or upon any other evidence, including affidavits, without any further notice or a hearing.

4. If a party retains an attorney to represent him before the Board, the attorney shall so notify the Board not later than 10 days after he is retained. Thereafter:

(a) The attorney shall sign all motions, oppositions, notices, requests and other papers, including requests for subpoenas; and

(b) The Board will serve all notices, motions, orders, decisions, and other papers or pleadings upon the attorney.

5. An attorney appearing as counsel in any proceeding must be an attorney at law, admitted to practice and in good standing before the highest court of any state. If the attorney is not admitted and entitled to practice before the Supreme Court of Nevada, he must be associated with an attorney so admitted and entitled to practice.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas by R014•03, eff. 2•18•2004)

**NAC 590.684 Disciplinary proceedings: Grounds for discipline.** ([NRS 590.505](#), [590.515](#)) The following acts and omissions by a licensee are grounds for discipline:

1. Violating any provision of [NRS 590.465](#) to [590.645](#), inclusive, or [NAC 590.100](#) to [590.687](#), inclusive.

2. Failing to cooperate with the Board in the investigation of a request for mediation, an informal complaint or a formal complaint, including, without limitation, failing to file a written response as required by [NAC 590.654](#) and failing to file an answer as required by [NAC 590.657](#).

3. Failing to respond to a request for mediation.

4. Failing to attend a disciplinary hearing without having obtained a waiver of the requirement of his attendance.

5. Conducting business after his license or certificate of competency has lapsed if the license or certificate has not been renewed.

6. Conducting business after the insurance required by [NAC 590.270](#) has lapsed if the insurance has not been renewed.

7. Willfully making a false report, record or claim in his business.

8. Failing to comply with a settlement agreement, an order of the Board or any other disposition of a prior disciplinary action or mediation.

9. Advertising his business in a manner that is:

(a) False; or

(b) Intended or has a tendency to:

(1) Deceive or mislead the public; or

(2) Create unrealistic expectations in any particular case.

10. Engaging in any other conduct that the Board determines constitutes unfitness or incompetence to engage in activities that are authorized by his license.

11. Acting or conducting his operations in any manner which the Board deems to be inimical to and not in the best interests of the health, safety or welfare of the people of this State.

12. Being subject to disciplinary action in which a board or any other similar entity in this State or in another state which has issued a license, certificate, registration or other credential in a related field to the licensee revokes or suspends the license, certificate, registration or other credential or takes any other disciplinary action against the licensee. As used in this subsection, a "license, certificate, registration or other credential in a related field" includes, without limitation, a general contractor's license and a steam fitter's license.

13. Delivering a lesser quantity of gas than the amount for which he bills a customer with the intent to defraud the customer.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas by R014•03, eff. 2•18•2004)

**NAC 590.687 Disciplinary proceedings: Final order or decision of Board. ([NRS 590.505](#), [590.515](#))**

1. After an evidentiary hearing on the merits in a disciplinary proceeding, if the Board finds that the licensee is:

(a) Not guilty as charged in the formal complaint, the Board will issue a final order or decision dismissing the charges and notify the licensee and the complainant that the charges have been dismissed.

(b) Guilty as charged in the formal complaint, the Board will:

(1) Before agreeing on a punishment, consider all relevant factors, including, without limitation:

(I) The danger to the health or safety of the public created by the violation;

(II) The economic benefit received by the licensee from the violation;

(III) Any mitigation or aggravation by the licensee of the effects of the violation;

(IV) The extent to which the licensee demonstrates his good faith;

(V) Any previous history of violations by the licensee;

(VI) Whether the licensee knew or, as a competent person, should have known that the action complained of was a violation of a statute, a regulation or a condition of his license;

(VII) Whether the licensee has initiated remedial measures to prevent similar violations;

(VIII) The magnitude of penalties imposed on other licensees for similar violations;

(IX) The proportionality of the penalty in relation to the misconduct; and

(X) If the licensee offered evidence of mitigating factors, all such evidence;

(2) Agree upon punishment that may, in addition to any other sanction authorized pursuant to [NRS 590.465](#) to [590.645](#), inclusive, and [NAC 590.100](#) to [590.687](#), inclusive, require the licensee to:

(I) Fulfill certain training or educational requirements; and

(II) Pay all costs incurred by the Board relating to the disciplinary proceedings; and

(3) Issue and serve the final order or decision of the Board on the licensee.

2. A final order or decision by the Board that is adverse to the licensee must:

(a) Be in writing;

(b) Except as otherwise provided in subsection 5 of [NRS 233B.121](#), include findings of fact and conclusions of law; and

(c) Specifically set forth the punishment imposed on the licensee.

3. A final order or decision of the Board in a disciplinary proceeding is effective on the earliest of:

(a) The date on which the final order or decision is personally served on the licensee;

(b) The date on which the final order or decision is posted at the premises of the licensee; or

(c) The third day after the date on which the final order or decision is deposited in the United States mail as certified mail addressed to the licensee at his address of record.

(Added to NAC by Bd. for Reg. of Liquefied Petrol. Gas by R014•03, eff. 2•18•2004)

**CLEANUP OF DISCHARGED PETROLEUM**

**NAC 590.700 Definitions.** ([NRS 590.830](#)) As used in [NAC 590.700](#) to [590.790](#), inclusive, unless the context otherwise requires:

1. "Board" means the Board to Review Claims.
  2. "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.
  3. "Fund" means the Fund for Cleaning Up Discharges of Petroleum.
  4. "Portable storage tank" means a storage tank with a capacity of 60 gallons or more that is used above the ground and may be moved without disassembly of the tank to more than one location for the temporary storage of petroleum.
  5. "Registered storage tank" means a storage tank operated by a person who is required to or who elects to register it.
  6. "Storage tank" has the meaning ascribed to it in [NAC 590.710](#).
- (Added to NAC by Bd. to Review Claims, eff. 6•15•90; A 12•23•91; 1•22•96; R001•99, 11•19•99)

**NAC 590.710 Interpretation of certain statutory terms.** ([NRS 590.830](#))

1. For the purposes of [NRS 590.700](#) to [590.920](#), inclusive, the Board interprets:
  - (a) "Costs for cleaning up" to mean any expense of corrective action necessitated by a discharge from a storage tank. The term does not include:
    - (1) The expense of any bond posted to release a writ of attachment;
    - (2) Any expense incurred by an operator to investigate or defend any claim or suit, except any such expense incurred at the request of the Board;
    - (3) Any expense taxed against the operator as costs of suit in a suit or administrative proceeding;
    - (4) Any award of prejudgment interest, except for interest awarded on that part of the judgment paid by the Fund;
    - (5) Any expense of repairing, replacing or upgrading any storage tank or its contents;
    - (6) Any expense incurred by an operator during the transportation, loading or unloading of a portable storage tank; and
    - (7) Any loss of income or revenue of the business of an operator that is incurred by an operator during a corrective action necessitated by a discharge.
  - (b) "Damages" to mean any money the operator of a storage tank becomes legally obligated to pay as damages because of bodily injury or property damage to any person other than the State or the operator caused by a discharge. The term does not include:
    - (1) Any expense excluded from the definition contained in paragraph (a);
    - (2) Any obligation of the operator imposed pursuant to any statute providing benefits for workers' compensation, disability or unemployment compensation;
    - (3) Any bodily injury to an employee of the operator, or the spouse, parent, brother or sister of the employee, arising out of and in the course of the employee's employment by the operator. This exclusion applies whether the operator may be liable as an employer or in any other capacity, and to any obligation to share damages with or reimburse another person who must pay damages because of the injury;
    - (4) Any obligation of the operator imposed by a contractual assumption of liability; or
    - (5) Any expense incurred by an operator during the transportation, loading or unloading of a portable storage tank.
  - (c) "Emergency action" to mean any action that:
    - (1) Stops the release of petroleum;
    - (2) Identifies or mitigates existing or potential hazards from fire, explosion, vapor or other hazards associated with a release; or
    - (3) Prevents the migration of petroleum which poses a substantial imminent threat to the environment.



(d) “Site” to mean the facility, whether situated on a single parcel or on multiple adjacent parcels, where the tank is located.

(e) “Small business” to mean a business which receives less than \$500,000 in gross annual receipts from the site where the tank is located, based upon the average annual gross receipts for the following period:

(1) If the business has been in operation for 5 or more fiscal years on the date on which the discharge is discovered, the 5 fiscal years immediately preceding the date on which the discharge was discovered; or

(2) If the business has been in operation for less than 5 fiscal years on the date the discharge is discovered, the total number of years the business has been in operation.

(f) “Storage tank” to mean any tank, including any connected pipes, used to contain an accumulation of petroleum. The term does not include any tank that is:

(1) Exempted from the provisions of [NRS 590.700](#) to [590.920](#), inclusive, unless the operator of the tank chooses to register it pursuant to paragraph (b) of subsection 1 of [NRS 590.920](#);

(2) Excluded from the definition of “underground storage tank” in 40 C.F.R. § 280.12, except that a farm or residential tank having a capacity of 1,100 gallons or less and that is used for storing motor fuel for noncommercial purposes is a storage tank;

(3) Permanently closed in accordance with [NAC 459.9972](#) and 40 C.F.R. § 280.71; or

(4) Not federally regulated which is permanently closed in accordance with a rule or an ordinance of a local governmental entity.

2. As used in this section:

(a) “Bodily injury” means any injury, sickness, disease or death suffered by a person as a proximate result of a discharge.

(b) “Property damage” means any actual injury to real or tangible personal property, loss of use of the property, or both, occurring as a proximate result of a discharge.

(c) “Suit” means any civil proceeding in which damages are sought for which the Fund is potentially liable. The term includes any arbitration proceeding in which such damages are sought, to which the operator must submit or to which he submits with the consent of the Board.

(Added to NAC by Bd. to Review Claims, eff. 6•15•90; A 12•23•91; 1•22•96)

**NAC 590.714 Designation as “small business.”** ([NRS 590.830](#)) To be designated as a small business as described in paragraph (e) of subsection 1 of [NAC 590.710](#), an operator must submit the following to the Division:

1. Copies of forms reporting federal income tax which show the operator’s gross annual receipts for the following period:

(a) If the business has been in operation for 5 or more fiscal years on the date on which the discharge is discovered, the 5 fiscal years immediately preceding the date on which the discharge was discovered; or

(b) If the business has been in operation for less than 5 fiscal years on the date the discharge is discovered, the total number of years the business has been in operation.

2. Any other information requested by the Division which is necessary to determine whether the operator is a small business.

(Added to NAC by Bd. to Review Claims, eff. 1•22•96)

**NAC 590.720 Adoption by reference of provisions of Code of Federal Regulations.** ([NRS 590.830](#)) The Board hereby adopts by reference the provisions of 40 C.F.R. §§ 280.12, 280.40 to 280.45, inclusive, 280.50, 280.53, 280.70 and 280.71 as they existed on July 1, 1990. A copy of the volume containing these provisions may be obtained at a cost of \$22 from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

(Added to NAC by Bd. to Review Claims, eff. 6•15•90; A 12•23•91)

**NAC 590.730 Annual registration of storage tanks; letters of coverage. ([NRS 590.830](#), [590.850](#))**

1. Except as otherwise provided in this subsection, each operator of a registered storage tank shall, on or before October 1 of each year, pay a fee for registration in the amount of \$100 and submit an application for registration to the Division in the form prescribed by the Board. An application for registration is not required from an operator who has filed with the Division Form 7530-1, "Notification for Underground Storage Tanks," adopted by the United States Environmental Protection Agency.

2. The Division will bill the operator for the annual registration fee not less than 30 days before the date the fee is due. The failure of an operator to receive a bill does not relieve him of his obligation to pay the fee on or before the date it is due.

3. Upon compliance by the operator with the provisions of subsection 1, the Division will issue a letter evidencing the coverage provided by [NRS 590.880](#) or [590.890](#), whichever applies. The letter will:

- (a) Include the name and address of the facility at which the storage tank is located, together with any other information required to identify the storage tank; and
- (b) Set forth the amount of money available in the Fund, as of the date of the letter, to pay costs or damages resulting from any discharge from the storage tank.

4. After January 1, 1992, if a discharge from a storage tank is discovered during a period in which the annual registration fee for that storage tank is delinquent, the Division will not use money in the Fund to pay costs or damages resulting from any discharge from that storage tank.

(Added to NAC by Bd. to Review Claims, eff. 6•15•90; A 12•23•91; 10•16•95)

**NAC 590.740 Testing storage tanks for tightness; visual inspections. ([NRS 590.830](#), [590.870](#))**

1. Except as otherwise provided in this section, each operator of a registered storage tank shall perform or cause to be performed a test of the storage tank for tightness in accordance with the provisions of [NAC 459.994](#) and the schedule contained in 40 C.F.R. § 280.40(c).

2. A registered storage tank that is above ground must be inspected visually by the operator at least twice each year. A portable storage tank must be inspected visually by the operator immediately before and after the portable storage tank is relocated. The operator of a registered storage tank or a portable storage tank shall maintain a record of each such inspection on a form approved by the Division.

(Added to NAC by Bd. to Review Claims, eff. 6•15•90; A 12•23•91; 1•22•96)

**NAC 590.750 Financial responsibility of operators. ([NRS 590.830](#))** Upon request, an operator of a registered storage tank shall submit to the Division evidence of his financial responsibility. An operator may demonstrate his financial responsibility in any manner permitted by [NAC 459.995](#).

(Added to NAC by Bd. to Review Claims, eff. 6•15•90; A 12•23•91)

**NAC 590.760 Discharges: Duties of operators. ([NRS 590.830](#), [590.870](#))**

1. The operator of a storage tank shall report any discharge promptly in accordance with the requirements of [NAC 445A.347](#) and 40 C.F.R. §§ 280.50 and 280.53.

2. As soon as possible after the discharge, the operator shall submit to the Division an application for coverage by the Fund for the discharge. The application for coverage must be submitted on the form prescribed by the Division and must include:

- (a) A written description of how, when and where the discharge occurred;
- (b) A description of any damage known to the operator to have been caused by the discharge; and
- (c) If the services of a person certified as an environmental manager pursuant to [NAC 459.972](#) or [459.9724](#) have been obtained, the name of that person.

3. The operator shall take all reasonable steps to protect the site of the discharge from further damage.

4. The operator shall:

- (a) Prepare and maintain a record of all costs incurred by him in cleaning up the discharge.

(b) Permit the Division to inspect any property or records relating to the discharge or damage caused by the discharge.

(c) Notify the Division if the cost of:

(1) An emergency action; or

(2) The initial response actions and abatement measures prescribed by 40 C.F.R. §§ 280.61 and 280.62,  $\bar{E}$  will exceed \$5,000.

(d) If the operator is seeking reimbursement by the Fund for the costs of cleaning up the tank or of liability for damages, unless an employee of the operator will be providing services that are exempted from the provisions of [NAC 459.970](#) to [459.9729](#), inclusive, by subsection 1 of [NAC 459.9718](#), obtain the services of a person who is certified as an environmental manager pursuant to [NAC 459.972](#) or [459.9724](#).

(e) Obtain approval from the Division or secure not less than three competitive bids for a task included in a corrective action that costs more than \$3,000 if:

(1) The corrective action necessitated by a discharge from a storage tank is not an emergency pursuant to paragraph (c) of subsection 1 of [NAC 590.710](#); and

(2) The operator is seeking reimbursement by the Fund for the costs of cleaning up the tank or of liability for damages.

(Added to NAC by Bd. to Review Claims, eff. 6•15•90; A 12•23•91; 1•22•96)

**NAC 590.765 Operator to notify Division of civil action for damages; submission of order of judgment or settlement agreement required for payment from Fund. ([NRS 590.830](#))**

1. An operator shall notify the Division of a civil action brought against him by another person for damages alleged to have been caused by a discharge from the storage tank of the operator. The notice must be in writing and submitted to the Division within 60 days after the date the operator is properly served with the summons and a copy of the complaint that commenced the civil action.

2. The Board may:

(a) Consider failure to notify the Division pursuant to the provisions of subsection 1 as a basis for denial of payment from the Fund.

(b) Excuse a failure to provide notice pursuant to the provisions of subsection 1 upon demonstration of good cause for the failure to comply.

3. An operator who is required to provide notice pursuant to the provisions of subsection 1 and who seeks payment from the Fund for liability for damages must submit, as a supporting document:

(a) A copy of a final judgment which has been entered with a court and which orders the operator to pay damages; or

(b) If the operator and the other party to the civil action settled the claim, a copy of the settlement agreement.

$\bar{E}$  The Board will not authorize payment from the Fund unless it has received the order of judgment or it has received the settlement agreement and has approved the terms of such agreement.

(Added to NAC by Bd. to Review Claims by R001•99, eff. 11•19•99)

**NAC 590.770 Discharges: Authority of Administrator of Division. ([NRS 590.830](#))** If a discharge occurs from a storage tank, the Administrator of the Division may, at such times as are reasonably required:

1. Question the operator of the tank, under oath, about any matter relating to the discharge; and

2. Examine the books and records of the operator.

(Added to NAC by Bd. to Review Claims, eff. 6•15•90)

**NAC 590.774 Factors considered in determining necessity for cleanup of discharge from certain storage tanks. ([NRS 590.830](#))** In determining whether cleaning up a discharge from a storage

tank:

1. Which has a capacity of 1,100 gallons or less; and
  2. Is used to store heating oil for consumption on the same premises where the oil is stored,
- È is necessary to protect the environment or the public health and safety, the Division may consider the factors listed in subsection 1 of [NAC 459.9973](#).

(Added to NAC by Bd. to Review Claims, eff. 1•22•96)

**NAC 590.780 Form of claim for reimbursement; time limitations for filing claims for reimbursement; payment to operator, vendor or contractor; payment required of operator; payment of per diem allowance and travel expenses. ([NRS 590.830](#))**

1. An operator, vendor or contractor who seeks to be reimbursed by the Fund for costs or liability for damages resulting from a discharge must submit to the Division a verified claim for reimbursement in the form prescribed by the Board along with any supporting documents required to substantiate his eligibility for reimbursement. An initial claim must be submitted within 12 months after the date on which the operator, vendor or contractor knew or should have known of the discharge and the final claim must be submitted within 12 months after the completion of the corrective action necessitated by the discharge. The Board will not accept a claim after either deadline unless the operator, vendor or contractor demonstrates good cause for the failure to comply with the deadline.

2. The operator shall provide any additional information required by the Board in order to determine his eligibility for payment from the Fund.

3. The Board may authorize payment from the Fund to:

- (a) An operator;
- (b) A vendor;
- (c) A contractor; or
- (d) Any combination of persons listed in paragraph (a), (b) or (c), jointly.

4. If money from the Fund is paid to an operator before the operator pays a vendor or contractor, or both, the operator shall:

- (a) Pay the vendor or contractor, or both; and
- (b) Not more than 30 days after receiving the money from the Fund, provide the Division with confirmation of payment to the vendor or contractor, or both, of the money paid by the Board.

5. If an operator fails to pay a vendor or contractor for costs approved and paid by the Board within 30 days, the operator shall reimburse the Board for the money paid by the Board.

6. If an operator is entitled to receive payment for his necessary expenses for the costs of cleaning up, the Board will authorize payment of the per diem allowance and travel expenses at the same rate provided for state officers and employees generally.

7. As used in this section, "claim" or "claim for reimbursement" means a request for reimbursement by the Fund of a sum of money, accompanied by the required supporting documents. The term does not include an application for coverage under the Fund.

(Added to NAC by Bd. to Review Claims, eff. 6•15•90; A 12•23•91; 11•3•92; A by Div. of Environmental Protec., 1•10•94; A by Bd. to Review Claims, 1•22•96)

**NAC 590.790 Severability of provisions. ([NRS 590.830](#))** If any provision of [NAC 590.700](#) to [590.780](#), inclusive, or the application of the provision to any person, thing or circumstance is held invalid, it is intended that the invalidity not affect the remaining provisions, or their application, that can be given effect without the invalid provision or application.

(Added to NAC by Bd. to Review Claims, eff. 6•15•90)

#### FEE FOR IMPORTATION OF PETROLEUM PRODUCTS

**NAC 590.800 Payment by dealer. ([NRS 590.840](#))**

1. A dealer in petroleum products who is licensed in this State must pay the fee imposed by [NRS](#)

**590.840** if:

- (a) He imports gasoline, gasohol, aviation fuel, diesel fuel of grade number 1 or 2 or heating oil into this State; or
  - (b) He deals in any product listed in paragraph (a) that is refined in this State.
2. The fee must be remitted on the dealer's monthly tax report.  
(Added to NAC by Dep't of Taxation, eff. 8•2•90)

**NAC 590.810 Provision of refund or credit for exportation. ([NRS 590.840](#))**

1. The fee paid for a petroleum product may be refunded, or a credit may be given, upon proper application and proof that the product was exported from this State. A credit or refund will only be given to the exporter of record. Any refund must be applied for within 3 months after the date of exportation.

2. A dealer in petroleum products who is not licensed in this State pursuant to [NRS 365.270](#) must submit with his application for a refund:

- (a) An invoice of the original purchase which indicates the fee was paid to his vendor; and
- (b) Proof that the product was exported,

Ê before the fee will be refunded.

3. A dealer in petroleum products who is licensed in this State may take a credit in lieu of a refund on his monthly fuel tax report if the report is documented on the forms prescribed by the Department to detail all acquisitions and disbursements.

4. For the purpose of this section, proof of exportation includes, but is not limited to:

- (a) An export manifest; or
- (b) A report of a dealer declaring the import to the receiving state.

(Added to NAC by Dep't of Taxation, eff. 8•2•90)