

Chapter 701 of NAC

LCB File No. T006-06

**PROPOSED TEMPORARY REGULATION OF THE
DIRECTOR OF THE OFFICE OF ENERGY**

**NOTICE OF INTENT TO ADOPT TEMPORARY REGULATIONS,
NOTICE OF WORKSHOP AND NOTICE OF HEARING**

**Notice of workshop and hearing for the amendment of
Regulations adopting the
Leadership in Energy and Environmental Design Green Building
Rating System for Nonpublic Buildings**

September 1, 2006

The Director of the Office of Energy is proposing the amendment of regulations to chapter 701 of the Nevada Administrative Code (NAC). The Office of Energy will hold a public workshop to solicit comments from interested persons on the proposed temporary regulations in this matter as follows:

WORKSHOP:

MONDAY OCTOBER 9, 2006

10 a.m.
Hearing Room A
Public Utilities Commission of Nevada
1150 E. William Street
Carson City, Nevada 89701

VIA VIDEOCONFERENCE TO:

Hearing Room A
Public Utilities Commission of Nevada
101 Convention Center Drive, Suite 250
Las Vegas, Nevada 89109

The purpose of the workshop is to solicit comments from interested persons on the following general topics addressed in the proposed regulations: To amend certain portions of the Leadership in Energy and Environmental Design Green Building Rating System for use in this State with regard to nonpublic buildings or structures for the purposes of determining eligibility for certain tax abatements or tax exemptions and providing other matters related thereto.

The Director of the Office of Energy will hold a public hearing for the purpose of ordering the adoption of regulations that pertain to chapter 701 of the Nevada Administrative Code (NAC) and soliciting comments from interested persons regarding the same. The hearing will be held on the proposed regulations in this matter as follows:

HEARING:

MONDAY OCTOBER 9, 2006

UPON CONCLUSION OF THE WORKSHOP

Hearing Room A
Public Utilities Commission of Nevada
1150 E. William Street
Carson City, Nevada 89701

VIA VIDEOCONFERENCE TO:

Hearing Room A
Public Utilities Commission of Nevada
101 Convention Center Drive, Suite 250
Las Vegas, Nevada 89109

Persons wishing to comment upon the proposed actions and order of the Director may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the attention of Director at 727 Fairview Drive, Suite F, Carson City, Nevada 89701. Written submissions must be received, **no later than October 5, 2006**. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Director may proceed immediately to act upon any written submissions.

Members of the public who are disabled and require special accommodations or assistance at the hearing must notify the Office of Energy in writing at 727 Fairview, Suite F, Carson City, Nevada 89701, no later than 5 working days prior to the hearing. Any questions should be directed to the Office of Energy at 727 Fairview, Suite F, Carson City, Nevada 89701 or by telephone to (775) 687-9700.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. **The need for and the purpose of the proposed regulation or amendment.** To adopt the Leadership in Energy and Environmental Design for nonpublic buildings for the purposes of determining eligibility for certain tax abatements or tax exemptions and other matters thereto.
2. **Either the terms or the substance of the regulation to be adopted, amended, or repealed, or a description of the subjects and issues involved.** The terms of the proposed amendment to the regulations to be adopted are attached hereto as proposed regulations.

3. **The estimated economic effect of the regulation on the business which it is to regulate and on the public.** The estimated economic effect of the proposed regulations to be adopted and amended on the regulated industry and the public are as follows:
 - A. **Estimated economic effect on the business it regulates:** It is estimated that the proposed regulations to be adopted could have a small economic effect as follows:
 - (i). **Adverse and beneficial effects:** The proposed regulations to be adopted do not have an adverse effect. However, the proposed regulations provide for a beneficial effect by adopting a green building rating system for use in determining eligibility for certain tax abatements or tax exemptions.
 - (ii). **Immediate and long-term effects:** The proposed regulations to be adopted and amended will have similar immediate and long-term effects as the adverse and beneficial effects.
 - B. **Estimated economic effect on the public:** It is estimated that the proposed regulations to be adopted will not have a negative economic effect on public.
 - (i). **Adverse and beneficial effects:** The proposed regulations to be adopted provide a benefit to the public by encouraging the construction of high performance buildings and structures which minimize the use of water and energy.
 - (ii). **Immediate and long-term effects:** The proposed regulations to be adopted and amended will have similar immediate and long-term effects for the public.
4. **The estimated cost to the agency for enforcement of the proposed regulation.** The Office of Energy does not envision any increased costs associated with the enforcement of the regulations.
5. **A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.** The proposed regulations to be adopted do not overlap or duplicate any regulations of other state or local government agencies or of any federal agency.

6. **If the regulation is required pursuant to federal law, a citation and description of the federal law.** The proposed regulations to be adopted are not required by federal law.
7. **If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.** The proposed regulations to be adopted are not more stringent than federal regulation.
8. **Whether the proposed regulation establishes a new fee or increases an existing fee.** The proposed amendments to the regulations to be adopted do not establish a new fee or increase an existing fee.

A copy of this notice and the regulations to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and the subject regulations will be available at the Office of Energy, at 727 Fairview Drive, Suite F, Carson City, Nevada 89701 and in all counties in which an office of the agency is not maintained, at the public library, for inspection and copying by members of the public during business hours. This notice and the text of the subject regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us> and <http://energy.state.nv.us>. Copies of this notice and the subject regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

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

Attn: Public Posting
Churchill County Library
5553 S. Maine Street
Fallon, NV 89406

Attn: Public Posting
Tonopah Public Library
P.O. Box 449
Tonopah, NV 89049
(171 Central Street)

Attn: Public Posting
Las Vegas – Clark County Library
833 Las Vegas Blvd. N.
Las Vegas, NV 89101

Attn: Public Posting
Pershing County Library
P.O. Box 781; (1125 Central Avenue)
Lovelock, NV 89419

Attn: Public Posting
Elko County Library
720 Court Street
Elko, NV 89801

Attn: Public Posting
Storey County Library
P.O. Box 14; (95 South R Street)
Virginia City, NV 89449

Attn: Public Posting
Esmeralda County Library
P.O. Box 430; (Fourth & Crook Sts.)
Goldfield, NV 89316

Attn: Public Posting
Washoe County Library
P.O. Box 2151; (301 S. Center)
Reno, NV 89505

Attn: Public Posting
Eureka Branch Library
P.O. Box 293
Eureka, NV 89316

Attn: Public Posting
White Pine County Library
950 Campton St.
Ely, NV 89301

Attn: Public Posting
Humboldt County Library
85 East 5th St.
Winnemucca, NV 89445

Attn: Public Posting
Battle Mountain Branch Library (Lander County)
P.O. Box 141
Battle Mountain, NV 89820

Attn: Public Posting
93 Main St.
P.O. Box 330
Pioche, NV 89043

Attn: Public Posting
Carson City Library
900 N. Roop Street
Carson City, NV 89701

Attn: Public Posting
Lyon County Library
20 Nevin Way
Yerington, NV 89447

Attn: Public Posting
Douglas County Library
P.O. Box 337
Minden, NV 89423

Attn: Public Posting
Mineral County Library
P.O. Box 1390; (First & A Streets)
Hawthorne, NV 89415

Attn: Public Posting
Goldfield Public Library
P.O. Box 430
Goldfield, NV 89013

Public Utilities Commission of Nevada
1150 E. William Street
Carson City, NV 89701

Public Utilities Commission of Nevada
101 Convention Center Dr. Suite 250
Las Vegas, NV 89109

Nevada State Office of Energy
727 Fairview Drive Suite F
Carson City NV 89701

Nevada State Library
100 Stewart Street
Carson City, NV 89701

LCB File No. T006-06

**PROPOSED TEMPORARY REGULATION OF THE
DIRECTOR OF THE OFFICE OF ENERGY**

September 1, 2006

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

AUTHORITY: §§1-9, NRS 701.170 and 701.217; §§10 and 11, NRS 701.170.

A REGULATION relating to energy; adopting certain portions of the Leadership in Energy and Environmental Design Green Building Rating System for use in this State with regard to nonpublic buildings or structures for the purposes of determining eligibility for certain tax abatements or tax exemptions; providing a procedure for the issuance by the Director of the Office of Energy of a letter of verification that the real property for which such an abatement or exemption is sought has a building or other structure that meets or exceeds the certification requirements for the abatement or exemption; and providing other matters properly relating thereto.

Section 1. Chapter 701 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12~~4~~, inclusive, of this regulation.

Sec. 2. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 8~~7~~, inclusive, of this regulation have the meanings ascribed to them in those sections.

Sec. 3. “LEED” means Leadership in Energy and Environmental Design.

Sec. 4. “LEED accredited professional” means a person who holds a LEED Accredited Professional Certificate issued by the U. S. Green Building Council.

Sec. 5. “LEED-CS” means the LEED Green Building Rating System for Core and Shell Development.

Sec. 6~~5~~. “LEED-EB” means the LEED Green Building Rating System for Existing Buildings, Upgrades, Operations and Maintenance.

Sec. 7~~[6]~~. “LEED Green Building Rating System” means those portions of the Leadership in Energy and Environmental Design Green Building Rating System developed by the U. S. Green Building Council that are adopted by the Director by reference pursuant to section 9~~[8]~~ of this regulation.

Sec. 8~~[7]~~. “LEED-NC” means the LEED Green Building Rating System for New Construction & Major Renovations.

Sec. 9~~[8]~~. 1. Pursuant to paragraph (b) of subsection 1 of NRS 701.217, the Director hereby adopts by reference the following portions of the LEED Green Building Rating System:

(a) Version 2 of LEED-CS; and

(b~~[a]~~) Version 2 of LEED-EB; and

(c~~[b]~~) Versions 2.1 and 2.2 of LEED-NC.

2. The LEED Green Building Rating System is adopted for use in this State with regard to buildings or structures that are not public buildings or structures for the purposes of determining eligibility for tax abatements or tax exemptions that are authorized by law to use such a Green Building Rating System.

3. If the U. S. Green Building Council adopts an updated version of the LEED Green Building Rating System, the updated version shall be deemed to have been determined by the Director to be appropriate for use in this State, effective 10 days after the date on which the updated version is published, unless the Director determines that the updated version is not appropriate for use in this State. If the Director determines that the updated version is not appropriate for use in this State, the Director will post a notice of disapproval at the largest public library in each county, the State Library and Archives, the Grant Sawyer Office Building located at 555 East Washington Avenue, Las Vegas, Nevada, and the Office of Energy.

4. If the Director determines that an updated version of the LEED Green Building Rating System is not appropriate for use in this State:

(a) The Director will adopt an alternative Green Building Rating System and certification process; and

(b) The version of the LEED Green Building Rating System that was most recently adopted by the Director by regulation or deemed appropriate for use in this State pursuant to this section will continue in effect until the alternative rating system and certification process adopted by the Director become effective.

5. A copy of the LEED Green Building Rating System may be obtained at no cost from the U. S. Green Building Council, 1015 18th Street, N.W., Suite 508, Washington, D.C. 20036, or on the Internet at <http://www.usgbc.org>.

Sec. ~~1019~~. The Director will review, evaluate and consider new LEED designations and updates and other Green Building Rating Systems at least once each year.

Sec. ~~1109~~. 1. A person who, with respect to a construction project involving a building or other structure, wishes to apply to the Commission on Economic Development pursuant to NRS 361.0775 and any regulations adopted pursuant thereto for a partial abatement from the tax imposed on real property by chapter 361 of NRS, or wishes to seek authorization from the Department of Taxation for a partial sales tax exemption on products or materials used in the construction project in accordance with the former provisions of NRS 374.307, as amended by section 7 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 71, must register the project with the Office of Energy before construction is begun unless the Director provides written approval for a later registration.

2. To register a project with the Office of Energy, the registrant must provide:

- (a) The name, address and telephone number of the registrant;
- (b) The name and address of the owner of the affected real property, if the registrant is not the owner;
- (c) The address of the real property;
- (d) Any project title associated with the development or modification of the real property;
- (e) The applicable LEED Green Building Rating System and version on which the certification of the building or other structure will be based;
- (f) The level and number of points of the applicable LEED Green Building Rating System at which the registrant expects the building or other structure to be certified;
- (g) The expected date of occupancy of the building or other structure;
- (h) The gross square footage of the building or other structure;
- (i) The proposed use of the building or other structure;
- (j) Proof that the project has been registered with the U. S. Green Building Council;
- (k) If applicable, the name and contact information of the LEED accredited professional assigned to the design team for the project;
- (l) If the registrant is seeking authorization from the Department of Taxation for a partial sales tax exemption on products or materials used in the construction project in accordance with the former provisions of NRS 374.307, as amended by section 7 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 71, an evaluation from a LEED accredited professional that includes:
 - (1) A statement that he has reviewed the plans, design documentation and specifications for the project; and

(2) His opinion as to the probability that the building or other structure will be certified at the silver level or higher of the applicable LEED Green Building Rating System; and (m) Any other information requested by the Director.

3. Upon the receipt of all information required by this section, the Director will:

(a) Notify the registrant in writing acknowledging that the registration is complete; and

(b) Forward a copy of the registration and the written notification provided to the registrant to:

(1) The Executive Director of the Department of Taxation;

(2) The Executive Director of the Commission on Economic Development; and

(3) The treasurer of the county in which the real property is located.

Sec. ~~124~~. 1. Upon receipt of certification from the U.S. Green Building Council, the registrant shall notify the Director whether the building or other structure has been certified at the silver level or higher of the applicable LEED Green Building Rating System and, if so, provide a copy of the certification from the U.S. Green Building Council, including the number of LEED points earned.

2. Upon receipt of verification that the building or other structure has been certified at the silver level or higher of the applicable LEED Green Building Rating System, the Director will issue a letter of verification which states that the real property for which the real property tax abatement or sales tax exemption is sought has a building or other structure that meets or exceeds the certification requirements for the abatement as set forth in NRS 361.0775 and any regulations adopted pursuant thereto, or for the exemption in accordance with the former provisions of NRS 374.307, as amended by section 7 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 71, and which sets forth the number of LEED points earned.

The Director will forward a copy of the letter to:

- (a) The registrant;
- (b) The Executive Director of the Department of Taxation;
- (c) The Executive Director of the Commission on Economic Development; and
- (d) The treasurer of the county in which the real property is located.