

**ADOPTED REGULATION OF THE
OFFICE OF ECONOMIC DEVELOPMENT**

LCB File No. R120-13

Effective December 23, 2013

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

AUTHORITY: §§1-15, NRS 360.759.

A REGULATION relating to taxation; adopting provisions governing the approval and issuance of transferable tax credits to a producer that produces a qualified film or other production in this State; adopting provisions governing the calculation of the amount of such credits; and providing other matters properly relating thereto.

Section 1. Chapter 360 of NAC is hereby amended by adding thereto the provisions set forth in sections 2 to 15, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 15, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in NRS 360.7581 to 360.7586, inclusive, and sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Certificate of eligibility” means a certificate of eligibility for transferable tax credits.*

Sec. 4. *“Executive Director” means the Executive Director of the Office.*

Sec. 5. *“Office” means the Office of Economic Development.*

Sec. 6. *“Transferable tax credits” means transferable tax credits issued by the Office pursuant to NRS 360.759.*

Sec. 7. For the purposes of determining whether a production is a qualified production pursuant to NRS 360.7586, the Office interprets the term “other visual media productions,” as used in paragraph (l) of subsection 1 of NRS 360.7586, to mean video games, mobile applications and other visual media productions determined to be visual media productions by the Office.

Sec. 8. 1. Transferable tax credits may not be applied to any of the fees and taxes specified in NRS 360.759 unless the Office has issued a certificate of eligibility.

2. To obtain a certificate of eligibility, a producer must:

(a) Submit to the Office an application for a certificate of eligibility. The application must be on a form prescribed by the Office and, in addition to the information required by NRS 360.759, contain the following information:

(1) The name of the qualified production;

(2) A description of the qualified production;

(3) The planned rating for the qualified production from a nationally recognized rating association or board, including, without limitation, a rating from the Motion Picture Association of America, or its successor organization, or the Entertainment Software Rating Board, or its successor organization, if applicable;

(4) A detailed budget for the entire qualified production, including, without limitation, separate in-state and out-of-state subtotals for:

(I) Wages and salaries, including fringe benefits, for above-the-line personnel;

(II) Wages and salaries, including fringe benefits, for below-the-line personnel;

(III) Qualified expenditures and costs, as determined in accordance with NRS 360.7591 and sections 13 and 14 of this regulation; and

(IV) Unless otherwise included in the information provided pursuant to sub-paragraphs (I), (II) and (III), the maximum compensation payable to any employee or independent contractor paid a wage, salary or fee as compensation for providing labor or services on the production of the qualified production and included as a basis for calculating the amount of transferable tax credit pursuant to NRS 360.7591 to 360.7594, inclusive, and sections 13 and 14 of this regulation;

(5) A job summary for the qualified production, including, without limitation:

(I) An estimate of the number of jobs that will be created in this State by the qualified production;

(II) The anticipated term of employment of each such job;

(III) The anticipated wage to be paid for each such job; and

(IV) The fringe benefits provided to employees for each such job;

(6) The capital investment in this State proposed to be made in connection with the qualified production;

(7) The anticipated location of real property and equipment and other tangible personal property in this State;

(8) An acknowledgment of audit procedures on a form prescribed by the Office; and

(9) Any other information required by the application form prescribed by the Office.

(b) Provide with the application for a certificate of eligibility proof satisfactory to the Office that:

(1) The qualified production is in the economic interest of this State, as determined pursuant to subsection 5 of section 9 of this regulation;

(2) Fifty percent or more of the funding for the qualified production has been placed in an escrow account or trust account for the benefit of the qualified production, or that the producer has a corporate credit rating of “lower medium grade” or higher from a credit rating agency found suitable by the Office; and

(3) At least 60 percent of the total qualified expenditures and production costs for the production, including preproduction and postproduction, will be incurred in this State.

(c) Not later than 30 days after the completion of the qualified production, provide the Office with:

(1) A declaration of residency on a form prescribed by the Office for any above-the-line personnel and below-the-line personnel whom the producer of the qualified production claims to be Nevada residents; and

(2) An audit of the qualified production, in a form approved by the Office, which includes an itemized report of qualified expenditures and production costs and which:

(I) Shows that the qualified production incurred qualified expenditures and production costs in this State of \$500,000 or more; and

(II) Is certified by an independent certified public accountant in this State who is approved by the Office.

3. In considering applications for certificates of eligibility, the Office will give priority to qualified productions that will:

(a) Be in the economic interest of this State, as determined pursuant to subsection 5 of section 9 of this regulation.

(b) Promote tourism in this State.

4. The Office will deny an application for a certificate of eligibility if:

(a) The application is received by the Office on or after January 1, 2018.

(b) The applicant does not commence principal photography or principal development of the qualified production, whichever is applicable, within 90 days after submitting the application to the Office.

(c) Approval of the application would cause the total amount of transferable tax credits to exceed:

(1) The amount of transferable tax credits available for approval during the current fiscal year, as determined pursuant to NRS 360.7594.

(2) The portion of the amount of transferable tax credits available for approval during the current fiscal year that has been apportioned by the Office to the current period of that fiscal year pursuant to section 12 of this regulation.

(d) Production of the qualified production is not completed within 1 year after the date of the commencement of principal photography or principal development of the qualified production, whichever is applicable.

(e) The qualified production is not eligible for transferable tax credits pursuant to this section and NRS 360.759.

5. As used in this section:

(a) “Principal development” means the phase of a production that constitutes a qualified production pursuant to section 7 of this regulation in which sound, video, images, text or animation is integrated into a digital product.

(b) “Principal photography” means the phase of a film, television, video or other qualified production in which the production is filmed, videotaped or otherwise recorded using production equipment with actors on set or location.

Sec. 9. 1. Upon receipt of a completed application for a certificate of eligibility submitted pursuant to paragraph (a) of subsection 2 of section 8 of this regulation and the information required by paragraph (b) of subsection 2 of section 8 of this regulation, the staff of the Office shall:

(a) Evaluate the application and supporting information; and

(b) Prepare a proposed order containing a recommendation of whether to grant or deny approval of the application and an estimate of the amount of transferable tax credits available to the applicant if a certificate of eligibility is issued.

2. A hearing on an application for a certificate of eligibility must be conducted by the Executive Director or his or her designee not later than 60 days after the Office receives the application. Not later than 30 days before the date of the hearing, the Office will provide notice of the date, time and location of the hearing and a copy of the proposed order prepared pursuant to subsection 1 to:

(a) The applicant;

(b) The Department; and

(c) The State Gaming Control Board.

3. Not later than 30 days after the conclusion of the hearing on the application for a certificate of eligibility, the Executive Director or his or her designee will determine whether to approve the application for a certificate of eligibility. If, after the conclusion of the hearing, the Executive Director or his or her designee finds that:

(a) The qualified production is in the economic interest of this State, as determined pursuant to subsection 5;

(b) Fifty percent or more of the funding for the qualified production has been placed in an escrow account or trust account for the benefit of the qualified production, or that the producer has a corporate credit rating of “lower medium grade” or higher from a credit rating agency found suitable by the Office; and

(c) At least 60 percent of the total qualified expenditures and production costs for the qualified production, including preproduction and postproduction, will be incurred in this State,

↳ the Office will issue a final order approving the application for a certificate of eligibility and determining an estimate of the amount of transferable tax credits available if a certificate of eligibility is issued. The Office will provide notice of its determination and, if the application is approved, a copy of the final order to the applicant, the Department and the State Gaming Control Board.

4. If the Office approves an application for a certificate of eligibility, the Office will execute a memorandum of understanding with the producer of the qualified production on a form prescribed by the Office and include a copy of the memorandum of understanding with the copy of the final order approving the application which is provided to the applicant, the Department and the State Gaming Control Board pursuant to subsection 3.

5. For the purpose of determining whether a qualified production is in the economic interest of this State, the Executive Director shall consider:

(a) The economic factors set forth in subsection 2 of NRS 231.053;

(b) The number of high-quality jobs created for residents of this State, and the duration of those jobs, as a result of the qualified production;

(c) The quality of the capital investment in this State as a result of the qualified production; and

(d) Any other factors deemed relevant by the Executive Director.

Sec. 10. 1. *The Executive Director may request that an applicant for a certificate of eligibility furnish him or her with copies of any records necessary to verify that the applicant meets the requirements for a certificate of eligibility which are set forth in NRS 360.759 and section 8 of this regulation, including, without limitation, information concerning the progress of the qualified production. The Office may deny an application for a certificate of eligibility if the applicant fails to provide any records in compliance with this subsection.*

2. Not later than 30 days after completion of a qualified production, an applicant for a certificate of eligibility shall submit to the Office the audit required by paragraph (c) of subsection 2 of section 8 of this regulation and any financial data, accountings and other information required by the Office or the Department for the purpose of determining whether the applicant satisfies the requirements for a certificate of eligibility which are set forth in NRS 360.759 and section 8 of this regulation. If the Office determines that any information submitted pursuant to this subsection is incomplete, the Office will notify the applicant of its determination and, not later than 30 days after receiving the notice, the applicant must provide to the Office any additional information required by the Office. The Office may deny certification of the audit if the applicant fails to provide any financial data, accountings or other information in compliance with this subsection.

Sec. 11. 1. *Within 14 business days after receipt of the audit of the qualified production required by paragraph (c) of subsection 2 of section 8 of this regulation and any other financial data, accountings or other information required by the Office, the Office will*

determine whether to certify the audit and will make a final determination of whether to issue a certificate of transferable tax credits. If the Office determines that it will certify the audit, the Office will notify the producer of the qualified production of the certification of the audit and the Office's intent to issue transferable tax credits.

2. Not later than 30 days after receipt of notice of the Office's intent to issue transferable tax credits, the producer of the qualified production must submit to the Office an irrevocable declaration of the amount of transferable tax credits that will be applied to each tax or fee set forth in subsection 1 of NRS 360.759.

3. Upon receipt of the declaration required by subsection 2, the Office will issue a certificate of transferable tax credits in the amount approved by the Office for the fees and taxes set forth in the declaration. The Office will notify the Department and the State Gaming Control Board of all transferable tax credits issued by the Office, as set forth in subsection 6 of NRS 360.759.

4. Before transferring tax credits for which a certificate of transferable tax credits has been issued, the producer, or any subsequent purchaser, of the transferable tax credits must provide to the Office written notice of the proposed transfer on a form prescribed by the Office. The notice must include, without limitation:

(a) Contact information for the current holder of the transferable tax credits represented by the certificate of eligibility and the person to whom the transferable tax credits will be transferred;

(b) The current state of residence of the current holder of the transferable tax credits represented by the certificate of eligibility and the person to whom the transferable tax credits will be transferred;

- (c) Whether the transfer is occurring through a broker and, if so, the name of the broker and any fees paid in connection with the transfer;*
- (d) The dollar amount of the transferable tax credits to be transferred;*
- (e) The amount of compensation received by the seller of the transferable tax credits from the purchaser of the transferable tax credits; and*
- (f) The proposed date of the transfer.*

Sec. 12. The Office may apportion the amount of transferable tax credits available in a fiscal year, as determined pursuant to NRS 360.7594, to periods within that fiscal year as the Office deems advisable.

Sec. 13. 1. For the purpose of calculating the amount of transferable tax credits available to an eligible producer pursuant to NRS 360.7591 to 360.7594, inclusive, except as otherwise provided in subsection 3, qualified expenditures and production costs that may serve as a basis for transferable tax credits must:

- (a) Be expenditures made on or after the date on which the eligible producer submits an application for a certificate of eligibility pursuant to paragraph (a) of subsection 2 of section 8 of this regulation;*
- (b) Be customary and reasonable;*
- (c) Relate to a category of qualified expenditures and costs listed in subsection 2; and*
- (d) Be:*
 - (1) Purchases of tangible personal property or services from a Nevada business.*
 - (2) The payroll for Nevada residents or other personnel who provided services in this State, as calculated pursuant to section 14 of this regulation and included in the calculation of*

the amount of transferable tax credits in accordance with NRS 360.7591 to 360.7594, inclusive.

(3) Fees paid to a producer, as included in the calculation of the amount of transferable tax credits in accordance with subsection 3 of NRS 360.7594.

2. Except as otherwise provided in this section and NRS 360.7591, expenditures or costs may serve as a basis for calculating the amount of transferable tax credits issued pursuant to NRS 360.759 only if the expenditure or cost relates to:

- (a) Set construction and operation.*
- (b) Wardrobe and makeup.*
- (c) Photography, sound and lighting.*
- (d) Filming, film processing and film editing.*
- (e) The rental or leasing of facilities, equipment and vehicles.*
- (f) Food and lodging.*
- (g) Editing, sound mixing, special effects, visual effects and other postproduction services.*
- (h) The design, construction, improvement or repair of property, infrastructure, equipment or a production or postproduction facility.*
- (i) State and local government taxes to the extent not included as part of another cost or expenditure included in the calculation of the amount of transferable tax credits pursuant to this section and NRS 360.7591 to 360.7594, inclusive.*
- (j) Commercial airfare if purchased through a Nevada travel agency or travel company for travel that is directly attributable to the qualified production.*
- (k) Insurance coverage and bonding if purchased through a Nevada insurance agency, broker or bonding agent.*

(l) The design and development of art assets for interactive entertainment, including, without limitation, concept art, background art, character models and sprites.

(m) The programming of software related to interactive entertainment, including, without limitation, codebases, netcode, development and modification of source code, development and adaptation of game engine software and game development tools.

(n) Quality assurance for interactive entertainment, including, without limitation, testing and tracking software bugs.

(o) Motion capture for interactive entertainment, including, without limitation, costs for motion capture software, performers and participants, motion capture facilities and costs related to incorporating motion capture data into an interactive entertainment product.

(p) Any other direct costs of producing a qualified production, including preproduction and postproduction, in accordance with generally accepted industry practice.

3. Expenditures and costs must not be included in the calculation of the amount of transferable tax credits pursuant to this section and NRS 360.7591 to 360.7594, inclusive, if, pursuant to NRS 360.7591 to 360.7594, inclusive, and sections 2 to 15, inclusive, of this regulation, the expenditure or cost is not eligible to serve as a basis for transferable tax credits issued pursuant to NRS 360.759. Pursuant to paragraph (c) of subsection 2 of NRS 360.7591, an expenditure or cost is ineligible to serve as a basis for transferable tax credits if the Office determines that the expenditure or cost provides a pass-through benefit to a person who is not a Nevada resident.

Sec. 14. 1. *For the purpose of calculating the amount of transferable tax credits available to an eligible producer pursuant to NRS 360.7591 to 360.7594, inclusive,*

expenditures for wages and salaries, including fringe benefits, paid to Nevada residents or other personnel who provided services in this State may be included in the calculation:

(a) Only if the expenditures are qualified expenditures and production costs that may serve as a basis for transferable tax credits in accordance with NRS 360.7591 to 360.7594, inclusive, and section 13 of this regulation.

(b) In the case of an employee who is a Nevada resident, in the amount stated as wages, tips and other compensation on the Form W-2 received by the employee, plus the amount paid by the employer for the fringe benefits of the employee, except that the amount included in the calculation for compensation payable to an employee for providing labor services on the production of the qualified production must not exceed \$750,000.

(c) In the case of an employee who is not a Nevada resident, in the amount determined in accordance with NRS 360.7593 and subsection 3 of NRS 360.7594.

2. As used in this section, “fringe benefits” has the meaning ascribed to it in NRS 360.7593 and includes, without limitation, payments by an employer for unemployment insurance, FICA, pension and welfare benefits, health insurance premiums and meal and hotel per diems incurred in this State.

Sec. 15. 1. *In calculating the amount of transferable tax credits available to an eligible producer pursuant to NRS 360.7591 to 360.7594, inclusive, the Office may:*

(a) Reduce the cumulative amount of transferable tax credits that are calculated pursuant to NRS 360.7591 to 360.7594, inclusive, and sections 13 and 14 of this regulation by an amount equal to any damages incurred by the State or any political subdivision of this State as a result of a qualified production that is produced in this State.

(b) Withhold transferable tax credits, in whole or in part, until any pending legal action in this State against a producer or involving a qualified production is resolved.

2. If the Office finds that a producer is ineligible for transferable tax credits because the producer has submitted any false statement, representation or certification in any document submitted for the purpose of obtaining transferable tax credits or if the Office finds that a producer has otherwise become ineligible for transferable tax credits after receiving a certificate of eligibility, the Office will require the producer to repay to the Department or the State Gaming Control Board, as applicable, any portion of the transferable tax credits to which the producer is not entitled.

3. The Office will not require a person who purchases transferable tax credits in good faith to forfeit the transferable tax credits unless the person submitted fraudulent information in connection with the purchase.

INFORMATIONAL STATEMENT
PROPOSED REGULATION OF THE OFFICE OF ECONOMIC DEVELOPMENT
LCB File No. R120-13

The following information is provided pursuant to the requirements of NRS 233B.066:

1. A clear and concise explanation of the need for the adopted regulation.

The regulation prescribes the procedure for producers of qualified productions to receive a certificate of eligibility for transferable tax credits in conformance with Senate Bill (“SB”) 165 of the 77th Session of the Nevada Legislature. The regulation also prescribes the term of a qualified production, defines qualified expenditures and production costs, includes limits on costs related to personnel, directors and producers, the requirement of an audit at the end of a qualified production, and the required irrevocable declaration the producer must provide prior to the issuance of certificate of transferable tax credits. The adoption of this regulation is necessary to administer the transferable tax credit program.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

The Notice of Public Workshop and the Notice of Public Hearing were published on November 15, 2013 to solicit public comment. Copies of the proposed regulation, and the Small Business Impact Statement were made available at the Public Workshop. Copies of the revised proposed regulation, Small Business Impact Statement, workshop meeting minutes, and a summary of workshop public comments were available at the Public Hearing. In addition, all of this information was available on the Governor’s Office of Economic Development (“GOED”) website www.diversifynevada.com, or upon request prior to the meetings. However, there were no requests made to the GOED by members of the public for these materials in advance of the workshop or hearing.

The Public Workshop and Public Hearing notices were posted at the following locations:

- a) GOED, 808 West Nye Lane, Carson City, NV
- b) Sawyer Building, 555 East Washington Avenue, Las Vegas, NV
- c) Nevada State Library, 100 North Stewart St., Carson City, NV
- d) Nevada State Capitol, 101 S. Carson Street, Carson City, NV
- e) EDAWN, 5190 Neil Road, Suite 110, Reno, NV
- f) NDA, 6700 Via Austi Pkwy., Suite B, Las Vegas, NV
- g) Elko County, 569 Court Street, Elko, NV
- h) City of Fallon, 55 West Williams Avenue, Fallon, NV
- i) City of Las Vegas, City Hall, 400 East Stewart Avenue, Las Vegas, NV
- j) City of North Las Vegas, City Hall, 2250 Las Vegas Boulevard North, North Las Vegas, NV
- k) Clark County Government Center, 500 South Grand Central Parkway, Las Vegas, NV
- l) City of Boulder, City Hall, 401 California Avenue, Boulder City, NV

- m) City of Henderson, City Hall, 240 Water Street, Henderson, NV
- n) City of Mesquite, City Hall, 10 E. Mesquite Boulevard, Mesquite, NV
- o) NNRDA, 1500 College Parkway, McMullen Hall, Room 120, Elko, NV
- p) Humboldt Development Authority, 90 West Fourth Street, Winnemucca, NV
- q) Lincoln County Regional Development Authority, P.O. Box 1006, Caliente, NV
- r) Lander County Economic Development Authority, 315 South Humboldt St., NV
- s) NNDA, 704 West Nye Lane, Carson City, NV
- t) Nye County Regional Economic Development Authority, P.O. Box 822, Pahrump, NV
- u) White Pine County Economic Diversification Council, 957 Campton, Suite 11, Ely, NV
- v) Nevada Legislature website <http://www.leg.state.nv.us>

In addition, an email list was created of individuals and government officials who had expressed an interest in the regulation, many of whom had joined a group known as the Nevada Film Coalition that is chaired by the mayor of Las Vegas. At the time of notice (November 15, 2013), this list contained 31 contacts. An email of both meeting notices was sent to all parties on the list on November 15, 2013, and separately to the Las Vegas Metro Chamber of Commerce.

A workshop was held on December 2, 2013 to provide a summary of the program and solicit comments on the regulation. A hearing was conducted on December 16, 2013 to receive comments regarding the adoption of the regulation. The minutes of the December 2nd workshop are attached hereto (Exhibit I). The meeting on December 16th included an explanation of: the substance of the regulation, the documents available at the hearing, the process by which attendees may inspect the record of the rulemaking, including how workshop comments were addressed by the agency, and the process to obtain the final regulation. The minutes of the December 16th hearing are attached hereto (Exhibit II).

The minutes and audio recording of the Public Workshop held on December 2, 2013 and the Public Hearing held on December 16, 2013 are also available at the offices of GOED located at 808 W. Nye Lane, Carson City, Nevada 89073, Phone (775) 687-9900 and 555 E. Washington Avenue, Suite 5400, Las Vegas, Nevada 89101, Phone (702) 486-2700.

A summary of public comments received and GOED's response, including whether or not the regulation was changed as a result of those comments is attached hereto (Exhibit III).

3. A statement indicating the number of persons who attended each meeting or workshop, testified at the hearing, and submitted written statements regarding the proposed regulation.

31 attendees participated in the Public Workshop on December 2, 2013. Of those attendees, 12 had questions or comments at the workshop.

22 attendees participated in the Public Hearing on December 16, 2013. Of those attendees, 6 had questions or comments at the hearing.

No written comments were submitted for either hearing.

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency at the hearing:**
 - a. **Name;**
 - b. **Telephone number;**
 - c. **Business address;**
 - d. **Business Telephone Number;**
 - e. **Electronic email address; and**
 - f. **Name of entity or organization represented.**

Please refer to the Public Hearing minutes (Exhibit II).

5. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses at the workshop and hearing, and in the same manner as they were solicited from the other interested parties by the posting of a public notice.

6. **If, after consideration of public comment, the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

All public comments from the public workshop and public hearing were fully considered. A summary of those comments and GOED's response including a description of whether or not the regulation was changed as a result of those comments is described in Question #2 and attached hereto as Exhibit III. As a result of the comments received, some changes were made to the final regulation.

7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:**
 - a. **Both adverse and beneficial effects; and**
 - b. **Both immediate and long-term effects.**

The proposed regulation is not expected to have adverse immediate or long-term effects on the businesses which it is to regulate. GOED has determined that the proposed regulation does not impose a direct and/or significant economic burden upon small business and the proposed regulation will not restrict the formation, operation or expansion of a small business.

The proposed regulation is expected to have immediate beneficial effects on the Nevada businesses who participate in qualified productions by adding clarity to the transferable tax credit process as the program is launched on or around January 1, 2014.

The proposed regulation is similarly expected to have beneficial long-term effect on the businesses which it is to regulate as the regulation encourages participation in the transferable tax credit process from Nevada businesses through the projected end of the program on or around December 31, 2017. The regulation is written to guide producers on the process to obtain precertification of a qualified production, track qualified expenditures through the defined term of the production, submit an audit of said expenditures, and receive a certificate of transferable tax credits. The regulation also guides producers of completed productions on how transfer the certified tax credits to a third party buyer.

The proposed regulation is expected to have no immediate nor long-term effects on the general public. The regulation does not contain provisions related to the general public, other than those members of this group that participate in the program.

8. The estimated cost to the agency for enforcement of the proposed regulation.

Enforcement of these proposed regulations poses no significant cost to the Governor's Office of Economic Development beyond the budget that was established in the 2013 Legislative Session.

9. 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 regulation does not overlap that of any other state, local or federal agency.

10. 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 regulation does not include provisions which are more stringent than a federal regulation.

11. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed regulation does not establish any new fees or increase an existing fee.

12. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business?

This regulation will not impose direct and significant economic burden upon a small business or directly restrict the formation, operation, or expansion of a small business. The Governor's Office of Economic Development Small Business Impact Statement is attached hereto (Exhibit IV).