

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

**LCB FILE NO. T002-20A**

**The following document is an adopted temporary regulation submitted  
by the agency on 01/31/2021**

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**Agency:**  
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\_\_\_\_\_  
Governor's signature

Classification:  PROPOSED  ADOPTED BY AGENCY  EMERGENCY

**Brief description of action:** This regulation is necessary to clarify and correct language within the regulation and conform to the requirements of NRS 701.590-701.595. The regulations clarify how funds in the account may be utilized.

**Authority citation other than 233B:** NRS 701.590-701.595.

**Notice date(s):** Workshop – October 15, 2020

Hearing – October 15, 2020

**Hearing date(s):**

November 16, 2020



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David Bobzien, Director

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

October 15, 2020

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

**Section 1.** NAC 701.660 is hereby amended to read as follows:

1. **Purpose of Account.** (NRS 701.590 (1) (b)) The purpose of the Account is to *utilize the money for any purpose for which the United States Department of Energy has approved and/or* provide below-market-rate financing, at an interest rate not to exceed 3 percent, *which shall be granted* to qualified applicants for projects which comply with the requirements of the American Recovery and Reinvestment Act and which meet the qualifications set forth in NRS 701.545 to 701.595, inclusive, and NAC 701.600 to 701.700, inclusive.

**INTENT**

To be in line with recent amendments pertaining to NRS 701.590 (1) (b) which allow funds to be used for any purpose which the United States Department of Energy has approved.

**REFERENCES**

NRS 701.590 (1) (b) – As stated above

**Section 2.** NAC 701.670 is hereby amended to read as follows:

Eligibility for *funding* ~~{loans and financing}~~ from Account. (NRS 701.595)

1. Except as otherwise provided in this section, *a person or individual, organization and public or private entity* ~~{the owner or operator of a project}~~ may apply for *funding* ~~{a loan}~~ from the Account.
2. To be eligible for ~~{financing}~~ *funding* from the Account, *an individual, organization or entity* ~~{the owner or operator of a project}~~ must submit a complete application to the Director and the Director must determine that the applicant is qualified to receive ~~{financing}~~ *funding* from the Account.
3. The following activities are not eligible for ~~{financing}~~ *funding* from the Account:
  - (a) Research or general planning;
  - (b) Refinancing of existing debt;
  - (c) Purchase of land or water rights; or
  - (d) Operation and maintenance.(Added to NAC by Office of Energy by R161-09, eff. 6-30-2010; A by R063-11, 2-15-2012)

**INTENT**

To be in line with recent amendments pertaining to NRS 701.590 (1) (b) which allow funds to be used for any purpose which the United States Department of Energy has approved.

**REFERENCES**

NRS 701.595 – As stated above

**Section 3.** NAC 701.675 is hereby amended to read as follows:

**Applications for ~~{financing}~~ *funding* of projects. (NRS 701.595)**

1. The Director will solicit applications for the ~~{financing}~~ *funding* of projects. The solicitations will be made available to interested parties and posted on the Internet website of the Office of Energy at <http://energy.state.nv.us>. The solicitations may specify the amount of financing available, the allocation of financing to categories of applicants, such as natural persons, schools, public entities and small businesses, and the minimum and maximum amounts of individual loans within each category.
2. Each application for ~~{financing}~~ *funding* through the Account must be submitted on a form prescribed by the Director and must include:
  - (a) The name, address and telephone number of the applicant or the legal representative of the applicant.
  - (b) A narrative description of the proposed project.
  - ~~{(c) An estimate of the time required to recover the project cost.}~~
  - ~~{(d)}~~ An estimate of the amount of reduction in emission of greenhouse gases as a result of the project.
  - ~~{(e)}~~ An estimate of the number of jobs that will be created or retained as a result of the project.
  - ~~{(f)}~~ Maps of appropriate scale to show clearly the location of the proposed project with respect to other identifiable topographical or geographical features in the area of the project.
  - ~~{(g)}~~ A complete and legible legal description of the location of the project, including the assessor's parcel number.
  - ~~{(h)}~~ Proof of ownership, rights-of-way, easements or agreements showing that the applicant holds or is able to acquire all land, other than public land, or acquire interests therein and any water rights necessary for the construction of the proposed project.
  - ~~{(i)}~~ A description of how the project complies with all applicable planning and zoning requirements.
  - ~~{(j)}~~ An itemized estimate of the total cost of the project and the amount of ~~{financing}~~ *funding* requested. If an estimate of the total cost of the project has been prepared by a professional, the application must include a copy of that estimate.
  - ~~{(k)}~~ A statement of any other anticipated sources of funding for the project from this State, another state, a federal agency, the qualified applicant's capital or any other source.
  - ~~{(l)}~~ If the applicant is a public entity, the median household income for the community or area that will be served by the project or for the city or county in which the project is located, including, without limitation, the source of that information.
  - ~~{(m) A preliminary project schedule that provides a timetable for:~~

- ~~(1) The advertising and opening of bids for the project;~~
- ~~(2) Each construction phase of the project, from planning and permitting to completion and commencement of operation of the project; and~~
- ~~(3) The estimated schedule of progress payments to the contractor and other costs related to the disbursement of money.~~

~~{{n}} Information sufficient to demonstrate the means by which any loan made by the Director from the Account will be repaid. If the applicant is a public entity, this information must include, as applicable, orders or resolutions specifying the method of loan repayment from the appropriate governing board, regulatory agency or local governing body and copies of current capital improvement plans and debt management policies as provided to the Department of Taxation pursuant to chapter 350 of NRS and any applicable regulations.~~

~~If the applicant is not a public entity, the applicant shall provide:~~

- ~~(1) Annual financial statements for the 3 years immediately preceding the application for each applicant and co-applicant or guarantor, if any;~~
- ~~(2) A reference from a bank, at least three direct credit references and authorization for the Director to access and use personal and commercial credit reports in the loan decision process;~~
- ~~(3) Any necessary legal documents; and~~
- ~~(4) Any other information required by the Director to demonstrate the means by which the applicant intends to repay the loan.~~

~~(l) {{o}} Institutional, management and contractual arrangements required for successful implementation of the project.~~

~~(m) {{p}} A report on the status of the process of environmental review for the project, if applicable.~~

~~(n) {{q}} A list of any required permits and a schedule of when those permits will be obtained.~~

~~{{r}} Security, collateral or information concerning any co-applicant or guarantor for the loan, as required by the Director.~~

~~{{s}} A copy of the articles of incorporation or organizational documents of the applicant, a certificate of good standing provided by the Secretary of State, a copy of the contractor's license of any contractor who will perform any work on the project and proof of general liability, workers' compensation and course of construction insurance maintained by the applicant.~~

~~(o) {{t}} Any other information the Director determines is necessary.~~

~~(Added to NAC by Office of Energy by R161-09, eff. 6-30-2010; A by R063-11, 2-15-2012)~~

**INTENT**

To be in line with recent amendments pertaining to NRS 701.595 which allow funds to be used for any purpose which the United States Department of Energy has approved. Outdated language regarding financing has been removed to match the statute.

**REFERENCES**

**NRS 701.595** – As stated above

**Section 4.** NAC 701.680 is hereby amended to read as follows:

**Review of applications; denial. (NRS 701.595)**

1. The Director will review each application submitted pursuant to [NAC 701.675](#) for completeness. An application that is incomplete will be returned to the applicant and may be resubmitted. The Director will deny an application if the Director determines that:

(a) The project or applicant does not meet the eligibility requirements set forth in [NAC 701.670](#);

(b) The project is not feasible;

~~[(c) The applicant is unable to provide necessary collateral to secure the loan;]~~

**(c) ~~[(d)]~~**-The applicant lacks the technical, managerial or financial capability to carry out the project ~~[and repay the loan];~~ or

**(d) ~~[e]~~**-The applicant is unable or unwilling to comply with the requirements, terms or conditions of the ~~[loan] funding~~ or the ~~[loan]~~ approval process.

2. If the Director denies an application, the Director will provide written notice to the applicant of the denial of the application and the reason for the denial.

(Added to NAC by Office of Energy by R161-09, eff. 6-30-2010; A by R063-11, 2-15-2012)

**INTENT**

To be in line with recent amendments pertaining to NRS 701.595 which allow funds to be used for any purpose which the United States Department of Energy has approved. Outdated language regarding financing has been removed to match the statute.

**REFERENCES**

**NRS 701.595** – As stated above

**Section 5.** NAC 701A.685 is hereby amended to read as follows:

**Evaluation and prioritization of applications submitted by qualified applicants: Criteria; approval by Interim Finance Committee. (NRS 701.590, 701.595)**

1. The Director will evaluate and prioritize the applications submitted by qualified applicants based on the following criteria:

~~[(a) Job creation as a result of the qualified applicant's project relative to the cost of the project;]~~

**(a) *Viability of the proposed project and established need by either the applicant or the State of Nevada in order to further the energy conservation goals and to promote the continued development of renewable energy in the State;***

(b) Renewable energy generation, energy saved, efficiency increased or renewable energy system components manufactured relative to the cost of the qualified applicant's project;

(c) Reduction of the use of fossil fuels and the emission of greenhouse gases relative to the cost of the qualified applicant's project; **and**

~~[(d) Leveraging of additional financial resources, the availability of full financing, the proposed repayment schedule and the reliability of sources of repayment of the loan;]~~

**(d) ~~[(e)]~~**-Readiness of the qualified applicant's project to proceed, the quality of the management of the project and the expected duration of the project; ~~[and~~

~~[(f) Loan amount and availability of money from the Account to meet the needs of the qualified applicant.]~~

2. The Director will give preference to larger energy conservation projects, larger energy efficiency projects and larger renewable energy systems.]



3. The Director will request approval from the Interim Finance Committee to **grant funding** ~~{make loans}~~ of money from the Account. Upon approval by the Interim Finance Committee, the Director will post a list of the qualified applicants on the Internet website of the Office of Energy at <http://energy.state.nv.us>.

(Added to NAC by Office of Energy by R161-09, eff. 6-30-2010; A by R063-11, 2-15-2012)

**INTENT**

To be in line with recent amendments pertaining to NRS 701.595 which allow funds to be used for any purpose which the United States Department of Energy has approved. Outdated language regarding financing has been removed to match the statute.

**REFERENCES**

**NRS 701.595** – As stated above

**Section 6.** ~~{NAC 701.690 Loans: Offers; requirements for loan documents; terms; interest rate. (NRS 701.595)}~~

~~—1.— The Director may offer loans according to the priority established by the Director until money available from the Account is fully committed. Each loan offer will have an expiration date determined by the Director. If a qualified applicant who receives a loan offer does not execute the loan documents to the satisfaction of the Director before the expiration date of the loan offer, the qualified applicant may lose his or her opportunity to receive a loan from the Account.~~

~~—2.— Loans will be documented according to the unique characteristics of each loan. The loan documents for each loan must be:~~

~~—(a) Prepared by the Director;~~

~~—(b) Approved by the Attorney General; and~~

~~—(c) Executed by all parties in a form and manner acceptable to the Director before the Director will make a loan from the Account.~~

~~—3.— The term of a loan will be determined by the Director but will not exceed 15 years.~~

~~—4.— The interest rate for all loans will be set by the Director, but will not exceed 3 percent. The Director may offer a lower interest rate to a qualified applicant who is a public entity if the project is located in a disadvantaged community.~~

~~—(Added to NAC by Office of Energy by R161-09, eff. 6-30-2010; A by R063-11, 2-15-2012)}~~

**INTENT**

To be in line with recent amendments pertaining to NRS 701.595 which allow funds to be used for any purpose which the United States Department of Energy has approved. Outdated language regarding financing has been removed to match the statute.

**REFERENCES**

**NRS 701.595** – As stated above

**Section 7.** ~~{NAC 701.695 Recordkeeping and accounting requirements for qualified applicants who receive loans. (NRS 701.595)}~~ Each qualified applicant who receives a loan from the Account shall:

~~—1.— Establish a dedicated file for the project. The file must contain an adequate record of all significant actions relating to the project.~~

- ~~— 2. Establish accounts that accurately and adequately show all amounts of money:~~
  - ~~— (a) Received as financial assistance from the Account;~~
  - ~~— (b) Received and spent on the project; and~~
  - ~~— (c) Received as income from the project.~~
- ~~— 3. Establish a system of accounting which ensures that the final total costs of the project, including all direct and indirect costs, are recorded accurately.~~
- ~~— 4. Establish and maintain such other accounts and records as are required by the Director and required for compliance with the requirements for reporting established by the Federal Government.~~
- ~~— 5. Retain all records relating to the project for at least 3 years after final repayment of financial assistance has been made or for any longer period required by the Director.~~
- ~~— 6. Make any records relating to the project available at any reasonable time for inspection or copying by any authorized representative of the Director.~~
- ~~— (Added to NAC by Office of Energy by R161-09, eff. 6-30-2010; A by R063-11, 2-15-2012)}~~

**INTENT**

To be in line with recent amendments pertaining to NRS 701.595 which allow funds to be used for any purpose which the United States Department of Energy has approved. Outdated language regarding financing has been removed to match the statute.

**REFERENCES**

**NRS 701.595** – As stated above



**Governor's Office of Energy Adoption Hearing Temporary Regulations  
RLP 701 - November 16, 2020**

	<b>Name</b>	<b>Business Representing</b>	<b>Telephone Number (please include area code)</b>	<b>Speaking Y/N</b>	<b>E-Mail Address</b>
1	David Bobzien	GOE	775.434.3094	Y	<a href="mailto:dbobzien@energy.nv.gov">dbobzien@energy.nv.gov</a>
2	Laura Wickham	GOE	775.434.4046	Y	<a href="mailto:lwickham@energy.nv.gov">lwickham@energy.nv.gov</a>
3	Lezlie Helget	GOE	775.434.4720	N	<a href="mailto:lhelget@energy.nv.gov">lhelget@energy.nv.gov</a>
4	Anthony Walsh	GOE	775.762.5836	N	<a href="mailto:ajwalsh@ag.nv.gov">ajwalsh@ag.nv.gov</a>
5	Christy Bauer			N	<a href="mailto:christy@3gnv.com">christy@3gnv.com</a>
6	Bryce Alstead	Holland & Hart	775.813.3768	N	<a href="mailto:balstead@hollandandhart.com">balstead@hollandandhart.com</a>
7	Edith Duarte	Strategies 360		N	<a href="mailto:edithd@strategies360.com">edithd@strategies360.com</a>
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**STEVE SISOLAK**  
*Governor*

**STATE OF NEVADA**

**DAVID BOBZIEN**  
*Director*



**JENNIFER TAYLOR, ESQ.**  
*Deputy Director*  
*Intergovernmental Relations*

600 E. William Street, Suite 200  
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**GOVERNOR'S OFFICE OF ENERGY**

**NOTICE OF ADOPTION OF REGULATION**

The Governor's Office of Energy adopted regulation, assigned LCB File No. T002-20, which pertains to chapter 701 of the Nevada Administrative Code on November 16, 2020. A copy of the regulation as adopted is attached hereto.

A handwritten signature in black ink, appearing to read "David Bobzien".

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David Bobzien, Director

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12/22/2020

Date



**GOVERNOR'S OFFICE OF ENERGY**

**LEGISLATIVE REVIEW OF ADOPTED TEMPORARY REGULATIONS--NRS 233B.066**  
**Informational Statement**  
**LCB File No. T002-20**

The following statement is submitted for adopted regulations to Nevada Administrative Code (NAC) Chapter 701.

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

This regulation is necessary to clarify and correct language within the regulation and conform to the requirements of NRS 701.590-701.595. The regulations clarify how funds in the account may be utilized.

**2. 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.**

Copies of the proposed regulation, the notice of workshop and notice of intent to act upon the regulation were sent by email to persons who were known to have an interest in the adoption of the proposed regulation as well as any person who had specifically requested such notice. These documents were also made available at the website of the Governor's Office of Energy (GOE), [www.energy.nv.gov](http://www.energy.nv.gov), the website of the Nevada Legislature at <http://leg.state.nv.us/app/Notice/A/>, the Nevada State official website at <https://notice.nv.gov>.

**Please note that due to COVID restrictions, physical postings were not possible.**

A workshop was held on November 3, 2020. The Governor's Office of Energy took oral comments from the public and interested parties. There was no public comment provided by anyone present.

Thereafter, on October 15, 2020, the Director issued a Notice of Hearing and Notice of Intent to Act Upon a Regulation. The Adoption Hearing was held on November 16, 2020. The hearing was held via a virtual platform due to COVID restrictions on in person meetings. The Governor's Office of Energy took oral comments from the public and interested parties. There was no public comment provided by anyone present.

A copy of the minutes which provide comments made at each hearing are available for review at the Governor's Office of Energy, 600 E. William Street, Suite 200, Carson City, NV 89701. A recording of the workshop and hearing are also provided for review at the Governor's Office of Energy.

3. **The number of persons who:**
  - (a) **Attended the hearing: 7**
  - (b) **Testified at the hearing: 0**
  - (c) **Submitted written comments: 0**
4. **A list of name and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency, is attached as Exhibit A.**
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.**

See section 2 above.

A copy of the written comments and the minutes which provide a summary of the oral comments made at each workshop and hearing are available for review at the Governor's Office of Energy, 600 E. William Street, Suite 200, Carson City, NV 89701. A recording of the workshop and hearing are also provided for review at the Governor's Office of Energy. You may request a copy of either by contacting Laura Wickham: [lwickha@energy.nv.gov](mailto:lwickha@energy.nv.gov)

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

The temporary regulation was adopted on November 16, 2020, no suggested changes were made by members of the public.

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 on businesses and the public:** The GOE reviewed national model standards, collaborated with the Appliance Standards Awareness Project, the responses received by the stakeholders and public, as well as other documents available on the web. Of the over 250 solicitations, 4 responses were received in writing as well as 1 additional written public comment and 5 verbal comments at the hearing that was held. The respondents generally stated that the changes would have positive impacts upon small businesses and the public because of the higher efficiency of these lamps positively impacting energy bills. Small businesses and general public will benefit from increased energy efficiency in their buildings and homes through reduction in overall energy usage after implementing the new standards.

Based on the GOE's review of the national model standards, the summary of responses from the stakeholders and the public, the Director determines that the proposed regulation changes are not likely to impose a direct or significant economic burden on small businesses or the public. Adoption of minimum standards for general service lamps will allow for additional savings for the homeowner, reduce emissions in the state and encourage additional energy efficiency the encouragement of the of energy efficient buildings as well as the installation of energy efficient upgrades in existing buildings in the State of Nevada.

**(b) Both immediate and long-term effects on businesses and the public:** The regulations are intended to effectuate the legislative intent and will not and are not intended to have any negative impact upon contractors or the general public.

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

There is no added cost to the agency for this regulation.

**9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other State or governmental regulations with which this regulation overlaps or duplicates.

**10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

There are no provisions that duplicate or are more stringent than federal standards.

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

There is no fee associated with this regulation.



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David Bobzien, Director – August 27, 2020  
Governor's Office of Energy



**SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY  
NRS 233B.0608/233B.0609**

**LCB File No. T002-20**

**1. A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

*Comment was solicited from small businesses and interested stakeholders. Though the amendments to this regulation do not change the language in a way that would pose a substantive change in opportunities to them. The Governor's Office of Energy (GOE) has determined that the draft regulations as currently considered will not have an effect on small businesses, the proposed changes directly reflect amendments to NRS 701.590 which were approved during the 2019 Legislative Session. No comments were received by GOE.*

**2. The manner in which the analysis was conducted, including the methods used to determine the impacts of the proposed regulation on small business.**

*The Director and staff analyzed applications and interest to the program during recent years and determined the need for revolving loans was no longer present. No more than 3 applications were received in the past 5 years demonstrating a waning need for this particular program. It was determined the proposed amended regulations would benefit a larger audience and serve a greater purpose. The net effect of the proposed amended regulations is positive in that both public and private entities will be able to benefit from a grant program which has the potential to create jobs and aid in the economic recovery that is needed.*

**3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:**

**A. Adverse and Beneficial Effects.**

*GOE concluded that these amendments were intended to have only positive impacts upon businesses and stakeholders. It will encourage and promote clean energy projects while creating jobs and educating youth.*

**B. Immediate and Long-Term Effects.**

*The proposed regulations are intended to effectuate the Legislative intent and will not and are intended not to have any negative impact upon businesses or stakeholders.*

**4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

*There were no methods considered as the proposed regulation changes are not known to have an impact upon small business or stakeholders in the state of Nevada. The only purpose of the regulation is to be in line with recently approved statutes.*

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

*There is no added cost to the agency for the proposed regulation amendments and additions.*

**6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

*There is no fee associated with this regulation.*

**7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

*There are not provisions that duplicate or are more stringent than federal, state, or local standards.*

**8. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**

*GOE determined the regulation would not have a negative impact on small businesses or stakeholders and it is not likely to pose a direct or significant economic burden, nor would they directly restrict the formation, operation, or expansion of a small business.*

*Further, GOE determined that the regulation would not have any negative impact on small businesses because the regulation amendments provide new opportunities to expand clean energy in the State which will create jobs and aid in economic recovery.*

I hereby certify that to the best of my knowledge or belief, that a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate



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David Bobzien, Director  
October 15, 2020