

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

LCB FILE NO. T003-20A

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

SECRETARY OF STATE
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**Form for Filing
Administrative Regulations**

Agency:
Governor's Office of Energy

FOR EMERGENCY
REGULATIONS ONLY

Effective date _____

Expiration date _____

Governor's signature

Classification: [] PROPOSED [X] ADOPTED BY AGENCY [] EMERGENCY

Brief description of action: Adoption of Temporary Regulations – Necessary changes in order to align with approved amendments to NRS 701A during the 2019 Legislative Session. Changes include increased fees and new compliance report requirements.

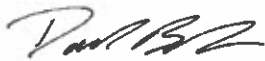
Authority citation other than 233B: NRS 701A.365-701A.390.

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

Hearing – October 15, 2020

Hearing date(s):

November 16, 2020



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 701A.550 is hereby amended to read as follows:

1. “Wages” defined. (*NRS 701A.365 and* 701A.390) “Wages” has the meaning ascribed to it in ~~{NRS 338.010}~~ *NRS 701A.365(7)*.

INTENT

To be in line with recent amendments pertaining to NRS 701A.365 (7) (a) and (b) which remove reference to the definition of “Wages” found in NRS 338.010. Further, it specifies what is to be included in the calculation of the basic hourly rate of pay and what should be omitted.

REFERENCES

NRS 701A.365 (7) (a) and (b)

7. As used in this section, “wage” or “wages”:
 - a) Means the basic hourly rate of pay.
 - b) Does not include the amount of any health insurance plan, pension or other bona fide fringe benefits which are a benefit to the employee.

Section 2. NAC 701A.615 is hereby amended to read as follows:

Duties of Applicant: Maintenance of certain records; payment of taxes abated resulting from noncompliance of applicant or other person working on project or facility. (*NRS 701A.365 and NRS 701A.390*)

1. An applicant who has executed an abatement agreement with the Director shall:
 - a) *Keep or cause to be kept* ~~{Maintain}~~ a list of names and contact information of each person, entity, contractor and subcontractor working on the construction of the project and operation of the facility who is authorized to claim the benefit of the partial abatement of taxes approved by the Director, *including, any records required to be kept by a contractor engaged on a public work pursuant to subsection 5 of NRS 338.070;*

INTENT

To be in line with recent amendments pertaining to NRS 701A Section 2 and NRS 338.070.

REFERENCES

NRS 701A and NRS 338.070

Sec 2. A recipient of a partial abatement of taxes pursuant to this section and NRS 701A.300 to 701A.390, inclusive, and section 3 of this act shall keep or cause to be kept the records required to be kept by a contractor engaged on a public work pursuant to subsection 5 of NRS 338.070 for each employee who performed work on the construction of the facility, including, without limitation, the employee of any contractor or subcontractor who performed work on the facility, and for each employee of the facility.

Section 3. NAC 701A.620 is hereby amended to read as follows:

701A.620 (***NRS 701A.365 and*** NRS 701A.390)

1. Each applicant who executes an abatement agreement with the Director shall file an annual compliance report with the Director on the form prescribed by the Director. ***A recipient of a partial abatement of taxes shall submit annually to the Office of Energy and the board of county commissioners of the county in which the facility is located a certified payroll report on a form or in a format prescribed by the Director. The certified payroll report must be accompanied by a statement certifying the truthfulness and accuracy of the payroll report; and include the records required in NRS 701A.379.*** The applicant shall file the annual compliance report on or before the anniversary date of the abatement agreement, except that the Director may grant an extension of time to file the annual compliance report which must not exceed 30 days. The annual compliance report must include all information and documentation required by the Director.

INTENT

To be in line with recent amendments pertaining to NRS 701A Section 3.

REFERENCES

NRS 701A

Sec 3. A recipient of a partial abatement of taxes pursuant to this section and NRS 701A.300 to 701A.390, inclusive, and section 2 of this act shall submit annually to the Office of Energy and the board of county commissioners of the county in which the facility is located a certified payroll report on a form or in a format prescribed by the Director. The certified payroll report must: 1) Be accompanied by a statement certifying the truthfulness and accuracy of the payroll report; and 2) Include the information contained in the records required to be kept pursuant to section 2 of this act.

Section 4. NAC 701A.645 is hereby amended to read as follows:

1. The Director will establish, charge and collect a fee from each applicant who submits an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive. The amount of the fee must not exceed the actual cost to the Director for processing and approving the application. ***A portion of such fee may be used to support activities of the Office which expand renewable energy development in the State. The Office may use the funds for any program or project such as:***
 - a. Renewable resource development***
 - b. Mapping***
 - c. Surveying***
 - d. Monitoring of project development and life cycle performance***
 - e. Business development to include communication with project developers***
 - f. The use of funds to match money provided through grants, projects or programs provided or established by the Federal Government***
 - g. Regional Market Development***
 - h. Transmission Planning***

INTENT

To be in line with recent amendments pertaining to NRS 701A.390 (3) (a) and (b) which allows the Director to establish a fee that will support the activities of the office and expansion of renewable energy development in the state.

REFERENCES

NRS 701A.390 (3) (a) and (b)

3. May charge and collect a fee from each applicant who submits an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, and sections 2 and 3 of this act. The amount of the fee must consist of:
 - a) An amount that does not exceed the actual cost to the Director for processing and approving the application; and
 - b) A reasonable amount established by a regulation adopted by the Director pursuant to this paragraph. The Office shall use the proceeds of the fee for activities of the Office that support and expand renewable energy development in this State and are specified and a regulation adopted by the Director pursuant to this paragraph. The Director shall adopt regulations specifying the amount of the fee described in this section and setting forth the specific activities of the Office that the proceeds of the fee will support and expand.

Section 5. NAC 701A.650 is hereby amended to read as follows:

2. An applicant shall pay to the Director the following fees:

- a) For review and approval of an application submitted pursuant to NRS 701A.360, ~~(\$7,500)~~ **\$9,000**. An applicant shall pay the fee concurrently with the submission of his or her application. The Director will not approve an application for which the fee has not been timely paid pursuant to this paragraph.
- b) For the review and approval of an annual compliance report submitted pursuant to NAC 701A.620, ~~(\$250)~~ **\$500**. An applicant shall pay the fee concurrently with the submission of his or her annual compliance report. The Director will deem incomplete pursuant to subsection 3 of NAC 701A.620 an annual compliance report for which the fee has not been timely paid pursuant to this paragraph.
- c) In addition to any other fee required by this subsection, if the review and approval of an application submitted pursuant to NRS 701A.360 or an annual compliance report submitted pursuant to NAC 701A.620 requires an on-site inspection, ~~(\$500)~~ **\$1,000** per inspection.

INTENT

To be in line with recent amendments pertaining to NRS 701A.390 (3) (a) and (b) which allows the Director to establish a fee that will support the activities of the office and expansion of renewable energy development in the state.

REFERENCES

NRS 701A.390 (3) (a) and (b)

- 3. May charge and collect a fee from each applicant who submits an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, and sections 2 and 3 of this act. The amount of the fee must consist of:
 - a) An amount that does not exceed the actual cost to the Director for processing and approving the application; and
 - b) A reasonable amount established by a regulation adopted by the Director pursuant to this paragraph. The Office shall use the proceeds of the fee for activities of the Office that support and expand renewable energy development in this State and are specified in a regulation adopted by the Director pursuant to this paragraph. The Director shall adopt regulations specifying the amount of the fee described in this section and setting forth the specific activities of the Office that the proceeds of the fee will support and expand.



GOVERNOR'S OFFICE OF ENERGY

LEGISLATIVE REVIEW OF ADOPTED TEMPORARY REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. T003-20

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

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 701A.365-701A.390. The regulations clarify requirements pertaining to fees, wages, and duties of the applicant.

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, 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. A question was raised pertaining to when a draft of the new forms would be available and GOE staff informed everyone they are expected to be ready about mid-December.

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: 8**
 - (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

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 Director and staff analyzed the typical applicant to the program and determined that the proposed amended regulations are necessary as a result of SB 298 which passed during the 2019 Legislative Session. Additionally, the changes proposed will result in benefits to employees of the contractors and sub-contractors. The net effect of the proposed amended regulations is still positive in that a business complying with the requirements of the regulations will also be receiving abatements that outweigh any additional cost.

(b) Both immediate and long-term effects on businesses and the public:

The proposed regulation amendments further clarify requirements which must be met by applicants to the program. GOE concluded that these amendments were intended to have only positive impacts upon contractors by encouraging and promoting facilities to construct and operate renewable energy power generation facilities in Nevada. GOE considered the ability for small businesses to identify the policies and procedures that GOE utilizes to manage the abatement program under its authority. The revision or addition of regulations might require additional time or expertise to review, however, GOE provides free, state-wide assistance to all companies who wish to understand this abatement program. Thus,

GOE believes that the amendments or additions in the proposed regulations will have no negative impact to small businesses. 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.

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

The estimated cost to the agency has been taken into consideration when calculating the new fees.

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.

SB 298 allows for an increase in fees by the agency. These fees are based on projected work performed by the agency on each project and to further the development of renewable energy in the State. The agency receives on average 6 applications per year, at the new rate of \$9,000 per application, the office projects revenue of \$54,000.00 for fiscal year 21.



David Bobzien, Director – December 22, 2020
Governor's Office of Energy

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

LCB File No. T003-20

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.

On June 5, 2020 the Governor's Office of Energy (GOE) solicited comments via email from stakeholders, contractors, county representatives, developers, utilities and labor unions. They were also encouraged to attend a workshop held by GOE and express their support or concerns. There were nearly 20 parties who attended the workshop, only a couple of attendees expressed a concern in an effort to preserve the confidentiality of documents submitted to this office and the county in which a project resides. GOE took note of these concerns and made changes to the proposed amendments accordingly. Any stakeholder or member of the public may request a copy of the summary by contacting staff at 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 the typical applicant to the program and determined that the proposed amended regulations are necessary as a result of SB 298 which passed during the 2019 Legislative Session. Additionally, the changes proposed will result in benefits to employees of the contractors and sub-contractors. The net effect of the proposed amended regulations is still positive in that a business complying with the requirements of the regulations will also be receiving abatements that outweigh any additional cost.

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

(a) Both adverse and beneficial effects; and

The proposed regulation amendments further clarify requirements which must be met by applicants to the program. GOE concluded that these amendments were intended to have only positive impacts upon contractors by encouraging and promoting facilities to construct and operate renewable energy power generation facilities in Nevada.

GOE considered the ability for small businesses to identify the policies and procedures that GOE utilizes to manage the abatement program under its authority. The revision or addition of regulations might require additional time or expertise to review, however, GOE provides free, state-wide assistance to all companies who wish to understand this abatement program. Thus, GOE believes that the amendments or additions in the proposed regulations will have no negative impact to small businesses.

(b) Both direct and indirect effects.

The proposed regulations are intended to effectuate the Legislative intent and will not and are not intended to have any negative impact both directly and indirectly.

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 contractors in the state of Nevada. No concerns were voiced by small business when comment was solicited.

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

The estimated cost to the agency has been taken into consideration when calculating the new fees.

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.

SB 298 allows for an increase in fees by the agency. These fees are based on projected work performed by the agency on each project and to further the development of renewable energy in the State. The agency receives on average 6 applications per year, at the new rate of \$9,000 per application, the office projects revenue of \$54,000.00 for fiscal year 21.

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 changes proposed are not detrimental to small business. Further, the changes proposed are necessary and dictated by SB 298 which was approved during the 2019 Legislative Session. GOE the amended language proposed by GOE does not stray from the new language found in SB 298.

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



(Signature of director, executive head or other person who is responsible for the agency certifying that, to the best of his or her knowledge or belief, the information contained in the statement was prepared properly and is accurate.)

STEVE SISOLAK
Governor

STATE OF NEVADA

DAVID BOBZIEN
Director

600 E. William Street, Suite 200
Carson City, NV 89701



GOVERNOR'S OFFICE OF ENERGY

December 22, 2020

Nevada Secretary of State

Re: LCB File No. T003-20

Please find the enclosed documents pertaining to the adoption of Temporary Regulation No. T003-20:

- Form for Filing Administrative Regulations
- Informational Statement
- Small Business Impact Statement
- Notice of Adoption of Temporary Regulation
- Proposed Temporary Regulation of the Director of the Governor's Office of Energy
– Adopted on November 16, 2020

Please do not hesitate to call me should you have any questions, (775) 434-4046

Sincerely,

A handwritten signature in cursive script that reads "Laura Wickham".

Laura Wickham
Energy Program Manager

STEVE SISOLAK
Governor

STATE OF NEVADA

DAVID BOBZIEN
Director



JENNIFER TAYLOR, ESQ.
Deputy Director
Intergovernmental Relations

600 E. William Street, Suite 200
Carson City, NV 89701

GOVERNOR'S OFFICE OF ENERGY

NOTICE OF ADOPTION OF REGULATION

The Governor's Office of Energy adopted regulation, assigned LCB File No. T003-20, which pertains to chapter 701A 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".

David Bobzien, Director

12/22/2020

Date

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

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