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*Deputy Director,
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**GOVERNOR'S
OFFICE OF ENERGY**
energy.nv.gov

**NOTICE OF PUBLIC HEARING AND INTENT TO ACT UPON A REGULATION
AND AGENDA**

Today's Date: February 16, 2022

Notice of Hearing for the Adoption of Regulations
Governor's Office of Energy

The Governor's Office of Energy will hold a public hearing at 9:00 A.M. on March 22, 2022, via videoconference: The purpose of the hearing is to receive comments from all interested persons regarding the Adoption of regulations that pertain to chapter 701 and 701A of the Nevada Administrative Code (NAC).

**March 22, 2022
9:00 a.m.**

Microsoft Teams Meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Join with a video conferencing device

192425125@teams.bjn.vc

Video Conference ID: 119 754 078 4

[Alternate VTC instructions](#)

Or call in (audio only)

[+1 775-321-6111](tel:+17753216111), [471669193#](tel:+1471669193) United States, Reno

Phone Conference ID: 471 669 193#

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

1. The proposed amendments are necessary to clarify and correct language within the regulation and conform to the requirements of NRS 701.590-701.390.595 and NRS 701A.365-701A.390.
2. The proposed amendments for 701 clarify how funds in the account may be utilized and the proposed amendments for 701A clarify requirements pertaining to fees, wages, and duties of applicant.

3. The proposed amendments are not likely to impose a direct or significant economic burden on small businesses.
4. There is no cost to the agency for enforcement of the proposed amended regulation.
5. The proposed amendments do not overlap or duplicate regulations of other state or local governmental agencies.
6. The proposed amendments are not required pursuant to federal law.
7. No federal regulation is applicable.
8. For 701, the amendments do not propose a new fee or an increase to an existing fee. The amendments proposed for 701A include an increase to an existing fee to be in line with legislation passed during the 2019 Session.

Persons wishing to comment on the proposed action of the Governor's Office of Energy may join the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Governor's Office of Energy, 600 E. William Street, Suite 200, Carson City, Nevada 89701. Written submissions must be received on or before March 15, 2022. If no person who is directly affected by this proposed action appears to request time to make an oral presentation, the Governor's Office of Energy may proceed immediately to act upon written submissions.

A copy of this notice and the regulation to be amended will be on file at the Nevada 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 regulation to be amended will be available at the Governor's Office of Energy, 600 E. William Street, Suite 200, Carson City, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. Please note this availability at public libraries may vary due to COVID-19 restrictions and regulations. This notice and the text of the proposed Permanent regulation 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>. Copies of this notice and the proposed Permanent regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if 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:

- (1) Nevada State official website: <https://notice.nv.gov>
- (2) Governor's Office of Energy Website: <https://energy.nv.gov>
- (3) Administrative Regulation Notices Website: <https://www.leg.state.nv.us/App/Notice/A/>
- (4) Nevada Governor's Office of Energy
- (5) Carson City Public Library
- (6) Nevada Library & Archives

Please note due to special COVID-19 and social distancing requirements, this Notice will not be posted at the usual physical locations required by NRS.

AGENDA
NOTICE OF PUBLIC HEARING AND INTENT TO ACT UPON A REGULATION
(NAC 701A)

LCB File Number R157-20 and R045-21

March 22, 2022
9:00 a.m.

Microsoft Teams Meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Join with a video conferencing device

192425125@teams.bjn.vc

Video Conference ID: 119 754 078 4

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Or call in (audio only)

[+1 775-321-6111,471669193#](tel:+17753216111471669193) United States, Reno

Phone Conference ID: 471 669 193#

The public is invited to attend.

Below is an agenda of all items scheduled to be considered. Unless otherwise stated, items may be taken out of order presented on the agenda or removed at the discretion of the chairperson.

Reasonable efforts will be made to assist and accommodate physically handicapped persons desiring to attend the meeting. Please call Laura Wickham at the Governor's Office of Energy at (775) 464-4046 in advance so that arrangements may be conveniently made.

Please notify Laura Wickham at (775) 434-4046, or lwickham@energy.nv.gov if you would like to request a printed copy of the notice sent to you at no charge.

AGENDA

Action may be taken on those items denoted “For Possible Action”

1. Call to Order (For possible action)

2. Public comments and discussion. (Discussion)

No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.

3. Review of the Proposed Regulation LCB File No. R157-20 (Discussion) Addressing changes and provisions established by SB 536.

4. Adoption of Proposed Regulation LCB File No. R157-20 (*For Possible Action*)

5. Review of the Proposed Regulation LCB File No. R045-21 (Discussion) Addressing changes and provisions established by SB 448.

6. Adoption of Proposed Regulation LCB File No. R045-21 (*For Possible Action*).

7. Public comments and discussion. (Discussion)

No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.

8. Adjournment. (For possible action)

Supporting material is available from Laura Wickham at 600 E. William St., #200, Carson City NV 89701. Anyone desiring supporting documentation or additional information is invited to call (775) 434-4046, or email: lwickham@energy.nv.gov

This notice and agenda has been posted on or before 9 a.m. on the thirtieth working day before the meeting at the Governor’s Office of Energy website at: <http://energy.nv.gov/Programs/Notices/> at the Governor’s Office of Energy, as well as the following locations:

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

LCB File No. R045-21

November 19, 2021

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

AUTHORITY: §§ 1-4 and 6, NRS 701A.390; § 5, NRS 701A.390 and 701A.450, as amended by section 8.5 of Senate Bill No. 448, chapter 552, Statutes of Nevada 2021, at page 3779.

A REGULATION relating to energy-related tax incentives; revising certain definitions relating to applications submitted to the Director of the Office of Energy for the partial abatement of certain taxes related to renewable energy facilities; revising certain record keeping and filing requirements for applicants who have executed a partial abatement agreement with the Director; revising how money in the Renewable Energy Account may be used; increasing certain fees an applicant must pay to apply for a partial abatement of certain taxes; revising the purposes for which application fees may be used; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy, a facility for the storage of energy from renewable generation or a hybrid renewable generation and energy storage facility in this State to apply to the Director of the Office of Energy within the Office of the Governor for a partial abatement of certain sales and use taxes or property taxes. (NRS 701A.360, as amended by section 7 of Senate Bill No. 448, chapter 552, Statutes of Nevada 2021, at page 3775) The Director, in consultation with the Office of Economic Development, must approve such an application if the applicant executes an agreement with the Director and certain other conditions are met. (NRS 701A.365, as amended by section 8 of Senate Bill No. 448, chapter 552, Statutes of Nevada 2021, at page 3775) Existing law also: (1) requires the Director to adopt regulations requiring each recipient of a partial abatement to file annually certain information and documentation necessary to assess the applicant’s compliance with the eligibility requirements for the abatement; and (2) authorizes the Director to adopt such other regulations as are necessary to carry out statutory provisions concerning renewable energy facilities and the partial abatement of taxes related to those facilities. (NRS 701A.390)

Existing regulations require each applicant who has executed an abatement agreement with the Director to maintain a list of names and contact information of each person, entity, contractor and subcontractor involved in 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. The applicant is required to ensure the list is current and available for inspection by certain persons. (NAC 701A.615) **Section 4** of this regulation requires such an applicant similarly to maintain certain records regarding employees of the facility and employees who worked on the construction of the facility.

Existing regulations define certain terms related to renewable energy facilities and partial abatements, including the terms “facility” and “wages.” (NAC 701A.520, 701A.550) **Section 2** of this regulation makes a conforming change to expand the definition of “facility” to include facilities for the storage of energy from renewable generation and hybrid renewable generation and energy storage facilities. **Section 3** of this regulation revises the definition of “wages.”

Existing law requires the Director to administer the Renewable Energy Account in the State General Fund and requires the money in the Account to be used for purposes that the Director may establish by regulation. (NRS 701A.450, as amended by section 8.5 of Senate Bill No. 448, chapter 552, Statutes of Nevada 2021, at page 3779) **Section 5** of this regulation eliminates provisions that provide that the Director will disburse money in the Account for certain purposes.

Existing regulations require the Director to establish, charge and collect a fee from each applicant who intends to locate a facility that generates energy from renewable sources in this State and who submits an application for a partial abatement of certain taxes related to that facility. (NAC 701A.645) **Section 6** of this regulation increases the fees an applicant must pay to the Director for the application for a partial abatement, annual compliance report and required on-site inspection. **Section 6** also authorizes a portion of the application fee to be used to support certain programs, projects and activities of the Office.

Section 1. NAC 701A.500 is hereby amended to read as follows:

701A.500 As used in NAC 701A.500 to 701A.660, inclusive, the words and terms defined in NRS 701A.300 to 701A.345, inclusive, *and sections 3, 4 and 5 of Senate Bill No. 448, chapter 552, Statutes of Nevada 2021, at page 3774*, and NAC 701A.505 to 701A.550, inclusive, have the meanings ascribed to them in those sections.

Sec. 2. NAC 701A.520 is hereby amended to read as follows:

701A.520 “Facility” means:

1. A facility for the generation of electricity from renewable energy in this State.
2. A wholesale facility for the generation of electricity from renewable energy in this State.
3. A facility for the transmission of electricity if:
 - (a) The facility is interconnected to a facility described in subsection 1 or 2; or

(b) The facility contributes to the capability of the electrical grid to accommodate and transmit electricity produced from a facility described in subsection 1 or 2.

4. A facility for the generation of process heat from solar renewable energy in this State.

5. A facility for the storage of energy from renewable generation or a hybrid renewable generation and energy storage facility.

Sec. 3. NAC 701A.550 is hereby amended to read as follows:

701A.550 “Wages” has the meaning ascribed to it in ~~NRS 338.010~~ *subsection 7 of NRS 701A.365, as amended by section 8 of Senate Bill No. 448, chapter 552, Statutes of Nevada 2021, at page 3775.*

Sec. 4. NAC 701A.615 is hereby amended to read as follows:

701A.615 1. An applicant who has executed an abatement agreement with the Director shall:

(a) ~~Maintain~~ *Keep or cause to be kept* a list of the 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 ~~is~~ *and the records required to be kept or caused to be kept pursuant to NRS 701A.377;*

(b) Ensure that the information contained in the list *and records* maintained pursuant to paragraph (a) is complete, current and accurate;

(c) Ensure that the list *and records* maintained pursuant to paragraph (a) ~~is~~ *are* available for inspection by the authorized employees or agents of the Director, the Department of Taxation, any county in which the facility is located and vendors during normal business hours; and

(d) Ensure that each person, entity, contractor or subcontractor who is named on the list maintained pursuant to paragraph (a) complies with the terms of the abatement agreement.

2. If the applicant or any other person, entity, contractor or subcontractor fails to comply with the terms of the abatement agreement, the applicant shall pay to the State of Nevada the amount of any sales and use taxes and the amount of any property taxes abated resulting from the noncompliance.

Sec. 5. NAC 701A.645 is hereby amended to read as follows:

701A.645 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.]~~

2. For projects approved on or before June 30, 2013, the State Controller shall, as soon as practicable, deposit all money in his or her possession that is subject to the provisions of NRS 701A.450 into the Renewable Energy Account in such an account or accounts as directed by the Director. All money received by the Director from the State Controller pursuant to NRS 701A.450 must be deposited by the Director into one or more interest-bearing accounts in financial institutions located in Nevada. All records related to the account or accounts are public records and must be maintained by the Director.

3. At least once every odd-numbered year, the Director will have the account or accounts audited by an independent auditor, and any report made by the auditor is a public record and must be maintained by the Director.

~~[4.— The Director will disburse from the account or accounts all of the money contained therein as follows:~~

~~—(a) Seventy five percent must be available to offset the cost of electricity to or the use of electricity by retail customers of a public utility pursuant to subsection 4 of NRS 701A.450; and~~
~~—(b) Twenty five percent must be dedicated solely to be used by the Director for the operation and staffing of his or her office and for purposes related to the Director’s duties and obligations pursuant to chapters 701 and 701A of NRS and NAC 701A.500 to 701A.660, inclusive.]~~

Sec. 6. NAC 701A.650 is hereby amended to read as follows:

701A.650 1. An applicant shall pay to the Director the following fees:

(a) For the 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]~~ **2** 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.

2. The Director will review each fee prescribed by subsection 1 on or before December 31 of each even-numbered year to ensure that the amount of the fee reflects the actual cost to the Office of Energy in carrying out the duties described in subsection 1.

3. The fees collected pursuant to subsection 1 must be deposited by the Director into an interest-bearing account. ~~[The]~~ *Except as otherwise provided in subsection 4, the* money deposited pursuant to this subsection and any interest earned on such money must be used only to pay the costs incurred by the Office of Energy in carrying out the duties described in subsection 1.

4. To the extent that the fee set forth in paragraph (a) of subsection 1 exceeds the actual cost to the Director for reviewing and approving the application, that portion of the fee and any interest earned on such money may be used to support the following programs, projects and activities of the Office of Energy which are intended to expand renewable energy in this State:

- (a) Renewable resource development;*
- (b) Mapping;*
- (c) Surveying;*
- (d) Monitoring of project development and life cycle performance;*
- (e) Business development, including, without limitation, communication with project developers;*
- (f) Matching money provided through grants, projects or programs provided for or established by the Federal Government;*
- (g) Regional market development; and*
- (h) Transmission planning.*

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

LCB File No. RO45-21

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.

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. The proposed regulations are in response to new language approved during the 2019 and 2021 Legislative Sessions. The language was discussed at length during these hearings. 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 and SB 448 which passed during the 2019 and 2021 Legislative Sessions. Additionally, the changes proposed will result in benefits to employees of the contractors and sub-contractors. Further language clarification pertaining to which benefits may be included in wages will more accurately reflect benefits to an employee and will allow an employer to account for benefits provided. 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. New language also broadens the definition for the types of facilities which are now eligible for partial tax abatements.

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 22.

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 and SB 448 which were approved during the 2019 and 2021 Legislative Sessions. The amended language proposed by GOE does not stray from the new language found in SB 298 and SB 448.

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.

A handwritten signature in black ink, appearing to read "D. B. Z.", positioned above a horizontal line.

(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.)