

**PROPOSED REGULATION OF THE
DEPARTMENT OF TAXATION**

LCB FILE NO. R098-22I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/15/2022**

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DEPARTMENT OF TAXATION
LCB FILE NO. AGENCY DRAFT**

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

AUTHORITY: NRS 360.090, 360.283

A REGULATION relating to population estimates, the time for filing a petition to appeal a population estimate; the notice required to be provided by the Department, and matters related thereto.

Agency Digest: Existing law provides that a county, incorporated city or unincorporated town is entitled to receive the estate of the population of the county, incorporated city or unincorporated town determined by the demographer employed by the Department of Taxation. (NAC 360.390).

The estimate may be appealed if the appeal is filed within 2 weeks of the estimate being provided to the county, incorporated city or unincorporated town. Occasionally appeals are filed late because the use of “2 weeks” is unclear. **Section 1** proposes a change in subsection 2 to clarify the number of days after the estimate is provided that the appeal must be filed.

If a petition to appeal is filed, the petitioner must provide notice of the appeal to the county and all incorporated cities and unincorporated towns within the county. The Department is required to notify all counties, incorporated cities and unincorporated towns of receipt of the petition to appeal within 5 state working days after receipt of the petition. This requirement may result in the Department sending multiple notifications to the same counties, incorporated cities and unincorporated towns of petitions. The change in subsection 4 is made to allow for a single notification to be sent Statewide providing notification of all timely-filed petitions to appeal.

Notice of the hearing on the petition to appeal is required to be sent to all counties, incorporated cities and unincorporated towns by mail and facsimile within five state working days before the hearing. The change in subsection 7 is made to modernize the requirement to distribute notice of the hearing through a means other than mail.

Existing law eliminated, for certain taxes, language requiring the Bureau of Census population totals be used if the population totals certified by the Governor are in conflict. (Senate Bill 74 (2021), NRS 360.690, NRS 377.055, NRS 377.057). **Section 2** removes the regulation concerning use of the population totals by Bureau of the Census because it is no longer needed.

Section 1. NAC 360.390 is amended as follows:

NAC 360.390 Estimate for county, incorporated city or unincorporated town: Distribution by demographer; appeal; revised estimates. (NRS 360.090, 360.283)

1. The demographer employed by the Department shall distribute to the designated representative of each county, incorporated city and unincorporated town the estimates of the population of the county, incorporated city or unincorporated town not later than the first state working day in December.

2. A petition to appeal the estimates of the population of a county, incorporated city or unincorporated town must be submitted in writing to the Department not later than ~~{2-weeks}~~ *14 days* after the date on which the estimates are distributed. The petition must set forth the grounds for the appeal and include copies of all documentation supporting the appeal.

3. Upon filing a petition to appeal, the petitioner shall give notice of the appeal to the county and all incorporated cities and unincorporated towns within the county.

4. The Department will, within 5 state working days after ~~{receiving a petition to appeal}~~ *the time to file an appeal stated in subsection (2)*, notify all counties, incorporated cities and unincorporated towns in the State of the receipt of the petition.

5. An appeal must be based on at least one of the following grounds:

(a) An error was made in the application of the methodology used to determine the estimates.

(b) An incorrect assumption was made in developing the proposed estimates.

(c) Additional information has become available which was not available or not used when the proposed estimates were being developed and the application of the additional information, if accepted by the Department and the demographer employed by the Department, would cause the proposed estimates to change materially.

6. The Department and the demographer employed by the Department will review the petition and may issue revised estimates. If revised estimates are issued, the Department will notify the petitioner in writing of the revised estimates as soon as practicable. If the revised estimates are agreed to by the petitioner not later than 30 days after the date on which the written notification is issued, or within such additional period as agreed to by the Department and the petitioner, the Department will issue a written decision on the petition adopting the revised estimates as the estimates of the population of the respective county, incorporated city or unincorporated town. If the revised estimates are not timely agreed to by the petitioner or if the Department and the demographer employed by the Department determine not to issue revised estimates within 30 days after the submission of the petition, the Department will set the appeal for hearing.

7. The appeal must be heard by a hearing officer of the Department in accordance with the provisions of NAC 360.043 to 360.200, inclusive. The Department will mail or transmit by ~~{faesimile machine}~~ *electronic mail* to the petitioner and all counties, incorporated cities and unincorporated towns a notice of the date for the hearing during which oral arguments will be heard. The notice must be mailed or transmitted by ~~{faesimile machine}~~ *electronic mail* not later than 5 state working days before the date of the hearing. Unless extended by the Department, an oral argument will be limited to 20 minutes.

8. A decision of the hearing officer may be appealed to the Commission. A decision of the Commission is a final decision for the purposes of judicial review.

9. An existing estimate of the population of any incorporated city or unincorporated town that does not submit a petition to appeal pursuant to this section will not be affected by any revised estimate that is agreed to by the Department and a petitioner pursuant to this section unless the Department determines that specific errors were made in the calculation of the existing estimate.

Sec. 2. NAC 360.373 is stricken in its entirety.

~~[NAC 360.373 Use of population count from decennial census. (NRS 360.090, 360.283)~~

~~—1. When the Bureau of the Census conducts a decennial census in this State, the population count from the decennial census may replace the estimates of populations calculated pursuant to NAC 360.365, 360.368 and 360.370.~~

~~—2. An appropriate local government official may apply to the Department for approval to use the population count from the decennial census. The Department shall approve the request if the Department and the demographer employed by the Department determine that the population count is reasonable and the county and all of the incorporated cities and unincorporated towns within the county agree to use the population count.~~

~~—3. If the county, incorporated cities and unincorporated towns cannot agree on a method to estimate population on or before December 1, the estimates of the populations of the county and all of the incorporated cities and unincorporated towns in that county must be determined pursuant to NAC 360.365, 360.368 and 360.370.~~

~~—4. If the population count from the decennial census is used to estimate the population of a county, incorporated city or unincorporated town, the population count must be adjusted, if necessary, by the Department and the demographer employed by the Department for the change in housing units between the effective date of the population count and July 1.]~~