

**ADOPTED REGULATION OF THE HOUSING DIVISION OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R208-01

Effective April 5, 2002

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

AUTHORITY: §§1-28, NRS 702.270.

Section 1. Chapter 702 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 28, inclusive, of this regulation.

Sec. 2. *In adopting sections 2 to 28, inclusive, of this regulation, it is the intent of the housing division to:*

- 1. Carry out the provisions of NRS 702.270 and 702.280;*
- 2. Provide programs of weatherization assistance for eligible households to increase the energy efficiency of dwelling units owned or occupied by eligible households, to reduce the total amount of money that eligible households spend on energy consumption and to improve the health and safety of the members of eligible households; and*
- 3. Ensure that programs of weatherization assistance are made available to eligible households in all areas of this state.*

Sec. 3. *As used in sections 2 to 28, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 4 to 22, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 4. *“Advisory committee on housing” means the advisory committee on housing created by NRS 319.173.*

Sec. 5. “Annual state plan” means the annual plan that the housing division and the welfare division jointly develop pursuant to NRS 702.280 concerning the fund and the programs and activities relating to the fund.

Sec. 6. “Community action agency” means an entity described in 42 U.S.C. § 9924 that is eligible to receive money pursuant to the community services block grant program.

Sec. 7. “Community services block grant program” means the community services block grant program administered by the Secretary of the United States Department of Health and Human Services pursuant to 42 U.S.C. §§ 9901 et seq.

Sec. 8. 1. “Disabled person” means a person who claims a physical or mental impairment that:

(a) Is severe enough to substantially limit gainful activity which is enjoyed by other persons of comparable age and opportunity; or

(b) Requires treatment or services which are lifelong or extended in duration and which are individually planned for the person.

2. A person does not have to be certified as disabled by a disability program or agency or entitled to receive compensation from a disability program or agency to be considered disabled for the purposes of this section.

Sec. 9. “Dwelling unit” means any of the following dwelling units, whether or not the dwelling unit is owned, rented or subsidized:

1. A single-family dwelling unit, including, without limitation, a house or a stationary mobile home.

2. A multifamily dwelling unit, including, without limitation, a townhouse or an apartment.

3. *A single room or a group of rooms occupied as separate living quarters.*

Sec. 10. *“Elderly person” means a person who is 60 years of age or older.*

Sec. 11. *“Eligible household” means a household which meets the criteria to receive weatherization assistance that is set forth in section 28 of this regulation.*

Sec. 12. *“Energy audit” means the process used to determine which weatherization measures are the most cost-effective in reducing the energy consumption of a household.*

Sec. 13. *“Federal poverty level” means the federally designated level signifying poverty that is determined in accordance with criteria established by the Director of the Office of Management and Budget of the Executive Office of the President of the United States.*

Sec. 14. *“Fiscal year” means the fiscal year for state government which begins on July 1 of each calendar year and ends on June 30 of the following calendar year.*

Sec. 15. *“Grant” means money in the fund which is distributed to the housing division pursuant to NRS 702.270 and which is awarded by the housing division to a subgrantee to provide weatherization assistance to eligible households.*

Sec. 16. *“Household” means one or more persons, whether or not related, who reside in the same dwelling unit and who share a primary heating system or a primary cooling system.*

Sec. 17. *“Member of an eligible household” or “member” means a person who resides in an eligible household.*

Sec. 18. *“Multifamily dwelling unit” means a dwelling unit that has one or more walls attached to one or more other dwelling units.*

Sec. 19. *“Person” means a natural person.*

Sec. 20. *“Single-family dwelling unit” means a dwelling unit that is not attached at any point to another dwelling unit.*

Sec. 21. "Subgrantee" means an entity that has been awarded a grant by the housing division to provide weatherization assistance to eligible households pursuant to the provisions of sections 2 to 28, inclusive, of this regulation.

Sec. 22. "Weatherization assistance" means assistance provided to an eligible household through a program of energy conservation, weatherization or energy efficiency that is approved by the housing division pursuant to the provisions of sections 2 to 28, inclusive, of this regulation.

Sec. 23. The housing division will:

1. As required by NRS 702.280, coordinate with the welfare division to:

(a) Develop the annual state plan;

(b) Conduct the annual evaluation of the programs of weatherization assistance approved by the housing division; and

(c) Prepare the annual report that must be submitted to the governor, the legislative commission and the interim finance committee.

2. At regularly scheduled meetings of the advisory committee on housing, make reports concerning programs of weatherization assistance approved by the housing division.

3. Coordinate its activities relating to consumer outreach with and support the consumer outreach activities of the welfare division, subgrantees, public utilities, municipal utilities and other public or private entities.

4. To the extent possible, supplement money in the fund that is distributed to the housing division pursuant to NRS 702.270 with money from other public and private sources, including, without limitation, money from:

(a) The United States Department of Energy, the United States Department of Housing and Urban Development and other federal agencies.

(b) The community services block grant program.

(c) Housing trust funds.

(d) Housing preservation grants.

(e) Housing programs of local governments.

(f) Contributions by landlords and other private persons or entities.

5. To the extent possible, supplement money in the fund that is distributed to the housing division pursuant to NRS 702.270 with in-kind contributions of labor or materials from apprenticeship and training schools or programs and from other persons or entities.

Sec. 24. 1. The housing division will award grants to entities that are selected by the housing division to be subgrantees.

2. To be eligible to be selected as a subgrantee, an entity must be:

(a) A community action agency; or

(b) Another type of public or private nonprofit entity, including, without limitation, an agency or instrumentality of this state or of a political subdivision of this state.

3. The housing division will select an entity to be a subgrantee only if the entity:

(a) Files with the housing division an application to be a subgrantee;

(b) Is approved by the housing division to provide weatherization assistance; and

(c) Agrees to provide such weatherization assistance to eligible households within the county or other regional area designated by the housing division.

4. In selecting entities to be subgrantees, the housing division will:

(a) Make such selections based on public comment for the annual state plan; and

(b) Give preference to entities that have administered or are administering an effective program of weatherization assistance pursuant to the provisions of sections 2 to 28, inclusive, of this regulation or pursuant to some other public or private program that provides weatherization assistance to low-income households. In determining whether an entity has administered or is administering an effective program of weatherization assistance for the purposes of this paragraph, the housing division will consider, without limitation:

(1) The extent to which the entity achieved or is achieving its weatherization goals in a timely manner in administering its program of weatherization assistance;

(2) The quality of the work performed by the entity; and

(3) The total number of staff members of the entity and the qualifications and experience of those staff members.

5. If an entity is selected to be a subgrantee, the entity may use not more than 10 percent of the money from its grant for its administrative expenses.

6. For each county or other regional area designated by the housing division, the amount of money awarded to subgrantees for weatherization assistance will be proportional to the amount of money which is collected for the universal energy charge from retail customers located within that county or other regional area and which is made available for weatherization assistance pursuant to NRS 702.270 and sections 2 to 28, inclusive, of this regulation.

Sec. 25. *The housing division will use a computer program for energy audits to:*

1. Ensure the cost-effectiveness of the weatherization measures that a subgrantee is providing to eligible households; and

2. Develop a list which prioritizes the weatherization measures that a subgrantee may provide to eligible households. The list will be based on the following factors:

(a) The climate of the region.

(b) The type of dwelling unit.

(c) The type of heating system or cooling system.

(d) The type of energy source used by the heating system or cooling system and the cost of the energy source.

(e) The cost of the weatherization measure.

Sec. 26. 1. *The housing division will monitor each program of weatherization assistance administered by a subgrantee to ensure that the subgrantee is complying with the regulations, policies and procedures governing its grant.*

2. Such monitoring will include, without limitation:

(a) A review of the expenditures made by the subgrantee during each fiscal year and an evaluation of whether the subgrantee is complying with generally accepted accounting principles; and

(b) On-site inspections of at least 10 percent of the dwelling units that the subgrantee has weatherized during each fiscal year and an evaluation of whether the subgrantee is complying with the weatherization and installation standards, policies and procedures of the housing division.

Sec. 27. 1. *During each fiscal year, the housing division will prepare and maintain the following reports concerning weatherization assistance:*

(a) Monthly reports on the financial expenditures of the housing division.

(b) Monthly reports on each program of weatherization assistance administered by a subgrantee, including, without limitation, the financial status and the productivity of the program.

(c) Annual audit reports on the financial expenditures of the housing division and each subgrantee.

(d) Annual reports on program evaluation prepared in conjunction with the welfare division and the commission.

2. Each subgrantee shall provide the housing division with all information that is necessary for the housing division to carry out the provisions of this section.

3. For the purposes of the monthly reports on each program of weatherization assistance administered by a subgrantee, each subgrantee shall provide the housing division with all information that is necessary to prepare each monthly report, and each subgrantee shall submit the information to the housing division:

(a) On a report form authorized by the housing division; and

(b) Not later than 30 days after the end of the month that is the subject of the report.

Sec. 28. *1. A household may apply to receive weatherization assistance from a subgrantee that has been approved by the housing division to provide weatherization assistance within the county or other regional area where the dwelling unit of the household is located. The name, address and telephone number of such a subgrantee may be obtained from an office of the housing division or at the Internet website of the housing division.*

2. Except as otherwise provided in this section, to be eligible to receive weatherization assistance from a subgrantee, a household must:

(a) File with the appropriate subgrantee an application for weatherization assistance and an eligibility determination worksheet;

(b) Provide a copy of a bill from a public utility or a municipal utility indicating that the household paid the universal energy charge for the dwelling unit for the month in which the household is applying for weatherization assistance; and

(c) Have a total household income which, in relation to the number of persons who reside in the household, is at or below 150 percent of the federal poverty level.

3. A subgrantee shall provide weatherization assistance to eligible households based on the availability of money and the priority given to each eligible household using the information provided in the eligibility determination worksheet. The subgrantee shall give priority to the following eligible households in the following order of priority:

(a) Eligible households requiring emergency assistance because:

(1) The primary heating system of the household is inoperable or unsafe during the winter heating season; or

(2) The primary cooling system of the household is inoperable or unsafe during the summer cooling season.

(b) Eligible households that have one or more members who are:

(1) Elderly persons;

(2) Disabled persons; or

(3) Children less than 6 years of age.

(c) All other eligible households.

4. Whether or not a household satisfies the other criteria set forth in this section, a household is not eligible to receive weatherization assistance if:

(a) The household purchases natural gas or electricity from an entity described in subsection 1 of NRS 702.150;

(b) Within the 5 years immediately preceding the application, the dwelling unit has been improved, in whole or in part, through a program of weatherization assistance administered pursuant to the provisions of sections 2 to 28, inclusive, of this regulation or pursuant to some other public or private program that provides weatherization assistance to low-income households; or

(c) The dwelling unit is:

(1) Vacant;

(2) On the market for sale or in the process of being acquired or sold; or

(3) In the process of being foreclosed, sold or having its title transferred for the failure of a person to pay under the terms of a mortgage, a deed of trust, a land installment contract or any other contract, lien or judgment.

5. Except as otherwise provided by law, each subgrantee shall maintain for a period of at least 6 years:

(a) Each application for weatherization assistance filed by a household;

(b) Each eligibility determination worksheet filed by a household; and

(c) Each building weatherization report filed by the subgrantee.

NOTICE OF ADOPTION OF REGULATION

The Nevada Housing Division adopted regulations assigned LCB File No. R208-01 which pertain to chapter 702 of the Nevada Administrative Code on March 15, 2002. A copy of the regulations as adopted is attached hereto.

Notice date: 2/8/2002

Date of adoption by agency: 3/15/2002

Hearing date: 3/11/2002 & 3/12/2002

Filing date: 4/5/2002

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 702.

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

The Nevada Division of Housing noticed the hearing with the following:
Posted notices at the Divisions offices in Carson City, Nevada and Las Vegas, Nevada, the Attorney Generals Office, Carson City, Nevada, The State Library, Carson City, Nevada and a mailing to a list of interested parties and a mailing to all Nevada Libraries.

- 2. The number of persons who:**
 - (a) Attended each hearing 5**
 - (b) Testified at each hearing 3**
 - (c) Submitted to the agency written comments:**

Comments were made in a morning workshops conducted prior to the Hearing; by the Welfare Division of the State of Nevada.

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

Comments have been solicited by the above mentioned notices. The main response was from the Welfare Division who is a joint participant in the Sharing of the Fund. The comments and recommendations of the Welfare Division consisted of one definition change and word clarifications that included the Welfare Division by name in areas of shared responsibility. Mr. Cloyd Phillips, of the Community Service Agency, Reno, Nevada commented on the prioritization of measures provided by subgrantees. The comments, have been transcribed and taped and are with the Program Manager, Craig Davis.

- 4. If the regulation was adopted without changing any part of the proposed regulation. A summary of the reasons for adopting the regulation without change.**

There will be limited recommended changes.

- 5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long term effects.**

- a. The proposed regulations are expected to improve the health, safety and general living conditions of the public it is designed to serve.
- b. There is no adverse economic effect short term or long term on the weatherization service providers and public served by the program.

- 6. The estimated cost to the agency for the enforcement of the adopted regulation.**

There has been one additional person budgeted to the program by the legislation.

- 7. A description of any regulation of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are existing Welfare Division regulations which duplicate the definitional terms. This is due to the fact that the terms for both programs stem from the same legislation (AB661) and both agencies are required to develop regulations that pertain to the differing missions of each agency.

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

There is no applicable federal regulation.

- 9. 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.**

The regulation per se does not include a new fee the Nevada Fund for Energy Assistance and Conservation (AB 661) creates a Universal Energy charge which is collected by utilities and transferred to the Public Utilities Commission.