

LCB File No. R170-06

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

(This regulation splits out from and amends sections 8, 10 and 11 of R025-06)

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

AUTHORITY: §1, NRS 701.170 and 701.217; §§2 and 3, NRS 701.170.

A REGULATION relating to energy; adopting an exception to the LEED Green Building Rating System which has been adopted for use in this State with regard to nonpublic buildings or structures for the purposes of determining eligibility for certain tax abatements or tax exemptions; and providing other matters properly relating thereto.

Section 1. Section 8 of LCB File No. R025-06, which was adopted by the Director of the Office of Energy and which was filed with the Secretary of State on June 28, 2006, is hereby amended to read as follows:

Sec. 8. 1. ~~[Pursuant]~~ *Except as otherwise provided in subsection 6, pursuant* to paragraph (b) of subsection 1 of NRS 701.217, the Director hereby adopts by reference the following portions of the LEED Green Building Rating System:

(a) Version 2 of LEED-EB; and

(b) Versions 2.1 and 2.2 of LEED-NC.

2. The LEED Green Building Rating System is adopted for use in this State with regard to buildings or structures that are not public buildings or structures for the purposes of determining eligibility for tax abatements or tax exemptions that are authorized by law to use such a Green Building Rating System.

3. If the U.S. Green Building Council adopts an updated version of the LEED Green Building Rating System, the updated version shall be deemed to have been determined by the Director to be appropriate for use in this State, effective 10 days after the date on which the updated version is published, unless the Director determines that the updated version is not appropriate for use in this State. If the Director determines that the updated version is not appropriate for use in this State, the Director will post a notice of disapproval at the largest public library in each county, the State Library and Archives, the Grant Sawyer Office Building located at 555 East Washington Avenue, Las Vegas, Nevada, and the Office of Energy.

4. If the Director determines that an updated version of the LEED Green Building Rating System is not appropriate for use in this State:

(a) The Director will adopt an alternative Green Building Rating System and certification process; and

(b) The version of the LEED Green Building Rating System that was most recently adopted by the Director by regulation or deemed appropriate for use in this State pursuant to this section will continue in effect until the alternative rating system and certification process adopted by the Director become effective.

5. A copy of the LEED Green Building Rating System may be obtained at no cost from the U.S. Green Building Council, 1015 18th Street, N.W., Suite 508, Washington, D.C. 20036, or on the Internet at .

6. The Director hereby adopts an exception to the LEED Green Building Rating System for buildings or other structures that are affected by the provisions of NRS 202.2483. If such a building or other structure does not qualify for certification under

the LEED Green Building Rating System solely because of its failure to satisfy the requirements of the LEED Green Building Rating System relating to the control of environmental tobacco smoke, the building or other structure shall be deemed to have received such certification.

Sec. 2. Section 10 of LCB File No. R025-06, which was adopted by the Director of the Office of Energy and which was filed with the Secretary of State on June 28, 2006, is hereby amended to read as follows:

Sec. 10. 1. A person who, with respect to a construction project involving a building or other structure, wishes to apply to the Commission on Economic Development pursuant to NRS 361.0775, and any regulations adopted pursuant thereto, for a partial abatement from the tax imposed on real property by chapter 361 of NRS, or wishes to seek authorization from the Department of Taxation for a partial sales tax exemption on products or materials used in the construction project in accordance with the former provisions of NRS 374.307, as amended by section 7 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 71, must register the project with the Office of Energy before construction is begun unless the Director provides written approval for a later registration.

2. To register a project with the Office of Energy, the registrant must provide:

(a) The name, address and telephone number of the registrant;

(b) The name and address of the owner of the affected real property, if the registrant is not the owner;

(c) The address of the real property;

(d) Any project title associated with the development or modification of the real property;

(e) The applicable LEED Green Building Rating System and version on which the certification of the building or other structure will be based;

(f) The level and number of points of the applicable LEED Green Building Rating System at which the registrant expects the building or other structure to be certified ~~and~~ *or, if the building or other structure is subject to the provisions of subsection 6 of section 8 of LCB File No. R025-06, as amended by section 1 of this regulation, to be used for the purposes of determining eligibility for the tax abatement or tax exemption;*

(g) The expected date of occupancy of the building or other structure;

(h) The gross square footage of the building or other structure;

(i) The proposed use of the building or other structure;

(j) Proof that the project has been registered with the U.S. Green Building Council;

(k) If applicable, the name and contact information of the LEED accredited professional assigned to the design team for the project;

(l) If the registrant is seeking authorization from the Department of Taxation for a partial sales tax exemption on products or materials used in the construction project in accordance with the former provisions of NRS 374.307, as amended by section 7 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 71, an evaluation from a LEED accredited professional that includes:

(1) A statement that he has reviewed the plans, design documentation and specifications for the project; and

(2) His opinion as to the probability that the building or other structure will be certified at the silver level or higher of the applicable LEED Green Building Rating System ~~is~~ *or, if the building or other structure is subject to the provisions of subsection 6 of section 8 of LCB File No. R025-06, as amended by section 1 of this regulation, will be deemed so certified;* and

(m) Any other information requested by the Director.

3. Upon the receipt of all information required by this section, the Director will:

(a) Notify the registrant in writing acknowledging that the registration is complete; and

(b) Forward a copy of the registration and the written notification provided to the

registrant to:

(1) The Executive Director of the Department of Taxation;

(2) The Executive Director of the Commission on Economic Development; and

(3) The treasurer of the county in which the real property is located.

Sec. 3. Section 11 of LCB File No. R025-06, which was adopted by the Director of the Office of Energy and which was filed with the Secretary of State on June 28, 2006, is hereby amended to read as follows:

Sec. 11. 1. Upon receipt of certification from the U.S. Green Building Council, the registrant shall notify the Director whether the building or other structure ~~has~~ :

(a) Has been certified at the silver level or higher of the applicable LEED Green Building Rating System and, if so, provide a copy of the certification from the U.S. Green Building Council, including the number of LEED points earned ~~is~~ ; *or*

(b) Is deemed to have been so certified pursuant to subsection 6 of section 8 of LCB File No. R025-06, as amended by section 1 of this regulation.

2. Upon receipt of verification that the building or other structure has been certified at the silver level or higher of the applicable LEED Green Building Rating System **or is deemed to have been so certified pursuant to subsection 6 of section 8 of LCB File No. R025-06, as amended by section 1 of this regulation,** the Director will issue a letter of verification which states that the real property for which the real property tax abatement or sales tax exemption is sought has a building or other structure that meets or exceeds the certification requirements for the abatement as set forth in NRS 361.0775, and any regulations adopted pursuant thereto, or for the exemption in accordance with the former provisions of NRS 374.307, as amended by section 7 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 71, and which sets forth the number of LEED points earned. The Director will forward a copy of the letter to:

- (a) The registrant;
- (b) The Executive Director of the Department of Taxation;
- (c) The Executive Director of the Commission on Economic Development; and
- (d) The treasurer of the county in which the real property is located.