

LCB File No. R161-09

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

Renewable Energy Revolving Loan Fund Program

October 7, 2009

AUTHORITY: Assembly Bill 522 Sec. 1.8, 75th Session of the Nevada Legislature

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

Section 1. Chapter 701 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 through 20 of this regulation.

Sec. 2. *“Director” means the Director of the Office of Energy.*

Sec. 3. *“Disadvantaged community” means a City, County or defined service area in which the median household income is less than 80 percent of the statewide median household income, as determined by the most recent data from the United States Census Bureau or by income surveys.*

Sec. 4. *“Fund” means the Renewable Energy, Energy Efficiency and Energy Conservation Fund established by Assembly Bill 522, sec. 1.5, of the 75th Nevada Legislature*

Sec. 5. *“Net metering system” has the meaning ascribed to it NRS 704.771.*

Sec. 6. *“Project” means the planning, design and construction of a renewable energy system.*

Sec. 7. *“Provider of electric service” has the meaning ascribed to it in NRS 704.7808.*

Sec. 8. *“Public entity” means a department, agency or instrumentality of the State or any of its political subdivisions.*

Sec. 9. *“Renewable energy” has the meaning ascribed to it in NRS 704.7811.*

Sec. 10. *“Renewable energy system” has the meaning ascribed to it in NRS 704.7815 (as amended by SB 358, 75th Session of the Nevada Legislature).*

Sec. 11. *The purpose of the Renewable Energy, Energy Efficiency and Energy Conservation Revolving Loan Fund program is to provide below market rate financing, at an interest rate not to exceed 3 percent, of projects that develop or expand renewable energy systems and energy efficiency projects in the State.*

Sec. 12. *The Director may enter into contracts with third parties to procure expert technical and financial management services or other services needed to administer the revolving loan program.*

Sec. 13. *Eligible applicants for loans from the Fund include:*

1. Owners of existing renewable energy systems in the State; and

2. Any person or public entity seeking to construct a new renewable energy system in the State, except that an applicant proposing to install a net metering system must first be selected as a participant in the solar, wind or waterpower energy incentive programs established pursuant to NRS 701B.010 through NRS 701B.890 to be eligible for financing from the Fund.

3. Public entities seeking to install energy efficiency, energy conservation or renewable energy measures in public buildings.

Sec. 14. 1. *To be eligible for financing from the Fund, a project must:*

(a) Use reliable, proven technology.

(b) Include construction and installation of a new renewable energy system, expansion of an existing renewable energy system to increase its electrical generating capacity or installation and operation of equipment or systems to conserve energy in public buildings; and

(c) Provide that electricity generated by a renewable energy system is to either be consumed by the applicant within the State or will be transmitted or distributed to a provider of electric service for delivery into and use in this State.

2. Ineligible projects or activities include:

(a) Research or general planning;

(b) Refinancing of existing debt;

(c) Purchase of land or water rights;

(d) Operation and maintenance;

(e) Development of renewable energy systems where the energy is to be sold as a commodity for use outside of the State.

Sec 15. 1. *The Director shall periodically solicit applications for financing of renewable energy or energy conservation and efficiency projects. The solicitation shall be made available to interested parties and posted on the Office of Energy web site. The solicitation shall specify the amount of financing available and may specify an allocation of financing to categories of applicants, such as individuals, schools, public entities and small businesses. The solicitation shall specify minimum and maximum amounts of individual loans within each category.*

2. Applications for financing shall be on a form prescribed by the Director and shall include:

(a) The name, address and telephone number of the applicant or the legal representative of the applicant.

(b) A narrative description of the proposed renewable energy project, including, without limitation, a complete description of the renewable energy system and the capacity of the system.

(c) An estimate of the time required to recover the project cost from energy cost savings, if the project is replacing fossil fuel use.

(d) An estimate of the amount of reduction in emission of greenhouse gases, if the project is replacing fossil fuel use.

(e) An estimate of the number of jobs created or retained by the project.

(f) Maps of appropriate scale to show clearly the location of the proposed project with respect to other identifiable topographical or geographical features in the area of the project.

(g) A complete and legible legal description of the project location.

(h) Proof of ownership, rights-of-way, easements or agreements showing that the applicant holds or is able to acquire all land, other than public land, or acquire interests therein and any water rights necessary for the construction of the proposed project.

(i) A description of how the project complies with planning and zoning requirements.

(j) An itemized estimate of the total cost of the project and the amount of financing requested. If an estimate has been prepared by a professional engineer, a copy of the estimate of the total cost of the project.

(k) Any other anticipated sources of funding for the project from a State or federal agency or other entity.

(l) If the applicant is a public entity, the median household income for the community or area that will be served or for the city or county in which the project is located, including, without limitation, the source of that information.

(m) A preliminary project schedule that, as applicable, provides a timetable for:

(1) Advertising and opening bid

(2) The start of the construction phase;

(3) The estimated schedule of progress payments to the contractor and other costs related to the drawdown of funds;

(4) Completion of the construction phase; and

(5) Initiation of the operation of the renewable energy project.

(n) Information sufficient to demonstrate how the loan will be repaid. If the applicant is a public entity, this information shall include, as applicable, orders or resolutions specifying the method of loan repayment from the appropriate governing board, regulatory agency or local governing body having rate jurisdiction and copies of current capital improvement plans and debt management policies as provided to the Department of Taxation pursuant to chapter 350 of NRS and any applicable regulation.. Applicants that are not public entities shall provide:

(1) Annual financial statements for the preceding 3 years.

(2) At least three credit references; and

(3) Any other information necessary for the Director to understand how the applicant intends to repay the loan.

(o) Institutional and management arrangements required for successful implementation of the project.

(p) A report on the status of the process of environmental review for the project, as applicable.

(q) A list of any required permits and a schedule of when those permits will be obtained.

(r) Security for the loan, as required by the Director.

(s) Any other information deemed necessary by the Director.

Sec 16. 1. *Applications shall be reviewed for completeness. Applications that are incomplete will be returned to the applicant and may be resubmitted within 30 days. An application shall be denied if the applicant fails to submit a complete application within this timeframe. An application shall also be denied if the Director finds that:*

(a) The project or applicant is ineligible.

(b) The project is infeasible.

(c) The applicant is unable to provide necessary collateral to secure the loan.

(d) The applicant lacks the technical, managerial or financial capability to carry out the project and repay the loan.

2. An applicant shall be notified in writing of any application that is denied and the reason for denial.

Sec. 17. 1. *Eligible applications shall be evaluated and ranked within each category established by the Director, based on the following criteria:*

(a) Job creation as a result of the project, if the project is to be financed with federal funds awarded under authority of the American Reinvestment and Recovery Act of 2009, Public Law 111-5.

(b) Renewable energy generation relative to project cost.

(c) Energy savings from energy conservation or energy efficiency projects.

(c) Reduction of fossil fuel use and greenhouse gas emissions.

(d) Leveraging of additional financial resources; and

(e) Readiness of the project to proceed and be constructed within prescribed timeframes.

2. The ranking of eligible projects shall be presented to the Legislature's Interim Finance Committee for approval. Upon approval, the ranking of eligible projects shall be made available to the general public and be posted on the Office of Energy web site.

Sec. 18. 1. *Applicants with the highest ranked projects within each category will be offered loan contracts until available funding is fully committed. In the event projects are tied, funding will be allocated in the order that applications were received.*

2. The loan contract must be:

(a) On a form provided by the Director; and

(b) Executed by all parties before the commencement of construction of the project.

3. The term of the loan contract shall be determined by the Director but will not exceed 15 years.

4. The interest rate for all loan projects shall be set by the Director, but shall not exceed 3%. Public entities with loan projects located in disadvantaged communities may be offered a lower interest rate, as determined by the Director.

Sec. 19. 1. *A loan recipient shall:*

(a) Establish an official file for the project. The file must contain an adequate record of all significant actions relating to the project.

(b) Establish accounts that accurately and adequately show all amounts of money:

(1) Received as financial assistance from the fund.

(2) Received and spent on the project.

(3) Received as income from the project.

(c) Establish a system of accounting which ensures that the final total costs of the project, including all direct and indirect costs, are recorded accurately.

(d) Establish and maintain such other accounts and records as are required by the Director to comply with requirements for reporting established by the Federal Government.

(e) Retain all records relating to the project for at least 3 years after final repayment of financial assistance has been made or for any longer period required by the Director.

2. Any records of a recipient relating to a project must be made available at any reasonable time for inspection or copying by any authorized representative of the Director.

Sec. 20. *1. Whenever an audit is required by federal law or by an agency of the Federal Government, or whenever he determines that an audit is necessary to ensure the integrity of the fund, the Director may require that an audit be performed of financial records relating to a project.*

2. Any audit required pursuant to this section must be performed at the expense of the recipient by a certified public accountant who is independent of the recipient.

3. A report of the audit must be prepared by the auditor in the form prescribed by the Director.