

**ADOPTED REGULATION OF
THE DEPARTMENT OF TAXATION**

LCB File No. R150-10

Effective December 20, 2012

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

AUTHORITY: §§1 and 2, NRS 360.283.

A REGULATION relating to taxation; revising provisions governing the annual estimate by the Department of Taxation of the population of this State and certain political subdivisions; revising provisions governing the appeal of such an estimate for a county, incorporated city or unincorporated town; and providing other matters properly relating thereto.

Section 1. NAC 360.365 is hereby amended to read as follows:

360.365 1. Except as otherwise provided in this section or NAC 360.373, 360.375 or 360.377, estimates of the population of this State and its counties must be determined by averaging on an equal basis the results of the Nevada regression model and the relevant housing unit model.

2. The housing unit model must include housing units listed on the county assessors' records as of July 1 of each year. Only units included on the county assessors' records may be used unless the appropriate local governmental official certifies to the Department that the unit has been approved for occupancy on or before July 1. Documentation certified by the appropriate local governmental official, subject to the approval of the Department and the demographer employed by the Department, may be submitted to the Department to verify that a housing unit should be included in the calculations.

3. The number of persons per household must be calculated using the last decennial census unless a more recent source is available and has been approved by the Department and the demographer employed by the Department. The number of persons per household may be adjusted using historical rates of change in persons per household. To the extent possible, the vacancy rate must be determined for all incorporated cities and unincorporated towns within a county on a consistent basis *using data from the last decennial census. The occupancy rate may be updated* by using a postal survey, data from utilities providing services within those cities and towns or information from other sources acceptable to the Department and the demographer employed by the Department ~~[-]~~ *that indicates changes to data from the last decennial census.*

4. A county and the incorporated cities and unincorporated towns within that county ~~[shall]~~ *may* coordinate and agree upon the data to be included in the housing unit models for the county and each incorporated city and unincorporated town. If the county, incorporated cities and unincorporated towns cannot agree by ~~[August]~~ *September* 30, the question of what data may be included must be submitted to the Department and the demographer employed by the Department for resolution. *Housing unit estimates must be submitted to the demographer employed by the Department not later than the first state working day in November.*

5. If the Department and the demographer employed by the Department determine that data is unavailable to produce a workable housing unit model, the Nevada regression model must be used to determine the population of the county.

6. If the Department and the demographer employed by the Department determine that data is unavailable to produce a workable Nevada regression model, the housing unit model must be used to determine the population of the county.

7. If the Department and the demographer employed by the Department determine that data is unavailable to produce a workable housing unit model and a workable Nevada regression model, the latest estimates prepared by the Bureau of the Census must be used to determine the population of the county.

Sec. 2. NAC 360.390 is hereby amended to read as follows:

360.390 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 ~~as soon as possible after the distribution of the estimates. Upon review of the petition, revised estimates may be issued.~~

~~2.]~~ *not later than 2 weeks 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.

~~{3.}~~ 4. The Department ~~{shall,}~~ *will*, within 5 state working days after receiving a petition to appeal, notify all counties, incorporated cities and unincorporated towns in the State of the receipt of the petition.

~~{4.— An appeal must be filed on or before December 14 and will be heard and ruled upon by a hearing officer of the Department. The appeal is subject to the applicable provisions of this chapter and chapter 360 of NRS relating to practice and procedures before the Commission.}~~

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 ~~shall~~ will mail or transmit by facsimile machine 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 facsimile machine 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.

~~[7.]~~ 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.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
Informational Statement
LCB File No. R150-10**

1. 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 Department of Taxation, as staff to the Nevada Tax Commission, solicited comment from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>
8/6/2012	Workshop	8/22/2012	399
11/9/2012	Adoption Hearing	12/10/2012	399

The mailing list included the interested parties list maintained by the Department as well as the e-mail list maintained by the State Demographer.

Several local government officials who have the right to appeal the population estimates produced by the State Demographer attended the workshop and commented on the proposed regulations.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2096 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at efierro@tax.state.nv.us.

2. The number of persons who:

- (a) **Attended each hearing:** 7 people attended the workshop; 1 person attended the adoption hearing.
- (b) **Testified at each hearing:** 6 people testified at the workshop; 0 people attended the adoption hearing
- (c) **Submitted written comments:** 4 people submitted written comments following the regulation workshop.

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

Comments were solicited from affected and interested businesses and persons, by notices posted at the Nevada State Library; various Department of Taxation locations throughout the state; and at the Main Public Libraries in counties where an office of the Department of Taxation is not located. Comments were also solicited

by direct email to other interested parties list maintained by the Department and the State Demographer

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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.

The regulation was adopted by the Nevada Tax Commission following changes incorporated to the draft regulation after the workshop.

5. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

- (a) Estimated economic effect on the businesses which they are to regulate.
- (b) Estimated economic effect on the public which they are to regulate.

None

6. The estimated cost to the agency for enforcement of the proposed regulation:

None

7. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary.

None

8. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

N/A

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

N/A

10. 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.

N/A