

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

LCB File No. R045-21

November 19, 2021

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

AUTHORITY: §§ 1-4 and 6, NRS 701A.390; § 5, NRS 701A.390 and 701A.450, as amended by section 8.5 of Senate Bill No. 448, chapter 552, Statutes of Nevada 2021, at page 3779.

A REGULATION relating to energy-related tax incentives; revising certain definitions relating to applications submitted to the Director of the Office of Energy for the partial abatement of certain taxes related to renewable energy facilities; revising certain record keeping and filing requirements for applicants who have executed a partial abatement agreement with the Director; revising how money in the Renewable Energy Account may be used; increasing certain fees an applicant must pay to apply for a partial abatement of certain taxes; revising the purposes for which application fees may be used; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy, a facility for the storage of energy from renewable generation or a hybrid renewable generation and energy storage facility in this State to apply to the Director of the Office of Energy within the Office of the Governor for a partial abatement of certain sales and use taxes or property taxes. (NRS 701A.360, as amended by section 7 of Senate Bill No. 448, chapter 552, Statutes of Nevada 2021, at page 3775) The Director, in consultation with the Office of Economic Development, must approve such an application if the applicant executes an agreement with the Director and certain other conditions are met. (NRS 701A.365, as amended by section 8 of Senate Bill No. 448, chapter 552, Statutes of Nevada 2021, at page 3775) Existing law also: (1) requires the Director to adopt regulations requiring each recipient of a partial abatement to file annually certain information and documentation necessary to assess the applicant’s compliance with the eligibility requirements for the abatement; and (2) authorizes the Director to adopt such other regulations as are necessary to carry out statutory provisions concerning renewable energy facilities and the partial abatement of taxes related to those facilities. (NRS 701A.390)

Existing regulations require each applicant who has executed an abatement agreement with the Director to maintain a list of names and contact information of each person, entity, contractor and subcontractor involved in the construction of the project and operation of the

facility who is authorized to claim the benefit of the partial abatement of taxes approved by the Director. The applicant is required to ensure the list is current and available for inspection by certain persons. (NAC 701A.615) **Section 4** of this regulation requires such an applicant similarly to maintain certain records regarding employees of the facility and employees who worked on the construction of the facility.

Existing regulations define certain terms related to renewable energy facilities and partial abatements, including the terms “facility” and “wages.” (NAC 701A.520, 701A.550) **Section 2** of this regulation makes a conforming change to expand the definition of “facility” to include facilities for the storage of energy from renewable generation and hybrid renewable generation and energy storage facilities. **Section 3** of this regulation revises the definition of “wages.”

Existing law requires the Director to administer the Renewable Energy Account in the State General Fund and requires the money in the Account to be used for purposes that the Director may establish by regulation. (NRS 701A.450, as amended by section 8.5 of Senate Bill No. 448, chapter 552, Statutes of Nevada 2021, at page 3779) **Section 5** of this regulation eliminates provisions that provide that the Director will disburse money in the Account for certain purposes.

Existing regulations require the Director to establish, charge and collect a fee from each applicant who intends to locate a facility that generates energy from renewable sources in this State and who submits an application for a partial abatement of certain taxes related to that facility. (NAC 701A.645) **Section 6** of this regulation increases the fees an applicant must pay to the Director for the application for a partial abatement, annual compliance report and required on-site inspection. **Section 6** also authorizes a portion of the application fee to be used to support certain programs, projects and activities of the Office.

Section 1. NAC 701A.500 is hereby amended to read as follows:

701A.500 As used in NAC 701A.500 to 701A.660, inclusive, the words and terms defined in NRS 701A.300 to 701A.345, inclusive, *and sections 3, 4 and 5 of Senate Bill No. 448, chapter 552, Statutes of Nevada 2021, at page 3774*, and NAC 701A.505 to 701A.550, inclusive, have the meanings ascribed to them in those sections.

Sec. 2. NAC 701A.520 is hereby amended to read as follows:

701A.520 “Facility” means:

1. A facility for the generation of electricity from renewable energy in this State.
2. A wholesale facility for the generation of electricity from renewable energy in this State.
3. A facility for the transmission of electricity if:
 - (a) The facility is interconnected to a facility described in subsection 1 or 2; or

(b) The facility contributes to the capability of the electrical grid to accommodate and transmit electricity produced from a facility described in subsection 1 or 2.

4. A facility for the generation of process heat from solar renewable energy in this State.

5. *A facility for the storage of energy from renewable generation or a hybrid renewable generation and energy storage facility.*

Sec. 3. NAC 701A.550 is hereby amended to read as follows:

701A.550 “Wages” has the meaning ascribed to it in ~~NRS 338.010~~ *subsection 7 of NRS 701A.365, as amended by section 8 of Senate Bill No. 448, chapter 552, Statutes of Nevada 2021, at page 3775.*

Sec. 4. NAC 701A.615 is hereby amended to read as follows:

701A.615 1. An applicant who has executed an abatement agreement with the Director shall:

(a) ~~Maintain~~ *Keep or cause to be kept* a list of the names and contact information of each person, entity, contractor and subcontractor working on the construction of the project and operation of the facility who is authorized to claim the benefit of the partial abatement of taxes approved by the Director ~~is~~ *and the records required to be kept or caused to be kept pursuant to NRS 701A.377;*

(b) Ensure that the information contained in the list *and records* maintained pursuant to paragraph (a) is complete, current and accurate;

(c) Ensure that the list *and records* maintained pursuant to paragraph (a) ~~is~~ *are* available for inspection by the authorized employees or agents of the Director, the Department of Taxation, any county in which the facility is located and vendors during normal business hours; and

(d) Ensure that each person, entity, contractor or subcontractor who is named on the list maintained pursuant to paragraph (a) complies with the terms of the abatement agreement.

2. If the applicant or any other person, entity, contractor or subcontractor fails to comply with the terms of the abatement agreement, the applicant shall pay to the State of Nevada the amount of any sales and use taxes and the amount of any property taxes abated resulting from the noncompliance.

Sec. 5. NAC 701A.645 is hereby amended to read as follows:

701A.645 1. The Director will establish, charge and collect a fee from each applicant who submits an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive. ~~[The amount of the fee must not exceed the actual cost to the Director for processing and approving the application.]~~

2. For projects approved on or before June 30, 2013, the State Controller shall, as soon as practicable, deposit all money in his or her possession that is subject to the provisions of NRS 701A.450 into the Renewable Energy Account in such an account or accounts as directed by the Director. All money received by the Director from the State Controller pursuant to NRS 701A.450 must be deposited by the Director into one or more interest-bearing accounts in financial institutions located in Nevada. All records related to the account or accounts are public records and must be maintained by the Director.

3. At least once every odd-numbered year, the Director will have the account or accounts audited by an independent auditor, and any report made by the auditor is a public record and must be maintained by the Director.

~~[4.— The Director will disburse from the account or accounts all of the money contained therein as follows:~~

~~—(a) Seventy five percent must be available to offset the cost of electricity to or the use of electricity by retail customers of a public utility pursuant to subsection 4 of NRS 701A.450; and~~
~~—(b) Twenty five percent must be dedicated solely to be used by the Director for the operation and staffing of his or her office and for purposes related to the Director’s duties and obligations pursuant to chapters 701 and 701A of NRS and NAC 701A.500 to 701A.660, inclusive.]~~

Sec. 6. NAC 701A.650 is hereby amended to read as follows:

701A.650 1. An applicant shall pay to the Director the following fees:

(a) For the review and approval of an application submitted pursuant to NRS 701A.360, ~~[\$7,500.]~~ **\$9,000.** An applicant shall pay the fee concurrently with the submission of his or her application. The Director will not approve an application for which the fee has not been timely paid pursuant to this paragraph.

(b) For the review and approval of an annual compliance report submitted pursuant to NAC 701A.620, ~~[\$250.]~~ **\$500.** An applicant shall pay the fee concurrently with the submission of his or her annual compliance report. The Director will deem incomplete pursuant to subsection ~~[3]~~ **2** of NAC 701A.620 an annual compliance report for which the fee has not been timely paid pursuant to this paragraph.

(c) In addition to any other fee required by this subsection, if the review and approval of an application submitted pursuant to NRS 701A.360 or an annual compliance report submitted pursuant to NAC 701A.620 requires an on-site inspection, ~~[\$500]~~ **\$1,000** per inspection.

2. The Director will review each fee prescribed by subsection 1 on or before December 31 of each even-numbered year to ensure that the amount of the fee reflects the actual cost to the Office of Energy in carrying out the duties described in subsection 1.

3. The fees collected pursuant to subsection 1 must be deposited by the Director into an interest-bearing account. ~~[The]~~ *Except as otherwise provided in subsection 4, the* money deposited pursuant to this subsection and any interest earned on such money must be used only to pay the costs incurred by the Office of Energy in carrying out the duties described in subsection 1.

4. To the extent that the fee set forth in paragraph (a) of subsection 1 exceeds the actual cost to the Director for reviewing and approving the application, that portion of the fee and any interest earned on such money may be used to support the following programs, projects and activities of the Office of Energy which are intended to expand renewable energy in this State:

- (a) Renewable resource development;*
- (b) Mapping;*
- (c) Surveying;*
- (d) Monitoring of project development and life cycle performance;*
- (e) Business development, including, without limitation, communication with project developers;*
- (f) Matching money provided through grants, projects or programs provided for or established by the Federal Government;*
- (g) Regional market development; and*
- (h) Transmission planning.*

