

**ADOPTED REGULATION OF THE
DIRECTOR OF THE OFFICE OF ENERGY
LCB File No. R170-06 (Split out from R025-06)**

Effective March 23, 2007

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.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R170-06**

The Director of the Office of Energy submits the following statement. The Director adopted regulations assigned LCB File R170-06, which pertain to Chapter 701 of the Nevada Administrative Code, 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.

Notice Date: 5/08/2006 Date of Adoption by Agency: 3/21/2007
Hearing Date: 6/09/2006 & 12/15/2006 Filing Date: 3/23/2007

INFORMATIONAL STATEMENT

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 Office of Energy held preliminary discussions with representatives from the building industry, the State Public Works Board, the Department of Taxation and the Commission on Economic Development. Notice of the proposed regulations were posted on the Office of Energy website and other public locations where both the public and other interested persons would have access to the information. The Office of Energy conducted a public workshop on May 23, 2006 via video-conference between Carson City and Las Vegas. Public comment was also solicited at the public hearing held on June 9, 2006 via video-conference between Carson City and Las Vegas when the regulation was still part of R025-06. Public comments generally supported the concept of adopting a green building rating system for the purpose of determining eligibility for certain tax incentives. The two major areas of concern that were raised dealt with the adoption of only one green building rating system and with the ability of a casino to meet the standards for environmental tobacco smoke control. An additional public hearing was held in Las Vegas on December 15, 2006, after this regulation was split out from R025-06. A copy of the written comments may be obtained by calling the Nevada State Office of Energy at (775) 687-9700 or by writing to the Director at 727 Fairview Drive, Suite F, Carson City, Nevada 89701.

2. The number of person who:

	Carson City	Las Vegas
Attended workshop:	13	15
Attended hearing:	9	10
Submitted written comments:	9	

Written comments were received from the Molasky Group, former Senator Richard Bryan on behalf of the Molasky Group, Ernest & Young, the Green Building Initiative, the Arizona Chapter of the US Green Building Council, the American Chemistry

Council, the American Forest and Paper Association, Robert Tretiak and The Weidt Group.

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

Notice of the proposed regulations were posted on the Office of Energy website and other public locations where both the public and other interested persons would have access to the information. The Office of Energy conducted a public workshop on May 23, 2006 via video-conference between Carson City and Las Vegas. Public comment was also solicited at the public hearing held on June 9, 2006 via video-conference between Carson City and Las Vegas and on December 15, 2006 in Las Vegas. Public comments generally supported the concept of adopting a green building rating system for the purpose of determining eligibility for certain tax incentives. The two major areas of concern that were raised dealt with the adoption of only one green building rating system and with the ability of a casino to meet the standards for environmental tobacco smoke control. A copy of the written comments may be obtained by calling the Nevada State Office of Energy at (775) 687-9700 or by writing to the Director at 727 Fairview Drive, Suite F, Carson City, Nevada 89701.

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 were amendments made to the regulation based upon the public comments made at the workshop and the written comments.

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

Business which it is to regulate:

This regulation was created to determine eligibility for certain tax incentives and is not a mandate on business or the public.

(1) Both adverse and beneficial effects

The adopted regulations do not have an adverse effect. However, the adopted regulations provide for a beneficial effect by adopting a green building rating system for use in determining eligibility for certain tax abatements and tax exemptions.

(2) Both immediate and long-term effects

The adopted regulations will have both immediate and long-term beneficial effects by encouraging sustainable building practices in the private sector.

Public

It is estimated that the adopted regulation will not have a negative economic effect on the public.

(1) Both adverse and beneficial effects

The adopted regulation provides a benefit to the public by encouraging the construction of high-performance buildings and structures that minimize the use of energy and water as well as promote the use of sustainable building materials and improve indoor environmental quality.

(2) Both immediate and long-term effects

The adopted regulations will have beneficial immediate and long-term effects on the public.

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

By the nature of this regulation, there is no need for enforcement and accordingly, no cost to the agency. The administration of the regulation will be absorbed by the agency at this time and will be addressed in the next biennial budget.

7. A description of any regulations of other state or government agencies that 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.

This regulation amends sections 8, 10 and 11 of R025-06. There are no other state or government agency regulations that the proposed regulations duplicate.

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

None

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.

This regulation does not provide or involve a new fee. As such, there is not a total amount expected to be collected or used.