

**ADOPTED REGULATION OF THE
NEVADA ENERGY COMMISSIONER**

LCB File No. R148-10

Effective January 1, 2011

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

AUTHORITY: §§1-10, NRS 701.250.

A REGULATION relating to energy efficiency; prescribing the standards for evaluating the energy consumption of residential property; prescribing the contents of the form for evaluating the energy consumption of residential property; and providing other matters properly relating thereto.

Section 1. Chapter 701 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 9, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Certified inspector” has the meaning ascribed to it in NRS 645D.040.*

Sec. 4. *“Commissioner” means the Nevada Energy Commissioner.*

Sec. 5. *“Form” means the form for evaluating the energy consumption of residential property prescribed by the Commissioner pursuant to NRS 701.250.*

Sec. 6. 1. *The evaluation of the energy consumption of residential property required by NRS 113.115 must be completed on the most recent version of the form. The form must not be modified, altered or amended in any manner except by or with the approval of the Commissioner.*

2. *The form must be completed by the seller of the residential property or by a certified inspector.*

3. *The person who completes the form shall sign the form and attest that the contents of the form are true and accurate to the best of the person's knowledge.*

Sec. 7. 1. *The Commissioner will post the most recent version of the form on the website of the Authority, which may be found at the Internet address <http://renewableenergy.state.nv.us/>. A copy of the form may also be obtained by contacting the Commissioner.*

2. *The Commissioner will include on the form information concerning programs authorized by NRS 702.270 and other programs of improving energy conservation and energy efficiency in residential property.*

Sec. 8. 1. *The form must include the following information for each dwelling unit for which the evaluation of the energy consumption is being performed:*

(a) *The address or assessor's parcel number of the dwelling unit.*

(b) *The year in which the dwelling unit was constructed.*

(c) *The number of stories the dwelling unit contains.*

(d) *The number of bedrooms in the dwelling unit.*

(e) *The square footage of the dwelling unit and the square footage of the conditioned area of the dwelling unit.*

(f) *If the information is reasonably available, the monthly and total consumption and cost of electricity for the 12-month period immediately preceding the sale of the residential property during which the dwelling unit was occupied and electric service was provided.*

(g) If the information is reasonably available, the monthly and total consumption and cost of natural gas, heating oil, propane and kerosene for the 12-month period immediately preceding the sale of the residential property during which the dwelling unit was occupied and the respective service was provided.

(h) If the dwelling unit uses any other source of energy to provide heating or cooling, the type of fuel or power source used and, if the information is reasonably available, the monthly and total consumption and cost of that fuel or power source for the 12-month period immediately preceding the sale of the residential property during which the dwelling unit was occupied and the appropriate service was provided.

(i) A statement indicating the level of occupancy of the dwelling unit for the 12-month period immediately preceding the sale of the residential property during which the dwelling unit was occupied and any service described in paragraph (f), (g) or (h) was provided.

(j) A statement indicating whether any improvements have been made to the dwelling unit within the 5-year period immediately preceding the sale of the residential property, a description of any such improvement made and a statement indicating whether the improvement has the effect of reducing the overall energy consumption of the dwelling unit.

(k) If the information is reasonably available, a statement indicating the estimated age of each appliance in the dwelling unit and a statement indicating which, if any, of the appliances in the dwelling unit have received the Energy Star label pursuant to the program established pursuant to 42 U.S.C. § 6294a, or its successor.

(l) A statement indicating the estimated age and, if the information is reasonably available, the efficiency rating of any heating system or cooling system in the dwelling unit and a

statement indicating whether the heating system or cooling system has received the Energy Star label pursuant to the program established pursuant to 42 U.S.C. § 6294a, or its successor.

(m) A statement indicating whether the dwelling unit contains a net metering system and, if so, the generation attributes of the net metering system.

(n) If the information is reasonably available, a statement indicating whether the walls, ceiling, crawl space or any other part of the dwelling unit have insulation installed and the type of insulation installed.

(o) A statement indicating whether the dwelling unit has any other design attributes or features that improve the energy efficiency of the dwelling unit.

(p) If the information is reasonably available, a statement indicating the foundation type of the dwelling unit.

(q) If the information is reasonably available, a statement indicating the types of lighting used in the dwelling unit, including, without limitation, a statement of the percentage of the lighting which is incandescent, fluorescent, compact-fluorescent or light-emitting diode.

(r) A statement indicating whether any heating system or cooling system in the dwelling unit uses a programmable thermostat.

(s) If the information is reasonably available, a statement indicating the types of windows, skylights and doors in the dwelling unit and whether any of the windows, skylights or doors have received the Energy Star label pursuant to the program established pursuant to 42 U.S.C. § 6294a, or its successor.

(t) If the information is reasonably available, a statement indicating whether the dwelling unit has received the Energy Star label pursuant to the program established pursuant to 42

U.S.C. § 6294a, or its successor, or whether the dwelling unit was constructed in accordance with any other model energy building code.

(u) If the information is reasonably available, a statement indicating the type, estimated age and efficiency rating of any water heating system in the dwelling unit and whether the water heating system has received the Energy Star label pursuant to the program established pursuant to 42 U.S.C. § 6294a, or its successor.

(v) If the information is reasonably available, a statement indicating the type of roofing material used on the dwelling unit and whether the roofing material has received the Energy Star label pursuant to the program established pursuant to 42 U.S.C. § 6294a, or its successor.

2. As used in this section:

(a) “Net metering system” has the meaning ascribed to it in NRS 704.771.

(b) “Reasonably available” means ascertainable to a reasonable person under the same or similar circumstances or, in the case of a mechanical device, observable by visible labeling on the device.

Sec. 9. *In evaluating the energy consumption of residential property:*

1. The consumption of electricity must be measured by the total number of kilowatt hours consumed per month.

2. The consumption of natural gas must be measured by the total amount of therms consumed per month.

3. The consumption of heating oil or kerosene must be measured by the number of gallons of heating oil or kerosene consumed per month.

4. The consumption of any other fuel consumed as energy must be measured by the standard measurement of such fuel used for sale.

Sec. 10. This regulation becomes effective on January 1, 2011.

**INFORMATIONAL STATEMENT FOR REGULATIONS ADOPTED BY THE
NEVADA ENERGY COMMISSIONER IN LCB FILE NO. R148-10**

(NRS 233B.066(1) requirements in **bold**)

(a) A description of how public comment was solicited, a summary of the public response, and an explanation how other interested persons may obtain a copy of the summary.

On July 27, 2010, the Commissioner issued a Notice of Request for Comments and proposed language, relating to amending Chapter 701 of the NAC or other associated regulations regarding establishing a program for evaluating the energy consumption of residential property in Nevada. On October 12, 2010, the Commissioner held a workshop on the proposed regulations. At the workshop numerous interested persons appeared and provided comments on the proposed regulations. On November 16, 2010, the Commissioner held a second workshop. At the workshop numerous interested persons appeared and provided comments on the proposed regulations. On November 29, 2010, the Commissioner held a hearing. At the hearing numerous interested persons appeared and provided comments on the proposed regulations.

Copies of the proposed regulations, the Notice of Request for Comments, the Notice of Workshop and Notice of Hearing, and Notice of Intent to Act Upon a Regulation, the Notice of Workshop II, and the Notice of Hearing and Notice of Intent to Act Upon a Permanent Regulation were sent to persons known to have an interest in the subject through an email list created from the sign in sheets of the 2 workshops as well as any persons who had specifically requested such notice. These documents were also made available at the Commissioner's website, at <http://renewableenergy.state.nv.us/>, as well as mailed or faxed to each county library in the state.

Participants discussed aspects of establishing regulations to establish a program for home energy evaluations to be conducted at the time of sale for residential properties in Nevada. Comments focused on three main subjects: (1) what licensing requirements and standards should be established to allow evaluators to conduct business in Nevada; (2) what specific requirements should be included on the form required pursuant to NRS 113.115; and (3) should sellers be permitted to conduct the evaluation on their own. The public response ranged from general statements of support for the drafted regulation, to objections based on the definition of an energy evaluator, objections to the content of the evaluation as proposed in the regulations, and general objections questioning the effectiveness of the proposed regulation. Both supporters of the regulation, as well as participants, who opposed the regulation, stated that their respective positions were supported by legislative intent.

A copy of the summary, as well as recordings of the workshops and hearing conducted in this matter are available for review at the Renewable Energy and Energy Efficiency Authority, at 101 N. Carson Street - Carson City, NV 89701.

(b) The number of persons who:

(1) Attended each hearing:

Workshop I (October 12, 2010): Carson City 36, Las Vegas 38

Workshop II (November 16, 2010): Carson City 38, Las Vegas 50

Hearing (November 29, 2010): Carson City 17, Las Vegas 31

(2) Testified at each hearing

Workshop I (October 12, 2010): Carson City 14, Las Vegas 13

Workshop II (November 16, 2010): Carson City 23; Las Vegas 24

Hearing (November 29, 2010): Carson City 7, Las Vegas 10

(3) Submitted to the agency written statements.

Workshop I (October 12, 2010): 46

Workshop II (November 16, 2010): 1444

Hearing (November 29, 2010): 35

(c) 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 businesses in the same way they were solicited from the public.

The summary may be obtained in the response to question #1 above.

(d) 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 regulations were adopted with several changes in response to input provided by the public and by businesses.

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

(1) Both adverse and beneficial effects; and

The Regulatory Operations Staff ("Staff") of the Public Utilities Commission of Nevada ("Commission"), pursuant to NRS 701.330(2), perform a Delphi Method Small Business Impact Investigation on the regulations in LCB File No. R148-10. Staff was asked to conduct an investigation regarding whether the proposed regulations are likely to impact small businesses as contemplated in NRS 233B.0608(1). On September 30, 2010, Staff submitted a Small Business Impact Report to the Commissioner. Staff recommended that, in accordance with NRS 233B.0608(1), the Commissioner find that the proposed regulations are not likely to impose a direct or significant economic burden on a small business, nor to restrict the formation, operation or expansion of a small business.

The beneficial effects include providing an economic opportunity for new business formation and expansion in the home inspection field for energy in Nevada.

The estimated main adverse effect on consumers is the potential increase in transaction costs related to the sale of a residential property in Nevada. The estimated beneficial effects include the reduction in energy costs, potential reduction in overall utility rates for consumers, reduced carbon production, reduced waste, and increased property values that may result from repairs or improvements made as a result of evaluations.

(2) Both immediate and long-term effects.

For businesses, the immediate effects will be the costs that must be incurred to meet the licensing requirements of the regulation. The long-term effects will be mostly beneficial, including the implementation of a home energy evaluation market in Nevada.

For the public, the immediate and long-term effects will be equal and diffuse, as the effect is directly on the transaction costs related to the sale of a home. One potential long term effect will be an overall reduction in energy usage, and therefore, a potential reduction in utility rates.

(f) The estimated cost to the agency for enforcement of the proposed regulation.

The Commissioner is responsible of posting the most recent version of the form on the website of the Renewable Energy and Energy Efficiency Authority (Sec. 7, LCB File No. R148-10). Form will include information concerning programs authorized by NRS 702.270 and other programs of improving energy conservation and energy efficiency in residential property [NRS 701.250(2b)]. The Commissioner initially plans to disseminate the information regarding programs through the webpage.

As the Commissioner has limited resources, the Commissioner will be required to contract a vendor to track programs, incentives, rebates, and grants within local governments, state and federal agencies, two investor owned utilities, and 11 rural and municipal utilities. The vendor will also be required to coordinate the webpage updates and changes with DoIT on these programs. The estimated annual cost for the vendor is between \$15,000 and \$20,000.

(g) A description of any regulations of other state or government agencies which 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.

Section 4 of the regulation requires that a certified inspector must be licensed as a home inspector per NRS 645D.040 by the Real Estate Division of the Department of Business and Industry.

This provision is favorable because: (1) the activities of the inspector fit within the definitions provided in NRS 645D.060, 645D.070, and 645D.080; (2) this provision leverages existing state resources and programs and obviates the need for the Commissioner to create a new such a program, which would result in duplicative costs to the State; and (3) the consumer protection and enforcement provisions in NRS Chapter 645 are adequate and necessary to protect consumers from potential fraud and abuse.

(h) If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

This question is not applicable to the regulations.

(i) 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.

The regulation does not establish a new fee or increase an existing fee.