



STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
CONSERVATION DISTRICTS PROGRAM

901 S. Stewart Street, Suite 1003
Carson City, Nevada 89701-5247
Phone (775) 684-2700 - Fax (775) 684-2715

**NOTICE OF PUBLIC HEARING FOR THE ADOPTION AND
AMENDMENT OF PERMANENT REGULATIONS OF THE
STATE CONSERVATION COMMISSION**

The State Conservation Commission will hold a public hearing on December 15, 2015 commencing at 1:00 p.m. at the offices of the Nevada Department of Conservation and Natural Resources, Tahoe Hearing Room, Second Floor, 901 South Stewart Street, Carson City, Nevada.

There will be a telephonic connection available for this public hearing. Please call (888) 808-6929, and then enter code 3499573 to participate.

The State Conservation Commission will receive testimony from all interested persons and consider and take action on the following proposed adoption of amendments, additions and deletions to the Nevada Administrative Code pertaining to the State Conservation Commission and the state's numerous Conservation Districts. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the State Conservation Commission may proceed immediately to act upon any written submissions:

1. The Need for and Purpose of the Proposed Permanent Regulations.

The need and purpose of the proposed permanent regulations are to implement changes in NAC Chapter 548 with regard to changes in administration of grant funding for the Conservation Districts with the addition of the competitive Sage-grouse Grant Fund, reflecting changes made during the 2015 Legislative Session through Senate Bill No. 45, chapter 21, Statutes of Nevada 2015, at page 84. These changes will set forth and clarify substantive procedural matters for administration of the grant fund.

2. Terms or Substance of the Proposed Permanent Regulations or Description of the Subjects and Issues Involved.

First: Adding to and amending NAC Chapter 548, LCB File No. R113-15, providing for procedures and methods required by the Commission pertaining to the competitive Sage-grouse Grant Fund;

Second: Amending the regulation to conform to the changes in administrative procedures pertaining to the grant fund.

3. Estimated Economic Effect of the Proposed Permanent Regulations on Small Business.

The proposed permanent regulation has no adverse economic effect on the Commission, the Conservation Districts, the Department of Conservation and Natural Resources, or the agricultural industry. The regulation has no negative impact on Small Business.

Methods used in determining the economic impact on Small Business included simulation utilizing an impact analysis tool developed by Applied Economics and through deductions based on this analysis. (See attached copy *Financial Impact Statement for Proposed Regulations Pertaining to the Sage Grouse Habitat Competitive Grant Fund*)

4. Estimated Cost to Agency for Enforcement of Proposed Permanent Regulations.

The proposed permanent regulation will present no additional cost to the Commission or the Department in administering the new grant program.

5. Regulations of Other State or Local Governmental Agencies which the Proposed Permanent Regulations Overlap or Duplicate and the Necessity Therefore.

The proposed permanent regulations do not appear to overlap or duplicate regulations of other state or local governmental agencies.

6. Establishment of New Fee or Existing Fee Increase.

The permanent regulations would not increase any existing fee or create any new fee.

7. Statement pursuant to NRS 233B.064:

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

Persons wishing to comment on the proposed action of the State Conservation Commission may appear at the above scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the State Conservation Commission, 901 S. Stewart St., Suite 1003, Carson City, Nevada 89701. **Written submissions must be received at least one week prior to the above scheduled public hearing.**

A copy of this notice and the proposed permanent regulations to be adopted and amended will be on file at the Nevada State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed permanent regulations to be adopted and amended will be available at the Department of Conservation and Natural Resources, 901 S. Stewart St., Ste. 1003, Carson City, Nevada; Nevada NRCS Office, 1365 Corporate Boulevard, Reno, Nevada; Nevada NRCS Office, 555 West Silver St., Ste. 101, Elko, Nevada; Nevada NRCS Office, 1200 Winnemucca Blvd. East, Winnemucca, Nevada 89445, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel

Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. The text of the proposed permanent regulations will include the entire text of any section of the Nevada Administrative Code, which is proposed for amendment or repeal. Copies will be mailed to members of the public upon request. A reasonable fee may be charged for copies if deemed necessary.



Tim Rubald
Conservation Districts Program

Members of the public who are disabled and require accommodations or assistance at the meeting are requested to notify the State Conservation Commission in writing or by calling 775-684-8600 no later than five working days prior to the meeting.

Notice has been posted at the following locations: The Department of Conservation and Natural Resources, 901 S. Stewart St., Carson City, Nevada. Notice was mailed to each County Public Library for posting.

Notice has been emailed for posting at the following locations: Nevada NRCS, 1365 Corporate Boulevard, Reno, Nevada; Nevada NRCS, 555 West Silver St., Ste. 101, Elko, Nevada; Nevada NRCS, 1200 Winnemucca Blvd East, Winnemucca, Nevada 89445

Notice has been posted at the Conservation Districts Program website:
<http://dcnr.nv.gov/conservation-district-program>



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Phone (775) 684-2700 - Fax (775) 684-2715
November 12, 2015

**FINANCIAL IMPACT STATEMENT FOR PROPOSED REGULATIONS
PERTAINING TO THE SAGE GROUSE HABITAT COMPETITIVE
GRANT PROGRAM**

The intent of this proposed permanent regulation is to designate a process for the affected Conservation Districts in Nevada to be able to apply for and receive funding on a competitive basis for projects in the area of the state designated as habitat for sage grouse. Per the passage and approval of SB45 of the 78th Session of the Nevada Legislature, there is currently \$40,000 appropriated for this fiscal year with \$75,000 appropriated for the second year of the biennium. These regulations will also apply to any subsequent appropriations.

Per AB 408 of the 77th Session of the Nevada Legislature, there is required that the Conservation Commission "Conduct or cause to be conducted an analysis of the likely impact of the proposed regulation on small businesses."

The \$40,000 grant fund, distributed per year directly to Conservation Districts that have applied on a competitive basis, and being approved for receipt of the funds by the State Conservation Commission, will have no significant effect or impact on any small business in Nevada.

This was determined through a process of deduction and simple analysis of the effects of the regulation. Additionally, the impact was simulated through a 2012 version of an impact analysis tool developed for the State of Nevada by Applied Economics, a firm in Phoenix, Arizona. These simulations proved the deductive analysis that there would be some minor positive affects to overall economic activity in Nevada from the promulgation and implementation of this regulation.

A handwritten signature in blue ink, appearing to read "Tim Rubald", is written over a horizontal line.

I, Tim Rubald, Program Manager, certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of this proposed regulation on small businesses and the information contained in this statement is accurate.

**PROPOSED REGULATION OF THE STATE CONSERVATION
COMMISSION IN THE STATE DEPARTMENT OF
CONSERVATION AND NATURAL RESOURCES**

LCB File No. R113-15

October 28, 2015

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

AUTHORITY: §§1-7, NRS 548.160 and 548.178, as amended by section 1 of Senate Bill No. 45, chapter 21, Statutes of Nevada 2015, at page 84.

A REGULATION relating to conservation; establishing a competitive grant program to benefit sage grouse populations; providing for the State Conservation Commission in the State Department of Conservation and Natural Resources to administer the grant program; revising certain provisions relating to the review of grant applications by the Commission; revising certain provisions relating to the submission of an application for a grant; revising certain provisions relating to the distribution of grant money; requiring a conservation district that receives a grant to enter into a grant award agreement; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Conservation Commission in the State Department of Conservation and Natural Resources to establish a competitive grant program from money appropriated by the Legislature for conservation districts and to distribute money to conservation districts unequally. (NRS 548.178, as amended by section 1 of Senate Bill No. 45, chapter 21, Statutes of Nevada 2015, at page 84) This regulation establishes such a competitive grant program for the conservation, expansion and support of the habitat of the sage grouse and incorporates and revises the provisions of the existing grant program to benefit sage grouse populations into the competitive grant program. **Section 1** of this regulation sets forth the procedure the Commission will follow in reviewing an application for a grant. **Section 3** of this regulation authorizes the Commission to administer the grant program and award grants of money in unequal amounts to conservation districts. **Section 4** of this regulation sets forth the requirements for an application for a grant. **Section 5** of this regulation sets forth the requirements for the distribution and expenditure of grant money. **Section 6** of this regulation requires a conservation district which is awarded a grant to submit a report to the Conservation Districts Program in the State Department of Conservation and Natural Resources within 45 days after completion of the project for which the grant was awarded. **Section 6** also requires a conservation district which is awarded a grant to enter into a grant award agreement before any grant money will be disbursed.

Section 1. Chapter 548 of NAC is hereby amended by adding thereto a new section to read as follows:

1. In reviewing an application for a grant of money from the sage grouse competitive grant program, the Commission will:

(a) Rank each application received in order of priority for awarding grants. A matching contribution is not required to apply for a grant, but applications that include a matching contribution, including, without limitation, cash or in-kind matches, will receive a higher ranking by the Commission;

(b) Submit each application to the Sagebrush Ecosystem Technical Team or to another entity with expertise in matters pertaining to sage grouse selected by the Commission to review the application and determine whether the project will benefit the habitat of the sage grouse;

(c) Consider only applications for projects which:

(1) Have been determined pursuant to paragraph (b) to benefit the habitat of the sage grouse; and

(2) Can be implemented immediately upon approval by the Commission; and

(d) Not consider an application for a grant that is determined by the Commission to be primarily for the purpose of acquiring equipment.

2. As used in this section, “Sagebrush Ecosystem Technical Team” means the interagency technical team created by the Governor pursuant to Executive Order No. 2012-19 to support the Sagebrush Ecosystem Council created by NRS 232.162.

Sec. 2. Section 1 of LCB File No. R139-13 is hereby amended to read as follows:

Section 1. Chapter 548 of NAC is hereby amended by adding thereto the provisions set forth as sections ~~[2]~~ 3 to 6, inclusive, of this regulation ~~[]~~ *and section 1 of LCB File No. R113-15.*

Sec. 3. Section 3 of LCB File No. R139-13 is hereby amended to read as follows:

Sec. 3. 1. ~~[The]~~ *In accordance with the provisions of sections 3 to 6, inclusive, of this regulation and section 1 of LCB File No. R113-15, the* Commission will administer a *competitive* grant program for the purpose of awarding ~~[equal]~~ grants of money to ~~[each]~~ qualifying conservation ~~[district with money provided by legislative appropriation to the Sage Grouse Grant Fund, which is hereby established using money appropriated to Budget Account No. 8799 by the 2013 Legislature and into which will be deposited any subsequent legislative appropriations to that budget account,]~~ *districts* for projects that specifically benefit *the habitat of the* sage grouse ~~[populations]~~ in the conservation districts. *Grants of money may be awarded to qualifying conservation districts in unequal amounts.*

2. The sage grouse competitive grant program will be funded by money appropriated by the Legislature to the grant program and any additional money obtained from other sources which is specifically intended for projects that benefit sage grouse populations in the conservation districts.

3. The Commission will ~~[give due]~~ *provide advance* notice of the availability of such a grant . ~~[, which must]~~ *The notice will* specify the deadline for the submission of ~~[applications.~~

~~2.]~~ *an application for a grant of money.*

4. An application for a grant of money may be submitted only by a conservation district that:

(a) Is in good standing as set forth in NAC 548.110 and eligible to receive a grant of money pursuant to NAC 548.115;

(b) ~~[Provides written confirmation from the Sagebrush Ecosystem Technical Team that sufficient sage grouse habitat or potential sage grouse habitat exists within the boundaries of the conservation district where the proposed project will benefit the sage grouse;~~

~~(c)]~~ Has demonstrated past ability to complete similar projects in a reasonable manner; and

~~(d)]~~ (c) Has adequate resources to track a grant project and administer the grant ~~[funds.~~

~~3.]~~ *money.*

5. The Commission has the final authority in all matters relating to the sage grouse *competitive* grant program set forth in sections ~~[2]~~ 3 to 6, inclusive, of this regulation ~~[.]~~ *and section 1 of LCB File No. R113-15.*

Sec. 4. Section 4 of LCB File No. R139-13 is hereby amended to read as follows:

Sec. 4. 1. An application for a grant of money pursuant to the sage grouse *competitive* grant program ~~[must]~~ :

(a) *Must* be submitted on a form prescribed by the Program ~~[4]~~; and

(b) *Will only be accepted by the Commission within the application period. Any applications received after the deadline specified in the notice pursuant to section 3 of this regulation will not be considered.*

2. The Commission will ~~consider an application for a project only if the project:~~

- ~~(a) Has been reviewed and approved by the Sagebrush Ecosystem Technical Team;~~
- ~~(b) Is ready to be implemented within 30 days after approval by the Commission; and~~
- ~~(c) Directly benefits the sage grouse population in this State, as determined by the Sagebrush Ecosystem Technical Team or another entity approved by the Commission.~~

3. ~~The Commission will not consider an application for a grant of money that is primarily for the purpose of acquiring equipment.~~ *accept more than one application for a grant of money from an eligible applicant. If an applicant submits more than one application, the applications must be ranked in order of importance at the time the applicant submits the applications.*

~~[4.]~~ 3. If appropriate, applicants ~~[may]~~ *must* use *the applicable* specifications and *practices* provided by approved governmental agencies, including, without limitation, the Natural Resources Conservation Service of the United States Department of Agriculture, when preparing an application.

4. There is no limit on the amount of grants of money that may be requested by each qualified applicant, but the amount of money awarded to each applicant is solely within the discretion of the Commission.

Sec. 5. Section 5 of LCB File No. R139-13 is hereby amended to read as follows:

Sec. 5. 1. ~~[The Commission will determine the number of qualified districts and award equal grants of money to each qualified district.~~

~~2.] Unless otherwise authorized by the Commission in an agreement to award a grant of money, grants of money will be disbursed as reimbursements.~~ Grants of money may be disbursed in a lump sum or in installments, at the discretion of the Commission .

~~[, and:~~

~~(a) Except as otherwise provided in this section, grants of money will be disbursed as reimbursements.~~

~~(b) The Commission may approve the advance funding of a project.~~

~~(c)] 2.~~ A maximum of 15 percent of the total amount of the grant *or grants of money* awarded *to a conservation district from the sage grouse competitive grant program in a fiscal year* may be designated and used for administrative *or indirect* costs related to ~~[the activities of the]~~ a project ~~[.]~~ *if the conservation district requested to use the grant of money for such costs in the budget included in the application for the grant of money.*

3. A grant of money awarded by the Commission pursuant to sections ~~[2]~~ 3 to 6, inclusive, of this regulation *and section 1 of LCB File No. R113-15:*

(a) Except as otherwise provided in paragraph (b), must be expended or obligated during the fiscal year in which it was awarded.

(b) If the Commission authorized the disbursement of the grant of money on a basis other than reimbursement, must be expended or obligated during the fiscal year in which it was distributed.

(c) May not be committed for expenditure beyond the terms of the grant. Any *amount of the grant of* money which has not been committed for expenditure ~~before July 1 of the fiscal year after~~ *during* the fiscal year or years for which the money was granted ~~must~~ *will* be deducted from any grant awarded ~~for that~~ *to the conservation district in a future* fiscal year.

Sec. 6. Section 6 of LCB File No. R139-13 is hereby amended to read as follows:

Sec. 6 1. Unless otherwise required by the Commission, within 45 days after the completion of a project for which a grant of money has been approved pursuant to sections ~~2~~ *3* to 6, inclusive, of this regulation, *and section 1 of LCB File No. R113-15*, the conservation district that was awarded the grant shall submit a report to the Program.

The report must be on a form prescribed by the Program and must include:

(a) A complete accounting of all expenditures of the money received and of any matching money, payments in kind and donations, as applicable;

(b) An assessment of the accomplishments of the project based on the goals stated in the application for the grant of money; and

(c) Any other information that the Commission requires.

2. Failure to submit the report or assessment required pursuant to this section will be considered in future determinations of whether or not the *conservation* district is found in good standing and eligible to receive a grant of money.

3. Each conservation district that is awarded a grant of money pursuant to sections ~~2~~ *3* to 6, inclusive, of this regulation *and section 1 of LCB File No. R113-15* shall *enter into an agreement with the Program to award the grant of money. The agreement must*

include, without limitation, a requirement that the conservation district submit regular monitoring reports regarding the project ~~[.]~~, *as appropriate for the project.* The proposed frequency and specificity of the monitoring reports must be provided in the original application ~~[. The Commission will review each applicant's proposal for monitoring reports. If the Commission determines that the applicant's proposal is not suitable, the Commission will provide the required specificity and due dates of the reports to the applicant in the final grant award agreement.]~~ *for the grant of money and agreed upon by the Program and the conservation district before any grant of money will be distributed by the Commission to the conservation district.*

Sec. 7. Section 2 of LCB File No. R139-13 is hereby repealed.

TEXT OF REPEALED SECTION

Section 2 of LCB File No. R139-13.

Sec. 2. As used in sections 2 to 6, inclusive, of this regulation, unless the context otherwise requires, “Sagebrush Ecosystem Technical Team” means the interagency technical team created by the Governor pursuant to Executive Order No. 2012-19 to support the Sagebrush Ecosystem Council created pursuant to NRS 232.162.