

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

**LCB File No. R113-15**

Effective December 21, 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.

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 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;~~

~~(e)~~ 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 ~~H~~ 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 ~~H~~; 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.~~

~~-(e)~~ 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~~ *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 ~~H~~, *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.

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**TEXT OF REPEALED SECTION**

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**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.



**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY  
ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066**

**LCB FILE R113-15**

**Establishing A Competitive Grant Program To Benefit Sage-grouse Populations**

The following statement is submitted for amendments, additions and deletions, to Nevada Administrative Code (NAC) 548 adopted by the State Conservation Commission.

**1. The Need for and Purpose of the Permanent Regulation.**

The need and purpose for the proposed permanent regulation, **LCB File No. R113-15** is 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 Program, 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 program..

**2. 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 Conservation Districts Program (Program), as staff to the State Conservation Commission (SCC), 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>	<u>Representing Businesses</u>
9-1-15	Workshop	9-17-15	175	~50
11-13-15	Hearing	12-15-15	175	~50

The mailing list included all Conservation District Supervisors, which includes officials of local City and County governments. Program staff, when appropriate, was also included.

There were no written comments received at the workshop or the hearing.

The comments at the workshop were questions of availability and project information that would be required. These were answered and clarified in the draft regulation at the time, as well as the one that was eventually adopted by the SCC.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Conservation Districts Program at 775-684-2717 or by writing to the Conservation Districts Program, 901 South Stewart St Ste 1003, Carson City, Nevada 89701, or by e-mailing the Program at [timrubald@dnr.nv.gov](mailto:timrubald@dnr.nv.gov) .

The Legislative Counsel Bureau (LCB) completed its review of submitted revisions on November 2, 2015. SCC adopted the regulation at the hearing held on December 15, 2015.

**3. The number of persons who:  
(a) Attended and testified at each workshop:**

<b>Date of Workshop</b>	<b><u>Attended</u></b>	<b><u>Testified</u></b>
9-17-15	12	6

**(b) Attended and testified at each hearing:**

<b><u>Date of Hearing</u></b>	<b><u>Committee/Public Attended</u></b>	<b><u>Testified</u></b>
12-15-15	8	0

**(c) Submitted to the agency written comments:**

No written comments were received.

**4. 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 Conservation Districts, Supervisors, local governments, businesses and persons, by notices posted at the Nevada State Library; various USDA NRCS locations throughout the state; and at the Main Public Libraries in counties.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Conservation Districts Program at 775-684-2717 or by writing to the Conservation Districts Program, 901 S. Stewart St. Ste 1003, Carson City, Nevada 89701, or by e-mailing the Program Manager at [timrubald@dcnr.nv.gov](mailto:timrubald@dcnr.nv.gov).

**5. 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 permanent regulation was adopted with changes reflecting the verbal and written comments submitted to, or received by, the Conservation Districts Program, from Conservation District Supervisors and staff, during the workshop and hearings listed above. The SCC adopted the permanent regulation as revised during the workshop and adoption hearing; and believed no changes other than those made were necessary. There were also minor changes made to the regulation proposed by the Legal Division of the Legislative Counsel Bureau, by the SCC, during their final adoption action on December 15, 2015.

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

- (a) **Both adverse and beneficial effects; and**
- (b) **Both immediate and long-term effects.**

***Beneficial Effects***

Adoption of this regulation allows for appropriated funding to be dispersed to appropriate Districts on a competitive basis. This will provide sage-grouse related projects, which have been developed, to be implemented on the ground. It will also provide an opportunity for additional federal dollars to be injected into the local economy through the possible use of federal matching funds for projects such as those being planned by the Districts.

***Adverse Effects***

The proposed permanent regulation presents no reasonably foreseeable or anticipated adverse economic effects to businesses or to the general public.

***Direct and Indirect Effects***

As noted in the impact statement, when modeled, there were no significant impacts to the regional economy due to the relatively small amount of funding available. Any direct or indirect economic effects would be positive.

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

The Program does not anticipate any cost to the agency for enforcement.

8. **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.**

There are no other state or government agency regulations that the adopted regulation duplicates.

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

The SCC and the Program are not aware of any provision in this regulation which is also governed by federal regulation.

- 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.**

The regulation does not provide for a new fee, and does not increase an existing fee.

- 11. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restricted the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

The Program determined that the regulation will not impose a direct or significant economic burden upon any small business or restrict the formation, operation or expansion of a small business. There were no negative comments on the regulation.