

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

LCB File No. R139-13

Effective June 23, 2014

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

AUTHORITY: §§1-6, NRS 548.160.

A REGULATION relating to conservation; establishing a grant program to benefit sage grouse populations; and providing other matters properly relating thereto.

Legislative Counsel’s Digest

Under current law, the State Conservation Commission in the State Department of Conservation and Natural Resources is authorized to adopt such rules and regulations as may be necessary for the execution of its functions. (NRS 548.160)

This regulation establishes a sage grouse grant program to grant money to the qualified conservation districts in this State that have sage grouse habitat or potential sage grouse habitat within their boundaries for projects that directly benefit those sage grouse populations.

Section 1. Chapter 548 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

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.*

Sec. 3. *1. The Commission will administer a 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, for projects that specifically benefit sage grouse populations in the conservation districts. The Commission will give due notice of the availability of such a grant, which must specify the deadline for the submission of applications.

2. 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) Has adequate resources to track a grant project and administer the grant funds.

3. The Commission has the final authority in all matters relating to the sage grouse grant program set forth in sections 2 to 6, inclusive, of this regulation.

Sec. 4. 1. An application for a grant of money pursuant to the sage grouse grant program must be submitted on a form prescribed by the Program.

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.*

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

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

2. *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) *A maximum of 15 percent of the total amount of the grant awarded may be designated and used for administrative costs related to the activities of the project.*

3. *A grant of money awarded by the Commission pursuant to sections 2 to 6, inclusive, of this regulation must be expended or obligated during the fiscal year in which it was awarded. Any money which has not been committed for expenditure before July 1 of the fiscal year after the fiscal year or years for which the money was granted must be deducted from any grant awarded for that fiscal year.*

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 to 6, inclusive, of this regulation, 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 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 to 6, inclusive, of this regulation shall submit regular monitoring reports regarding 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.

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

**LCB FILE R139-13
Establishing A 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. R139-13** is to provide for a process for the Conservation Districts to receive grants specifically for work to benefit sage-grouse populations. During the 2013 Legislative Session, \$40,000 was appropriated for each year of the biennium to be used by the Districts for conservation work benefitting the sage-grouse in Nevada. These adopted regulations are being put in place to facilitate decision making by the Commission on which Districts will receive funding and the amount of that funding.

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>
10-04-13	Workshop	11-05-13	175	~50
12-10-13	Hearing	1-15-14	175	~50
2-20-14	Hearing	3-25-14	175	~50
4-15-14	Hearing	5-16-14	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. There was one written comment received at the Hearing held on 1-15-14.

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.

The written comment was requesting that the grant be more focused on habitat instead of the bird itself. This was incorporated into subsequent versions of the regulation.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Conservation Districts Program at 775-684-8600 or by writing to the Conservation Districts Program, 201 South Rook St Ste 101, Carson City, Nevada 89701, or by e-mailing the Program at timrubald@dcnr.nv.gov .

The Legislative Counsel Bureau (LCB) completed its review of submitted revisions on April 14, 2014. SCC adopted the regulation at the hearing held on May 16, 2014.

3. The number of persons who:

(a) Attended and testified at each workshop:

<u>Date of Workshop</u>	<u>Attended</u>	<u>Testified</u>
11-05-13	15	4

(b) Attended and testified at each hearing:

<u>Date of Hearing</u>	<u>Committee/Public Attended</u>	<u>Testified</u>
1-15-14	11	0
3-25-14	12	0
5-16-14	16	0

(c) Submitted to the agency written comments:

<u>Date of Workshop / Hearing</u>	<u>Number Received</u>
1-15-14 Hearing	1

Name	Telephone	Business Address	Business Telephone	Electronic Mail Address	Representing
Rich Wilkinson	775-246-1999	P.O. Box 1807 Dayton, Nevada 89403	775-246-1999	richardwilkinson@nv.nacdnet.net	Dayton Valley CD

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.

Only one person, a staff member of one of the Conservation Districts, commented at the hearings or in this case, in writing. His concerns were addressed in subsequent versions of the regulation.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Conservation Districts Program at 775-684-8600 or by writing to the Conservation Districts Program, 201 S. Roop St. Ste 101, Carson City, Nevada 89701, or by e-mailing the Program Manager at 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 May 16, 2014.

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 in equal amounts. 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. In making this determination, the Program requested comments from sixteen trade associations and Chambers of Commerce, and received comments from one of them. They responded that the regulation will not place any direct or significant economic burden on the operation or expansion of any business within the industries they represented. There were no negative comments on the regulation.