

NOTICE OF INTENT TO ACT UPON A REGULATION

****REVISED****

PLEASE NOTE THE CHANGE OF ADDRESS FOR THE RENO MEETING LOCATION

Notice of Public Hearing to consider the Adoption of Draft Regulations of the Nevada Off-Highway Vehicle Commission

The Nevada Off-Highway Vehicle Commission will hold a public hearing at 9:30 a.m., on January 15, 2015 at the following locations:

- Truckee Meadows Community College, 7000 Dandini Blvd., Red Mountain Building (Main), Room 412, Reno, NV
- College of Southern Nevada, Cheyenne Avenue, Main Building-Room 2638, Las Vegas, NV
- Great Basin College, 1500 College Parkway, Greenhaw Technical Arts Bldg.-Room 118, Elko, NV

The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to chapter 490, sections 2 to 51 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation or amendment.
The Nevada Off-Highway Vehicle Commission must fulfill the requirements of the Administrative Rulemaking Process to be able to disburse Grant funds collected by Nevada Off-Highway Sticker Program granted by NAC 490.

2. Either the terms or the substance of the regulations to be amended or a description of the subjects and issues involved.

A complete draft regulation returned by the Legislative Counsel Bureau is attached to this notice. Section 2 through Section 11 define the following terms; Applicant, Application, Commission, Disbursement, In-Kind matches, Person, Project, and request for Grant applications. Section 12 deals with time frames imposed by NRS 490.069 on the Commission to issue grant requests. Section 13 deals compliance by a person applying for a grant. Section 14 deals with Corporations or other legal entities must be in good standing with the Nevada Secretary of State or another appropriate state. Section 15 deals with Internal Revenue Service 501c3 compliance to be able to apply for a grant and non-profit organization applying for Grants under \$10,000. Section 16 maintains that a Grant Project on any land must have a written agreement with that Public Land Agency having jurisdiction, as well as any required permits. Section 17 requires any person seeking a grant must have interest in property and fulfills the requirements of this section. Section 18 requires grant application narratives must be in 12-point font and describe the type of project which the grant will be used, specific factors and criteria that the Commission will use to evaluate and score the application, any past performance on any other grant projects funded by the Commission. The weight assigned of in-kind matches by the Commission on grant applicants, any additional weight for in kind or volunteer labor, any questionnaire used by the Commission in evaluating or scoring an application, the form of any contract required to be signed by the applicant by the Commission, or any other additional information sought by the Commission by section 30 of the regulations. Section 19 requires that any Grant Application must inclusively comply with Sections 20 to 28. Section 20 insures the grant applicant has governmental consultation and approval for the project. Section 21 specifies that any Grant Applicant who has

been awarded a previous grant has completed the project to the satisfaction of the Commission or has Commission approval that timely progress is being made. Section 22 requires applicant have written evidence that Project will be completed within two years, unless Commission approves a longer completion term. Section 23 requires Grant Application be in 12 point font. Section 24 requires that any Grant Application not violate any State or Federal laws, regulations, or policies. Section 25 requires all applicants provide any attachments, exhibits, or other materials be provided in the application, applications are to be submitted to the Commission in the form of one hard-copy two hard copies of the original application, and one electronic copy in PDF form that is easily distributed to Commissioners, the NVOHVC website and to the public, not to exceed 25 megabytes unless approved by the Commission. Section 26 requires that applicants must include in writing to the satisfaction of the Commission a description of the proposed project and the site it is located on, an explanation of the project need and expected demand of project, an estimate of the cost of the project. Section 27 and 28 deal with a budget that is specific and clearly defined with supporting documentation including, but not limited to, maps, photographs, design, specifications and proof of lawful control, and any fieldwork on proposed project. Costs must be outlined on any budget concerning personnel that are hired specifically for the project planning, development, time lines, supervision, or fieldwork .If any project expenses are related to Program Activities for children they must be disclosed. Any expenses related to the hiring of consultants or the performance of services by consultants must be divulged. The requirements for cost of supplies are outlined in subsections 5 thru 12. Subsection 13 deals with costs with public Education/ Outreach and Safety Programs. Section 14 deals with planning activities related to trail construction for off-highway vehicles. Subsection 15, 16,17,18,19 outlines the various costs and types of planning that can be funded by Off-Highway Vehicle Grants. Section 28 and 29 outlines costs that are not to be used in a grant application. Section 30 talks about requirements in our Grant Guide and time requirements for applicants and Commissioners. Section 31 requires Commission to post 60 days completed applications on website and that Commission can make minor accommodations to correct incomplete applications but not after the 60 day period from process start. Section 32 states not less than 30 days after successful Grant Posting the Commission will hold a public meeting to score grants in accordance with criteria and determine a minimum score. Section 33 requires posting of grant application scores on Commission website within 15 days. Section 34 outlines an appeal process for unsuccessful grant applicants. Section 35 outlines a specific process for an appeal meeting. Section 36 allows the commission to adjust a score for unsuccessful Grant Applications after a Public Meeting. Section 37 requires posting to Commission website of adjusted grant application scores in 3 business days. Section 38 outlines requirements of Grant Application awards. Section 39 requires results of grant application decision posted on website within 3 business days. Section 40 outlines a second appeal process and their requirements. Section 41 outlines a 15-day period before scheduling a Public Meeting to reconsider an unsuccessful grant application. Section 42 outlines a not later than 30 days Public Meeting and posting on website its final decisions. Section 43 to 51 outlines after Grants are awarded the Commission will monitor, evaluate, and assist in carrying out grant requirements. In Section 45 Commissioners will also draft and execute a contract with Grant applicator within 90 days. Section 46 allows Commission to charge up to 10% of grant amount to cover Administrating, monitoring and supervising the grant. Section 47 requires that contract between grantee and Commission must provide all permits, approvals, or clearances before any grants are to be disbursed. Section 48 specifies an end date for the project not more than 2 years from contract award. Section 49 specifies a reimbursement process for payment, except where Commission agrees to directly reimburse for equipment, materials, supplies or other appropriate costs. Section 50 outlines requirements of a completed project and a public meeting vote to determine a Projects satisfactory completion. If project is not completed satisfactorily the Commission will notify in writing what must be done to complete satisfactorily. The Grant Applicant will resubmit a time frame and submit another completion notice. Section 51 requires at least a yearly report on project maintenance and operation for 20 years, unless the Commission approves a different duration.

3. 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:

a. Both adverse and beneficial effects.

A Nevada Off Highway Vehicle owner will see a \$20 sticker fee per vehicle. For this he/she will see Trail maintenance and construction, better signage, better facilities, better safety programs, improved public education/outreach effort, better law enforcement, etc. We were the last state in the Union to create such a program. As OHV owners, the long-term opportunities to be better stewards will help assure future access for OHV owners. Business owners are assessed no fee and have no adverse effects. OHV registration will positively affect Off-Highway vehicle dealerships and State tax collection rates from these segments.

b. Both immediate and long-term effects.

The immediate effect of these regulations will allow the issuance of grant funds to begin our mandated role of trail construction and maintenance, law enforcement, and public education/outreach programs. We have collected a fee but have not had the ability to spend funds on mandated projects. Long-term effects can be an ever increasing registration compliance level that can address more needs of the OHV/Land Manager communities, as well as economic development of a major industry in Nevada.

4. A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to NRS 233B.0608.

The Commission determined that our proposed regulations would not impose (a) direct impact or significant economic burden upon a small business, or (b) directly restrict the formation, operation or expansion of a small business. These regulations are being adopted to allow us to legally disburse grant funds collected from individual OHV users and not any business. This is why we did not extend the public comment process past several of our publically noticed meetings and our Nevada Attorney General's Representative's opinion. There was general agreement we were not doing anything that could negatively impact or burden any business. Our Economic Impact Statement is attached to this notice.

5. The estimated cost to the agency for enforcement of the proposed regulation.

None, other than meeting time and minimal meeting facility cost.

6. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.

If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

No other Federal, State, or Local Governmental regulation overlaps, or is duplicated by our regulations.

7. If the regulation is required pursuant to federal law, a citation and description of the federal law.

Not applicable. A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to NRS 233B.0608 The Commission determined that our proposed regulations would not impose (a) direct impact or significant economic burden upon a small business, or (b) directly restrict the formation, operation or expansion of a small business. These regulations are being adopted to allow us to legally disburse grant funds collected from individual OHV users and not any business. This is why we did not extend the public comment process past several of our publically noticed meetings and our Nevada Attorney General's Representative's opinion. There was general agreement we were not doing anything that could negatively impact or burden any business. Our Economic Impact Statement is attached to this notice.

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

Not applicable.

9. Whether the proposed regulation establishes a new fee or increases an existing fee.

A Nevada Off Highway Vehicle owner will see the same \$20 sticker fee per vehicle. At present there is no plan to increase that fee or impose any new fee. For this he/she will see Trail maintenance and construction, better signage, better facilities, better safety programs, improved public education/outreach effort, better law enforcement, etc. We were the last state in the Union to create such a program. As OHV owners, the long-term opportunities to be better stewards will help assure future access for OHV owners. Business owners are assessed no fee and have no adverse effects. OHV registration will positively affect Off-Highway vehicle dealerships and State tax collection rates from these segments.

Persons wishing to comment upon the proposed action of Nevada Off-Highway Vehicle Commission may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada Off-Highway Vehicle Commission, 6015 South Virginia St., Suite E, Box 163, Reno, NV 89502. Written submissions must be received by the Nevada Off-Highway Vehicle Commission on or before 5p.m. January 14, 2015. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Off-Highway Vehicle Commission may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the 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 regulation to be adopted will be available at Nevada Off-Highway Vehicle Commission, 6015 South Virginia St., Suite E, Box 163, Reno, NV 89502, and on the Nevada Off-Highway Vehicle Commission's website www.nvohvc.com, and in all counties in which an office of the agency is not maintained, at the main public library, 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>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request.

A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will 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.

This notice of hearing has been posted at the following locations:

All public library addresses where you do not have an office must be included here, as well as any other locations where you post this notice, such as business locations or other places where you believe it should be posted. The agency has an affirmative duty to get the word out and solicit comments on this regulation.

Office of the Director, 555 Wright Way, Carson City, Nevada 89711
DMV, 2701 E. Sahara Avenue, Las Vegas, Nevada 89104
DMV, 3920 E. Idaho Street, Elko, Nevada 89801
DMV, 8250 W. Flamingo Rd., Las Vegas, Nevada 89147
DMV, 178 N. Avenue F, Ely, Nevada 89301
DMV, 973 W. Williams St., Fallon, Nevada 89406
DMV, 550 W. Pioneer Blvd. Ste #120, Mesquite, Nevada 89027
DMV, 1780 E. Basin Road, Pahrump, Nevada 89060
DMV, 305 Galletti Way, Reno, Nevada 89512
Clark County Government Center, 500 S. Grand Central Pkwy, Las Vegas, Nevada 89155
Paradise Community Center, 4775 S. McLeod, Las Vegas, Nevada 89121
Clark County District Court, 200 Lewis Avenue, Las Vegas, Nevada 89155
Searchlight Community Center, 200 Michael Wendall Way, Searchlight, Nevada 89046
Nevada State Library and Archives, 100 North Stewart St., Carson City, Nevada 89701
Laughlin Community Center, 1975 Arie Avenue, Laughlin, Nevada 89029

Las Vegas Library, 833 Las Vegas Blvd. North, Las Vegas, Nevada 89101
Nevada Department of Wildlife, Western Region, 1100 Valley Rd., Reno, Nevada 89512
Nevada Department of Wildlife, Southern Region, 4747 Vegas Dr., Las Vegas, Nevada 89108

Nevada Department of Wildlife, Eastern Region, 60 Youth Center Road, Elko, Nevada 89512
Nevada Commission on Off Highway Vehicles <http://nvohv.com>

(only meeting notices are posted here, not regulation public hearing notices)

The Nevada Legislative Counsel Bureau (your public hearing notice and your meeting agenda regarding the public hearing must be posted on the LCB website created for such notices)

The Nevada State Archives,

The Nevada State Library, 100 Stewart St., Carson City, NV

The Nevada Register of Administrative Regulations