



Nevada Commission On Off-Highway Vehicles
6015 South Virginia St., Suite E, Box 163
Reno, Nevada 89502

To: Debra Korp

June 25, 2015

State of Nevada

Legislative Counsel Bureau

From: Greg McKay

Chairman

Nevada Commission on Off-Highway Vehicles

Attached is our information statement concerning our Draft Regulations, R-131-14, which we adopted on June 15, 2015.

Please let me know if you have any questions or need any additional information .

I will also forward you the Legislative Committee material next week.

We are scheduling a meeting at the end of next month to allow the State Grants Office to Request Grant Applications. Are we ahead of ourselves doing this before the Legislative Committee meets or do we have temporary authority?

Please give me a call at 775-690-3096

Thanks

Greg McKay

A handwritten signature in black ink that reads "Greg McKay". The signature is written in a cursive, flowing style.

SECRETARY OF STATE
FILING DATA

**Form For Filing
Administrative Regulations**

FOR EMERGENCY
REGULATIONS ONLY

Effective date _____

Expiration date _____

Agency Nevada Commission
on Off-Highway Vehicles

Governor's signature

Classification: PROPOSED ADOPTED BY AGENCY EMERGENCY

Brief description of action The Nevada Commission on Off-Highway Vehicles adopted
regulations pursuant to the ~~NAC~~ Nevada Administrative Code, Chapter
490, Sections 1-41 pursuant to the requirements of NRS 233B.0603

Authority citation other than 233B NAC Chapter 490, Sec 1-41

Notice date 5/12/15

Date of Adoption by Agency

Hearing date 6/15/15

6/15/15

To: Legislative Counsel Bureau

June 25, 2015

From: Greg McKay

Chairman

Nevada Commission on Off-Highway Vehicles

Subject: Required Informational Statement Concerning the Adoption of Permanent Regulations
That Pertain to Chapter 490.068, Section 1-41 Of The Nevada Administrative Code

1. Description of how comment from public and affected businesses was solicited.

Persons wishing to comment upon any proposed action of the NCOHV could appear at the scheduled public meetings and hearings and can address their comments, data, views, or arguments, in written form, to the NCOHV, 6015 South Virginia St., Suite E, Box 163, Reno, NV 89502. Written submissions had to be received by the NCOHV by 5p.m. the day before the meeting.

Copies of the notices, draft regulation and small business impact statement to be adopted were 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 were available at NCOHV, 6015 South Virginia St., Suite E, Box 163, Reno, NV 89502, and on the NCOHV's website www.nvohv.com, and at the libraries 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 can be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

The notices of NCOHV Meeting Agendas, Public Hearings, and the Intent to Adopt a Regulation Public Hearing have also been mailed to and posted at the following locations

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
Battle Mountain Branch Library(Lander County) 625 South Broad Street ,Battle Mountain, NV89820
Carson City Library,900 North Rook Street, Carson City, NV 89701-3101
Churchill County Library,553 South Main Street, Fallon, NV 89406-3306
Douglas County Public Library, 1625 Library Lane, Minden, NV 89423-0337
Elko County Library,720 Court Street, Elko, NV 89801-3397
Esmeralda County Library, Corner of Crook and 4th Street.,P.O. Box 430,Goldfield, NV 89013-0430
Eureka County Library, 10190 Monroe Street, Eureka, NV 89316
Humboldt County Library,85 East 5th Street, Winnemucca, NV 89445-3095
Las Vegas Library, 833 Las Vegas Blvd. North, Las Vegas, Nevada 89101-2062
Lincoln County Library,63 Main Street, Pioche, NV 89403
Lyon County Library System,20 Nevin Way, Yerington, NV 89447-2399
Mineral County Public Library, P.O. Box 1390.Hawthorne, NV 89415
Pershing County Library,1125 Central Avenue, Lovelock, NV 89419
Storey County Public Library, C/O Storey County Treasurer and Clerk's Office, Drawer D, Virginia City, NV 89440
Tonopah County Library(Nye County), P.O. Box 449, Tonopah, NV 89049
Washoe County Library System, 301 South Center Street, Reno, NV 89501-2102
White Pine County Library,950 Campton Street, Ely, NV 89301
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
Department of Business and Industry, 788 Fairview Drive #100, Carson City, NV 89701
Legislative Building, 401 South Carson St., Carson City, NV 89710
The Bradley Building, 2501 East Sahara Ave., Las Vegas, NV 89104
Grant Sawyer Building, 555 E. Washington Blvd. Suite 4900, Las Vegas, NV 89101
Nevada Department of Cultural Affairs, 100 Stewart St. ,Carson City, NV 89701

Nevada Public Utilities Commission,1150 East Williams St., Carson City, NV 89701

Nevada Public Utilities Commission, 9075 West Diablo Drive, Las Vegas, NV 89148

NOTICE OF THIS MEETING WAS POSTED ON THE INTERNET AT:

Nevada Commission on Off Highway Vehicles <http://nvohv.com/>
Nevada Public Notice <https://notice.nv.gov>
The Nevada Legislative Counsel Bureau
The Nevada Archives
The Nevada Library
Nevada Public Notice [@notice.nv.gov](https://notice.nv.gov)
Nevada Secretary of State
Office of Business Finance and Planning www.dbi.state.nv.us/bfp/

All NCOHV Agendas, Meeting Notices, Public Hearings, and supporting documentation are available to every interested party on our e-mail list. Our interested party e-mail list comprises of everyone who has attended a Commission meeting, everyone who has submitted a written or verbal comment at a meeting, as well as several other Agency and public Representatives. This list is maintained by Kim Miller, our Executive Secretary, who can also field any comments or questions at kmiller@ncohv.com.

2. Statement indicating the number of persons who attended each meeting, testified at each meeting, and submitted written statements regarding the proposed regulations

May 13, 2014 Nevada Commission on Off-Highway Vehicles Regulation Committee Meeting

Number of attendees- 5 Commissioners. Public -9, Testified-4, Written statements-2

July 2, 2014 Nevada Commission on Off-Highway Vehicles Meeting

Number of attendees- 10 Commissioners, Public-7, Written statements- 0

There were no submitted written statements on the draft regulations. The draft regulation were submitted to the LCB on July 11, 2015

August 7, 2014 Nevada Commission on Off-Highway vehicles Meeting

Number of Attendees- Commissioners-10, Public-9, Written statements-8

January 15, 2015 Nevada Commission on Off-Highway Vehicles Meeting

Number of attendees- Commissioners-10, Public- 12, Written statements-4

March 11, 2015 Nevada Commission on Off-Highway Vehicles Meeting

Number of attendees- Commissioners-8, Public-13, Written Statements-0

April 30, 2015 Nevada Commission on Off-Highway Vehicles Meeting

Number of attendees- Commissioners-8, Public-8, Written statements-0

June 5, 2015 Nevada Commission on Off-Highway Vehicles Public Workshop on Draft Regulations

Number of attendees- Commissioners-7, Public-9, Written Statements-0

June 15, 2015 Nevada Commission on Off-Highway Vehicles Notice of Intent To Adopt Regulation Public Hearing

Number of attendees- Commissioners-7, Public- 7, Written statements-0

3. Summary of response from Public and affected businesses.

May 13, 2014 Summary of written responses-

- a. Larry Calkins- President Nevada Four Wheel Drive Assn. presented several views on the grant application process hoping to make it simple, straight- forward and with plenty of opportunity for public comment.
- b. Doug Holcomb-President, Pine Nut trails Association (PNTA). The PNTA felt strongly that the grant guidelines must be consistent, transparent, and grant information should be readily available to the public for review and comment. He stated that applicants should be able to apply for more than one grant per cycle, which a numeric scoring system should be the final determination for grant awards, and each grant score sheet should be available to the public. Holcomb also stated that individual commissioners should be allowed to lobby for a grant, but if there is a conflict of interest, not vote on grant application. Commissioner's involvements

must be clearly stated. Volunteer labor is very important and should be heavily weighted and considered as in-kind matches.

- c. Leo Drumm, BLM non-voting advisor, verbally stated several concerns. He stated the term management responsibility (Item #8 under Eligible Applicants) in grant application would not be tolerated by Federal Officials who manage that land. Message needs to be the non-profit would have to have an agreement, a plan, and an agreement with the landowners. He stated concerns about having control over the land that could only be achieved by the Recreation and Purpose Act. He also stated BLM has worked with many different types of organizations as partners.
- d. Scott Gerz- Nevada Trail Stewards pointed out a lot of time and effort has been expended by the OHV community to make this work. He feels they are supportive of the Commission and are on the same page. Biggest concern is the arbitrary awarding grants. He shares the previous speaker's views on these things.

July 2, 2014 Commission on Off-Highway Vehicles Public Hearing on Draft Regulations

There were no written statements submitted at our July 2, 2014 meeting. The entire minutes and text of the meeting are included as Exhibit A for your reference. The Commission moved to forward these to the LCB for their review. This was done on July 11, 2014.

We had one Public Comment from Scott Gerz, representing the Nevada Trail Stewards. He strongly reiterated the OHV communities concern for a subjective award process. He felt that another subjective scoring process would place the Commission and the grant process at great risk. Enough cannot be said about a desire for a scored, open, and publically notified grant process.

Summary of written responses from August 7, 2014 Meeting

- a. William Kaepfner, President of the Ohio Motorized Trails Association advocated for a scored grant award process over a subjective grant scoring process. He points out these are public funds paid by the public OHV users and should be used for that purpose.
- b. Doug Holcomb, President of the Pine Nut Mountains Trail Association, submitted three statements advocated for a numerical scoring method and not subjective. He pointed out that the only priority for Commissioners should be working for the benefit of the Nevada OHV registration paying public and the State of Nevada. He advocated that grant applications should be made public for review and comment, that Commissioners should be able to lobby but not vote on funding awards, that grant applicants should be able to apply for more than one grant, that one grant project does not have to be finished before they can apply for another, and volunteer labor should be counted as an in-kind matching contribution. He

advocated for pre-paying some grant expenses to make it easier on grant applicants.

- c. Larry Calkins, President of the Nevada Four Wheel Drive Association submitted two written statements (April 8 and May 11 2014) advocating grant applications be on Commission website for 30 days for public comment, that minor changes on grant applications could be made by mutual consent, and that grant applicants be allowed to make a presentation to the Commission to answer questions.
- d. Karen Boeger, Board Member of the Nevada Chapter, Backcountry Hunters and Anglers submitted her statement from February 15, 2014 which was previously summarized.
- e. Paul Quade, an Attorney for Nevada Trail Stewards, outlined several concerns over the previous attempt by the Commission to award grant funds. He alleges that the Commission operated outside of its enabling legislation (NRS Chapter 490), violated the Open Meeting Law and the Administrative Procedures Act.

January 15, 2015 Public Hearing.

- a. Leo Drumm, our non-voting advisor from BLM, commented on the term “person” referring to who can apply for grants. Person is meant to be an individual or business that excludes government agencies. This was not the legislative intent and he showed minutes from the 2009 Senate Transportation Committee Hearing that supported that statement. He urged a Legislative fix to fix this concern. He also commented on certain types of costs that could be included in the grant application-specifically children programs, vehicle costs, supply costs. He also stated that cost for studies should be for OHV trails only, not shared trails. He also expressed concern for ornamental expenses and the need for a better definition. He was concerned that this may not benefit OHV recreation projects. There was no public comment from Las Vegas or Elko
- b. Larry Calkins, President of Nevada Four wheel Drive Association commented on the term “person” and that this could limit opportunities for Grant-funded Projects involving the BLM, USFS, State and local government entities to be done. He also expressed concern that this would hinder law enforcement activities. He encouraged a legislative change to fix this concern.
- c. Scott Gerz, President of the Nevada Trail Stewards, strongly advocated for grant scoring by NCOHV Commissioners needs to be non-subjective. He enumerated on the past failings of the Commission to try to develop a grant application process.
- d. Karen Boeger, from the Nevada Backcountry Hunters and Anglers asked a questions why a BDR is required to get the OHV Grant Program into law. DAG Palmer explained the proper process to her.

March 11, 2015 NCOHV Meeting

In our March 11, 2015 NCOHV Commission Meeting we had presentations by Sheila Lambert, Chief of the Nevada Office of Grant Procurement, Coordination and Management(NOGPM) and Raelene Palmer, our Commission Deputy Attorney General(DAG) representative on how we could coordinate the draft regulations with the state approved grant application process.

Ms. Lambert presented a process that should work for the Commission concerning the grant application guide and the proper process to analyze and award the grants. The NOGPM is providing administrative support while still allowing the Commissioner's significant decision-making authority about grant guidelines and scoring the grants.

Chief Lambert and DAG Palmer have proposed several changes to the draft regulations to correct what needs to be in regulation versus what needs to be in the grant application. As needs change, they can be addressed in the Grant Announcement rather than the LCB process. They also added the statutory requirement on the non-voting advisor participation into the draft regulations. Commissioners can change priorities and types of eligibility requirements in the grant application guide as needs change.

DAG Palmer outlined the changes to the draft regulations on recommendations made by Chief Lambert. They defined the Grants Office to provide an Administrative Role, not to make the Commission's decisions, but to help move the process along. The non-voting advisors are dealt with in Section 10 and 12. A definition of notice to proceed was added which is the proper notice of how grants work. There would be only one appeal process. On page 5 of the draft regulations outlines the process of issuing its request for grant applications. Section 21 makes references to that process beginning and what types of projects it is, as well as specific criteria that the grant scoring committee will use to evaluate and score the applications, along with what forms needs to be used for a successful application. Applications will be submitted and must comply with certain provisions that are stated in the statute. Section 6 lists all the things which must be completed per statute. Page 7 includes the provision to complete the project no more than 2 years after the notice to proceed is issued. There is a provision that the Commission can modify this requirement. On Page 11, Section 25 applications for grants must be requested, publicized, evaluated, and approved in accordance to these additional sections.

Here is where the process begins. The Commission will issue a request for grant applications and then ensure certain things about the request that are fair. Then there will be a notice letting applicants know that the Commission will not score or

take further action with respect to a grant application that is not complete by the deadline. This provision allows an early applicant who has an incomplete application to get a notice that their application is incomplete. As long as the application is complete by the deadline it would still be accepted. Applications will be sent to the NOGPM to be reviewed for completeness and legality. Then the applications will be forwarded to the Commission's non-voting advisors for independent review for completeness and compliance with the NRS. The non-voting advisors will return the applications within 15 days of receipt. The NOGPM will within 7 days, assign a number to the complete and compliant applications. The NOGPM will average the scores and put together the data that would be needed for a decision, ranking them from highest to lowest. Then provide a list from highest to lowest with the grant type due to the fact that only certain percentages can be given out for certain projects according to NRS. The Commission is not obligated to fund any of them.

The Commissioners (or a sub-group of Commissioners) will assign a score to the complete and compliant applications independently and return them to the NOGPM within 30 days. The NOGPM will average the scores and rank the applications from highest to lowest and by type of project (page 14, section 31). At a Properly Noticed Meeting the Commissioners can then decide whether or not to fund the Projects or how much funding they will approve for a project.

Page 15, section 32, the Commission will post on its website any grants that have been awarded no later than 5 business days after making those awards. Not later than 10 days after that posting is made an applicant who was otherwise eligible to receive a grant and the grant application was unsuccessful may submit a request for consideration. If that happens, the Commission, within 10 days, will schedule a public meeting to hear the request for reconsideration and then no later than 30 days after that Public Meeting the Commission will issue a final decision on each request and post on the website the final decision.

After the grants are awarded the Commission will monitor, evaluate, and assist in the carrying out of the Grant process. The contract that will be entered to after the grant is awarded must be signed, then there will be a notice to proceed, this is the actual document that will start the timeline for completion. Page 18, section 41, is where the grantee will notify the Commission the Project is completed and what the Commission will do to ensure that Project was completed.

The Commission approved a motion to approve the draft regulations as presented with the change of the scoring committee time period from 15 days to 30. AG Palmer states that change is proposed Section 29 on Page 13. Seconded by Commissioner Lee. Discussion ensues in regards to presentations. AG Palmer suggest for the Commission to authorize Chair McKay to work with legal counsel and the Office of Grants Management to make change to Section 31 but if Grants

Office Management has a problem with change then the language is approved as is. Commissioner passes that motion.

Note- Draft Regulation changes were sent back to the LCB on March 12, 2015 for review

Public Comment from March 11, 2015 Meeting

There was no public comment for our March 11, 2015 meeting.

Public Comment from April 30, 2015 Meeting

The LCB returned our draft regulations on April 28, 2015. The draft regulations were posted on NCOHV website that day. Being as there was not much notice of the returned draft regulations Agenda item #8 was titled Status of draft regulations. Chairman McKay stated we will have to schedule a Public Hearing for our next meeting to discuss this. No member of the public or Commission made any comment on the draft regulations.

Public Comment from Public Hearing on June 5, 2015

There was no Public Comment on the Draft Regulation returned by the LCB on April 28, 2015. The Public Hearing was properly posted on May 12, 2015. The public was notified of the Notice of intent to Adopt Hearing on June 15, 2015.

Public Comment on the Notice of Intent to Adopt a Regulation Meeting June 15, 2015.

There was no Public Comment on the Notice of Intent to Adopt the Regulation Hearing on June 15, 2015. The Notice of Intent to Adopt a Regulation was properly posted on May 12, 2015. The Commission Adopted the Draft Regulation.

Explanation of how interested persons may obtain a copy of summary

This summary will be posted on the NCOHV website under 2015 meetings under supporting documentation. It will also be filed with the Secretary of State, Nevada State Library, and the Legislative Counsel Bureau. Copies can also be obtained by contacting kmiller@nvohv.com or a written request can be made at NVOHV, 6015 So. Virginia St., Suite E, Box 163, Reno, NV 89502.

If Regulation was adopted without change, summary of reasons for adopting without change.

Existing statutory law directs the Commission on Off-Highway Vehicles to adopt regulations setting forth: (1) who may apply for a grant of money from the Account for Off-Highway Vehicles; (2) procedures for awarding grants of money from the Account; (3) the manner in which applications for grants are to be submitted to the Commission; (4) that an applicant for such a grant of money must provide information satisfactory to the Commission that the applicant has consulted with requisite state, local and federal governmental entities; and (5) the acceptable performance of work on a project for which a grant is awarded. (NRS 490.068)

This regulation carries out the statutory directive by creating a system for awarding grants and monitoring grantees in accordance with the requirements of NRS 490.068 and 490.069.

These draft regulation accomplish that direction coupled with an approved State Grant Office Guidebook and process.

Estimated economic effect on public and businesses affected : adverse and beneficial, immediate and long-term.

A Nevada Off-Highway Vehicle Owner who rides on Public Land will see a \$20 sticker fee annually. For this he/she will see improved trail maintenance, signage, facilities, law enforcement, safety programs, and public education/outreach. They will also have a more effective OHV advocate in the State. There will be better partnerships with the BLM, USFS, State Parks and other government entities which should promote better OHV projects that potentially could leverage other additional funding sources.

Business owners are assessed no fees and will have no adverse effects. Nevada off-Highway Vehicle related businesses will benefit from increased OHV registrations that curtail out of state purchasing. State tax collection rates should also improve.

The immediate effect of these regulations being adopted will allow the NCOHV to legally disburse grant funds to fulfill our mandated role of trail construction and maintenance, law enforcement, public education and outreach, facilities. We have collected fees but haven't been able to use them as intended until these regulations are adopted.

The long-term effect of these regulations will be to build an increasing funding source to provide more services to OHV users in the State, a better business climate for OHV related businesses, and a benefit to the whole state in terms of economic development.

Cost of enforcing the regulation

There will be no cost to the NCOHV for enforcing the regulation. Statute already requires that 20% of our Grant Funds go for law enforcement of OHV activity in the State.

Explanation of any other regulations which this regulation duplicates or overlaps and why this duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, a statement of the name of the federal agency.

This regulation does not duplicate or overlap any regulation.

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

This regulation has no provisions that are more stringent than a federal regulation.

If this regulation establishes a new fee or increase an existing fee, a statement indicating the total amount the agency expects to collect and the manner in which the money will be used.

The NCOHV is not establishing a new fee or increasing an existing fee. The DMV is adding a \$1 fee for technology upgrades to the \$20 sticker fee.

Regulation adopted on: June 15, 2015.

Statement, if any, to interested person explaining principal reasons for and against adopting regulation and reasons for overruling the consideration urged against its adoption. NRS 233B.064 (2)

The NCOHV did not issue any statement as there was no opposition to the draft regulations from the public.

Copy of Regulation, Information Statement, Form for Filing administrative Regulations sent to Legislative Counsel Bureau on: June 25, 2015.

Regulation approved by Legislative Commission or Subcommittee to Review regulations on: _____ -

If Legislative Commission or Subcommittee to Review Regulations objected to rule based on lack of conformity with statutory authority and legislative intent:

**REVISED PROPOSED REGULATION OF
THE COMMISSION ON OFF-HIGHWAY VEHICLES**

LCB File No. R131-14

April 28, 2015

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

AUTHORITY: §§1-41, NRS 490.068.

A REGULATION relating to motor vehicles; establishing a program for the awarding of grants for projects concerning off-highway vehicles and related trails and facilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing statutory law directs the Commission on Off-Highway Vehicles to adopt regulations setting forth: (1) who may apply for a grant of money from the Account for Off-Highway Vehicles; (2) procedures for awarding grants of money from the Account; (3) the manner in which applications for grants are to be submitted to the Commission; (4) that an applicant for such a grant of money must provide information satisfactory to the Commission that the applicant has consulted with requisite state, local and federal governmental entities; and (5) the acceptable performance of work on a project for which a grant is awarded. (NRS 490.068) This regulation carries out the statutory directive by creating a system for awarding grants and monitoring grantees in accordance with the requirements of NRS 490.068 and 490.069.

Sections 2-14 of this regulation provide definitions that are applicable to the awarding of grants of money from the Account for Off-Highway Vehicles. **Sections 15-19** of this regulation set forth the provisions with which a person must comply to qualify to apply to the Commission for a grant of money from the Account. **Sections 21-23** of this regulation specify the information that must be included within, and which must accompany, an application requesting a grant of money from the Account.

Section 20 of this regulation provides for the Commission to appoint a Grant Scoring Committee to score the grant applications that are submitted. **Sections 20 and 25** of this regulation specify what must be contained in a request for grant applications that is issued by the Commission.

Sections 25-34 of this regulation set forth the manner in which applications for grants of money from the Account will be requested, publicized and evaluated and approved or rejected. **Sections 35-41** of this regulation establish the manner in which the Commission will monitor

and evaluate projects that are paid for, in whole or in part, by grant money that is disbursed from the Account.

Section 1. Chapter 490 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 41, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 41, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 14, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Applicant” means a person who qualifies to apply and applies to the Commission for a grant.*

Sec. 4. *“Application” means a request by an applicant to the Commission for the award of a grant.*

Sec. 5. *“Commission” means the Commission on Off-Highway Vehicles created by NRS 490.067.*

Sec. 6. *“Grant” means money disbursed by the Commission from the Account for Off-Highway Vehicles created by NRS 490.069 to a grantee to pay for all or part of the costs of a project.*

Sec. 7. *“Grant Scoring Committee” means the committee appointed by the Commission pursuant to subsection 1 of section 20 of this regulation to score applications.*

Sec. 8. *“Grantee” means an applicant who applies successfully to the Commission for a grant.*

Sec. 9. *“Nonvoting advisers” means the nine nonvoting advisers who are solicited to assist the Commission pursuant to paragraph (d) of subsection 1 of NRS 490.068.*

Sec. 10. *“Notice to Proceed” means the notice provided by the Commission to a grantee pursuant to subsection 1 of section 35 of this regulation approving the date upon which work may begin on the applicable project.*

Sec. 11. *“Office of Grant Procurement, Coordination and Management” and “Office” mean the office created in paragraph (k) of subsection 2 of NRS 232.213.*

Sec. 12. *“Person” has the meaning ascribed to it in NRS 0.039.*

Sec. 13. *“Project” means a project described in subparagraph (1) of paragraph (b) of subsection 3 of NRS 490.069.*

Sec. 14. *“Request for grant applications” means a solicitation that is created and publicized by or on behalf of the Commission, inviting qualified persons to apply for a grant.*

Sec. 15. *From time to time, within the limits of available money and the limits imposed by NRS 490.069, the Commission will issue requests for grant applications.*

Sec. 16. *To qualify to apply to the Commission for a grant, a person must comply with the provisions of sections 17, 18 and 19 of this regulation.*

Sec. 17. *If a person who seeks to apply to the Commission for a grant is a corporate or other legal entity that is registered with the Secretary of State of Nevada or the secretary of state of another state, the entity must be in good standing in the state in which it is registered.*

Sec. 18. *If a person who seeks to apply to the Commission for a grant proposes to carry out a project on public land, the person must, before applying to the Commission, have a written agreement to use the land with any governmental entity having jurisdiction over that land, including, without limitation, any necessary permits, leases, easements and rights-of-way.*

Sec. 19. *1. At the time a person seeks to apply to the Commission for a grant, the person must have an interest in the real property on which the proposed project will be carried out, such that the interest satisfies the requirements of this section.*

2. The interest in the real property, whether by way of ownership, lease, rental, easement, right-of-way, written agreement or other legal instrument, must be sufficient in scope and authority to allow the applicant:

(a) To complete the proposed project; and

(b) To operate and maintain the proposed project after its completion.

Sec. 20. *1. The Commission will appoint a Grant Scoring Committee to score applications that are submitted to the Commission. The Grant Scoring Committee must consist of nonvoting advisers or members of the Commission, or a combination of both, as selected by the Commission.*

2. When the Commission issues a request for grant applications, as referenced in section 15 of this regulation, the Commission will ensure that the request sets forth:

(a) The type of project for which the grant may be used;

(b) The specific factors and criteria that the Grant Scoring Committee will use to evaluate and score an application; and

(c) The form of any specific contract that a successful applicant will be required to enter into with the Commission.

Sec. 21. *An application that is submitted to the Commission to apply for a grant must comply with the provisions of sections 22 and 23 of this regulation.*

Sec. 22. *An application must include verifiable evidence, in writing and satisfactory to the Commission:*

- 1. Setting forth that each appropriate federal, state or local governmental agency:*
 - (a) Has been consulted by the applicant; and*
 - (b) Has approved the proposed project.*
- 2. Addressing all applicable laws and regulations concerning:*
 - (a) Threatened and endangered species in the area or areas affected by the proposed project;*
 - (b) Ecological, cultural and archaeological sites in the area or areas affected by the proposed project; and*
 - (c) Existing land use authorizations and prohibitions, land use plans, special designations and local ordinances for the area or areas affected by the proposed project.*
- 3. Containing any information related to compliance that is provided by an appropriate federal, state or local governmental agency, and any information or advice provided by any agency, group or natural person.*

Sec. 23. *Except as otherwise provided in this section, an application must include, in writing and satisfactory to the Commission, the applicant's plan for completing the proposed project not more than 2 years after the Notice to Proceed is issued, as described in subsection 1 of section 35 of this regulation. The Commission may, for good cause shown, waive or otherwise modify the requirement set forth in this section.*

Sec. 24. *Applications must be requested, publicized and evaluated and approved or rejected in accordance with sections 25 to 34, inclusive, of this regulation.*

Sec. 25. *When the Commission issues a request for grant applications pursuant to section 15 of this regulation, the Commission will ensure that the request:*

- 1. Is posted on the Internet website of the Commission; and*

2. Sets forth, in addition to the requirements of subsection 2 of section 20 of this regulation:

- (a) The amount of the grant that is available.*
- (b) The date by which applications must be received, which must be not later than 60 days after the Commission posts on its Internet website the request for grant applications.*
- (c) Notice to prospective applicants that the Commission, the Office of Grant Procurement, Coordination and Management and the nonvoting members will not score or take further action with respect to an application that is not complete by the deadline for accepting applications.*
- (d) All details and definitions that are required for an application to be considered complete.*
- (e) Such other information, exhibits and addenda as the Commission may determine to be necessary or desirable in carrying out the purposes of sections 2 to 41, inclusive, of this regulation.*

Sec. 26. *1. An applicant who desires to submit an application must first submit the application to the Office of Grant Procurement, Coordination and Management for the Office's review, to ensure that the application is complete.*

2. If the Office of Grant Procurement, Coordination and Management determines that the application is not complete, it will return the application to the applicant. If the Office determines that the application is complete, it will forward the application to each nonvoting adviser.

Sec. 27. *Each nonvoting adviser will:*

1. Independently review each grant application received pursuant to section 26 of this regulation to ensure that the application is complete, in compliance with the provisions of sections 2 to 41, inclusive, of this regulation and in compliance with any other regulations adopted pursuant to paragraph (a) of subsection 2 of NRS 490.068; and

2. Within 15 days after receiving an application from the Office of Grant Procurement, Coordination and Management, return the application to the Office, accompanied by the determination of the nonvoting adviser as to the completeness and compliance of the application.

Sec. 28. *1. Within 7 days after receiving an application from a nonvoting adviser pursuant to subsection 2 of section 27 of this regulation, the Office of Grant Procurement, Coordination and Management will:*

(a) Return to the applicant an application that is determined by any nonvoting adviser to be either not complete or not compliant.

(b) With respect to an application that is determined by each nonvoting adviser to be both complete and compliant, assign a number and attach a scoring sheet to the application and forward the application to the individual members of the Grant Scoring Committee.

2. Upon the receipt of an application as described in subsection 1, the individual members of the Grant Scoring Committee will independently score and return the application to the Office of Grant Procurement, Coordination and Management within 30 days after receiving the application.

Sec. 29. *When the Office of Grant Procurement, Coordination and Management receives the scored applications from the Grant Scoring Committee pursuant to subsection 2 of section 28 of this regulation, the Office will:*

- 1. Average the individual scores given to each application by the individual members of the Grant Scoring Committee;*
- 2. Rank the applications from the highest to lowest average score; and*
- 3. Provide to the Commission a ranked list of applicants, subdivided by the particular type of grant for which an application was submitted.*

Sec. 30. *At a properly noticed public meeting, the Commission, by majority vote of a quorum of the voting members of the Commission present at the meeting, will:*

- 1. Consider the grant applications in the order in which they were ranked by the Office of Grant Procurement, Coordination and Management pursuant to section 29 of this regulation; and*
- 2. Determine whether, and in what amount, to award a grant to an applicant.*

Sec. 31. *The Commission will post on its Internet website any grants that it awards pursuant to section 30 of this regulation not later than 5 business days after making those awards.*

Sec. 32. *Not later than 10 days after the Commission makes the posting required by section 31 of this regulation, an applicant who was otherwise eligible to receive a grant, but whose grant application was unsuccessful, may submit to the Commission a request for reconsideration.*

Sec. 33. *If an applicant makes a request for reconsideration to the Commission as described in section 32 of this regulation, the Commission will, as soon as is practicable after the expiration of the 10-day period set forth in that section, schedule a public meeting to hear the request for reconsideration of each such grant application.*

Sec. 34. *Not later than 30 days after holding the public meeting described in section 33 of this regulation, the Commission will:*

- 1. Issue a final decision on each request for reconsideration that it receives pursuant to section 32 of this regulation; and*
- 2. Post on its Internet website the final decision.*

Sec. 35. *After a grant is awarded, the Commission will:*

- 1. Provide to the successful grantee a Notice to Proceed approving the date upon which work may begin on the applicable project, subject to the conditions of the contract described in section 36 of this regulation.*
- 2. Monitor, evaluate and assist in the carrying out of the grant and the progress and completion of the project in accordance with sections 36 to 41, inclusive, of this regulation.*

Sec. 36. *Except as otherwise provided in this section, after awarding a grant, the Commission will enter into a contract with the grantee for the completion of the proposed project for which the Commission awarded the grant. The Commission will not enter into such a contract if there is an unresolved request for reconsideration that could affect the proposed project.*

Sec. 37. *To enter into a contract with a grantee for the completion of a proposed project, as referenced in section 36 of this regulation, the Commission will send a draft of the contract to the grantee by certified mail, return receipt requested. Unless otherwise expressly approved by the Commission, not later than 90 days after the date on which the grantee receives the draft of the contract, the grantee must execute and finalize the contract and provide to the Commission all information pertinent to the contract that the Commission requests.*

Sec. 38. *Unless otherwise expressly approved by the Commission, a contract entered into between the Commission and a grantee, as referenced in section 36 of this regulation, must provide that:*

1. The grantee must secure all necessary approvals, clearances and permits not later than 90 days after the contract is entered into; and

2. If the grantee has not secured such necessary approvals, clearances and permits, the Commission will not disburse any grant funds to the grantee.

Sec. 39. *A contract entered into between the Commission and a grantee, as referenced in section 36 of this regulation, must specify an end-date for the project for which the grant is awarded. Unless otherwise expressly approved by the Commission, the end-date for the project must provide that the project will be substantially completed not more than 2 years after the Notice to Proceed is provided to the grantee as described in subsection 1 of section 35 of this regulation.*

Sec. 40. *1. A grantee shall notify the Commission in writing when the grantee believes that it has completed a project.*

2. After receiving written notice as described in subsection 1, the Commission will, at its next public meeting, determine by majority vote whether the project has been completed satisfactorily.

3. If the Commission determines that a project has not been completed satisfactorily:

(a) The Commission will inform the grantee in writing as soon as practicable as to what must be done to achieve satisfactory completion of the project; and

(b) The grantee, after performing the acts that the Commission indicates must be performed, shall resubmit its written notice of completion to the Commission.

Sec. 41. *After a grantee completes a project, the grantee must report to the Commission, in writing, at least once each year by a date to be specified by the Commission, as to how the project is being operated and maintained. The annual reporting required by this section must continue for 20 consecutive years after the project is completed, unless the Commission specifically approves a different duration.*



Nevada Commission on Off Highway Vehicles

May 28, 2014

1615 South Virginia Street, Suite E, Box 163

Reno, Nevada 89502

SMALL BUSINESS IMPACT STATEMENT

I, Greg McKay, Chairman of the Nevada Commission on Off-Highway Vehicles, believe that the proposed administrative regulations for the grant process are not likely to (a) impose a direct or significant economic burden upon a small business, or (b) directly restrict the formation, operation or expansion of a small business.

The Nevada Commission on Off-Highway Vehicles has determined that its regulations have no direct or significant negative effect on Nevada Small Businesses and will have a potential positive benefit to the economy.

I hereby certify to the best of my knowledge or belief a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was properly prepared and the information contained herein is accurate.

Respectfully submitted,

Greg McKay

Chairman

Nevada Commission on Off-Highway Vehicles

Notice of Workshop to Solicit Comments on Proposed Regulation

The Nevada Commission on Off-Highway Vehicles is proposing the adoption of regulations pertaining to Chapter 490 of Nevada Administrative Code. A workshop has been set for 9:00 a.m., on June 5, 2015, at the Nevada Public Utilities Commission, 1150 East Williams St., Hearing Room B, Carson City, NV 89701 and linked by videoconference to the Public Utilities Commission, 9075 West Diablo Drive, Hearing Room B, Las Vegas, NV 89148. There is also a phone-in telephone number, 712-432-1212, with a meeting ID- 957-738-378 for interested parties wishing to make comments. The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations:

Grant applications; awarding of grants, and administration of funds for awarded grants.

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting Kim Miller, Secretary of the Commission, at kmiller@nvohv.com, or on the Commission's website. A reasonable fee for copying may be charged. The agency's small business impact statement is attached.

Written comments on the proposed regulations can be submitted to the Commission's mailing address, NVOHVC, 6015 South Virginia Street, Suite E, Box 163, Reno, NV 89402 up to 5:00 p.m. on June 4, 2015.

This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Secretary of the Commission who may be contacted via mail at 6015 South Virginia Street, Suite E, Box 163 Reno, Nevada 89502, or email kmiller@nvohv.com no later than five working days prior to the meeting. THIS NOTICE HAS BEEN POSTED ON OR BEFORE 9:00 AM FIFTEEN WORKING DAYS BEFORE THE MEETING AT THE FOLLOWING LOCATIONS:

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
Battle Mountain Branch Library(Lander County) 625 South Broad Street ,Battle Mountain, NV89820
Carson City Library,900 North Roop Street, Carson City, NV 89701-3101
Churchill County Library,553 South Main Street, Fallon, NV 89406-3306
Douglas County Public Library, 1625 Library Lane, Minden, NV 89423-0337
Elko County Library,720 Court Street, Elko, NV 89801-3397

Esmeralda County Library, Corner of Crook and 4th Street., P.O. Box 430, Goldfield, NV 89013-0430
Eureka County Library, 10190 Monroe Street, Eureka, NV 89316
Humboldt County Library, 85 East 5th Street, Winnemucca, NV 89445-3095
Las Vegas Library, 833 Las Vegas Blvd. North, Las Vegas, Nevada 89101-2062
Lincoln County Library, 63 Main Street, Pioche, NV 89403
Lyon County Library System, 20 Nevin Way, Yerington, NV 89447-2399
Mineral County Public Library, P.O. Box 1390, Hawthorne, NV 89415
Pershing County Library, 1125 Central Avenue, Lovelock, NV 89419
Storey County Public Library, C/O Storey County Treasurer and Clerk's Office, Drawer D, Virginia City, NV 89440
Tonopah County Library (Nye County), P.O. Box 449, Tonopah, NV 89049
Washoe County Library System, 301 South Center Street, Reno, NV 89501-2102
White Pine County Library, 950 Campton Street, Ely, NV 89301
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
Department of Business and Industry, 788 Fairview Drive, #100, Carson City, Nevada 89701
Legislative Building, 401 South Carson Street, Carson City, Nevada 89710
The Bradley Building, 2501 East Sahara Avenue, Las Vegas, Nevada 89104
Grant Sawyer Building, 555 East Washington Boulevard, Suite 4900, Las Vegas, Nevada 89101
Nevada Department of Cultural Affairs, 100 Stewart Street, Carson City, Nevada 89701

NOTICE OF THIS MEETING WAS POSTED ON THE INTERNET AT:

Nevada Commission on Off Highway Vehicles <http://nvohv.com/>
Nevada Public Notice <https://notice.nv.gov>
The Nevada Legislative Counsel Bureau
The Nevada Archives
The Nevada Library
Nevada Public Notice [@notice.nv.gov](https://notice.nv.gov)
Nevada Secretary of State
Office of Business Finance and Planning www.dbi.state.nv.us/bfp/

Date: 5/11/15

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption of Regulations of the Nevada Commission on Off-Highway Vehicles

The Nevada Commission on Off-Highway Vehicles ("NCOHV") will hold a public hearing at 9:00 a.m., on June 15, 2015 at the Nevada Public Utilities Commission, 1150 East Williams St., Hearing Room B, Carson City, NV 89701 and will be linked by video-conference to the Public Utilities Commission, 9075 West Diablo Drive, Hearing room B, Las Vegas, NV 89148. There is also a phone-in-telephone number, 712-432-1212, with a meeting ID, 957-738-378. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to Chapter 490 of the Nevada Administrative Code.

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

This regulation is needed because NRS 490.068 directs the NCOHV to adopt regulations setting forth: (1) who may apply for a grant of money from the Account for Off-Highway Vehicles; (2) procedures for awarding grants of money from the Account; (3) the manner in which applications for grants are to be submitted to the Commission; (4) that an applicant for such grant of money must provide information satisfactory to the Commission that the applicant has consulted with the requisite state, local, and federal governmental entities; and (5) the acceptable performance of work on a project for which a grant is awarded. This proposed regulation carries out the statutory directive by creating a system for awarding grants and monitoring grantees in accordance with the requirements of NRS 490.068 and 490.069.

Sections 2-14 of this regulation provide definitions that are applicable to the awarding of grants of money from the Account for Off-Highway Vehicles. **Sections 15-19** of this regulation set forth the provisions with which a person must comply to qualify to apply to the Commission for a grant of money from the Account. **Section 21-23** of this regulation specifies the information that must be included within, and must accompany, an application requesting a grant of money from the Account.

Section 20 of this regulation provides for the Commission to appoint a Grant Scoring Committee to score the grant applications that are submitted. **Section 20 and 25** of this regulation specify what must be contained in a request for grant applications that is issued by the Commission.

Section 25-34 of this regulation set forth the manner in which applications for grants of money from the Account will be requested, publicized, and evaluated and approved or rejected.

Section 35-41 of this regulation establish the manner in which the Commission will monitor and evaluate projects that are paid for, in whole or in part, by grant money that is distributed from the Account.

Pursuant to existing statute, Nevada off-highway vehicle owners pay an annual \$20.00 sticker fee for an off-highway vehicle. Following the adoption of the proposed regulation, revenue from the sticker sales will be used for off-highway projects, including trail maintenance and construction; better signage, off-road facilities, and safety programs; an improved public education/outreach effort; and additional law enforcement efforts. Nevada off-highway-vehicle-funded improvements, coupled with better partnerships with the Bureau of Land Management, the United States Forest Service, Nevada State Parks, and all levels of government, will help ensure better off-road access and improvement projects for off-highway vehicle owners. Business owners are not assessed any fees and will not experience any adverse effects from the proposed regulation. Off-highway vehicle registration revenue and the corresponding off-road improvements will positively affect off-highway vehicle dealerships.

This regulation will allow the NCOHV to issue grant funds currently held in the Account for Off-Highway Vehicles to be utilized for off-highway vehicle projects. The long-term effect will be to increase compliance in obtaining and maintaining off-highway vehicle registrations that lead to more projects benefitting off-highway vehicle communities and to economically develop a major industry in Nevada.

Pursuant to NRS 490.069, five percent of the money in the Account for Off-Highway Vehicles is capped and reserved for the administrative costs of the Account including those costs associated with administering the grant fund awards. This money will be used to enforce the statute and corresponding proposed regulation.

There are no other federal, state, or local governmental regulations that overlap with the proposed regulation, and the proposed regulation is not required pursuant to any federal law.

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

Persons wishing to comment upon the proposed action of the NCOHV may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the NCOHV, 6015 South Virginia St., Suite E, Box 163, Reno, NV 89502. Written submissions must be received by the NCOHV on or before 5p.m. June 14, 2015. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the NCOHV 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 NCOHV, 6015 South Virginia St., Suite E, Box 163, Reno, NV 89502, and on the NCOHV's website www.nvohv.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:

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
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Pershing County Library,1125 Central Avenue, Lovelock, NV 89419
Storey County Public Library, C/O Storey County Treasurer and Clerk's Office, Drawer D, Virginia City, NV 89440
Tonopah County Library(Nye County), P.O. Box 449, Tonopah, NV 89049
Washoe County Library System, 301 South Center Street, Reno, NV 89501-2102
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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
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Grant Sawyer Building, 555 E. Washington Blvd. Suite 4900, Las Vegas, NV 89101
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Nevada Public Notice @notice.nv.gov
Nevada Secretary of State
Office of Business Finance and Planning www.dbi.state.nv.us/bfp/

Date: 5/11/15