

**DEPARTMENT OF PARKS AND RECREATION
OFF-HIGHWAY MOTOR VEHICLE RECREATION DIVISION
GRANTS AND COOPERATIVE AGREEMENTS PROGRAM REGULATIONS**

INITIAL STATEMENT OF REASONS

INTRODUCTION

Public Resources Code Section 5090.01 et seq., also known as the Off-Highway Motor Vehicle Recreation Act of 2003 (Act), as amended, governs Off-Highway motor vehicle (OHV) Grants and Cooperative Agreements with cities, counties, Districts, U.S. Forest Service, U.S. Bureau of Land Management, other Federal Agencies, State and Federally Recognized Native American Tribes, Nonprofit organizations, Educational Institutions, Certified Community Conservation Corps, and State agencies. The Program is administered by the Off-Highway Motor Vehicle Recreation (OHMVR) Division within the Department of Parks and Recreation (Department). The Grants and Cooperative Agreements Program (Program) allows the State to assist eligible agencies and organizations to develop, maintain, expand and manage high-quality OHV Recreation areas, roads, trails, and other Facilities, while responsibly maintaining the wildlife, soils, and habitat in a manner that will sustain long-term OHV Recreation. Assistance is provided in the form of Project-specific Grant funding. Grants are awarded through a competitive process where Applicants and their Projects are evaluated using objective criteria.

The Department adopted permanent regulations for the Program, which appear in the California Code of Regulations, Title 14, Division 3, Chapter 15, Sections 4970.00 – 4970.26.

The objective of the proposed action is to make improvements to the existing Program via amendments to the Program Regulations and documents incorporated by reference and to comply with SB 249. Program regulations appear in the California Code of Regulations (CCR) Title 14, Division 3, Chapter 15, Section 4970.00 et seq. The proposed revisions would remove one definition that's no longer needed, provide two new definitions and clarification of several existing definitions. The regulations add additional time to extend the Grant program cycle to give review teams the sufficient time to be thorough and to reduce errors that have occasionally been made in the past. Further explanation has been added to clarify how a match is treated between the Program and grant participants to reduce confusion. An explanation of how the OHMVR Division verifies a Certified Community Conservation Corps has been added and the agency has also been added to the list of agencies that must comply with the California Environmental Quality Act (CEQA) Requirements so they know how to comply with CEQA. Updates have been made, based on the experiences of the last few years, throughout the environmental requirements sub article 1 to clarify required documentation. Guidelines have been added to explain how an application may be rejected. The definition of "Eligible Project Costs" have been updated to, allow for an hourly rate charge for vehicles with an additional 15% allowance to cover overhead

costs of operating the equipment. Transportation cost and the base of operations have been defined. Guidelines have been added to update the equipment expense limit for nonprofits and the requirement that the Department of Parks and Recreation, OHMVR Division must be added as the lien holder after OHMVR Division approval of the equipment purchase. "Ineligible Project Costs" have been updated to allow for Grantees that provide Youth Mentoring Programs to have access to the Department's owned or managed property for training purposes. A background section has been added for five "Project types" to give the Grantees a separate section on their Application in which to provide details on the history of their program. Unreasonable and/or unnecessary cost and activities have been excluded from Law Enforcement Project request amounts. A contingency list is created to adhere to Legislative intent of funding as many projects as possible. The creation of the contingency will maximize grant fund awarded in previous Grant cycles but not utilized.

Throughout the Project administration section, the word Division has been replaced with Department due to changes within the Department as a result of our recent transformation. New forms have been assigned in this section as well to help with the efficiency of the program. Advances have been updated so Grantees now only need to send in pictures and GPS coordinates on the second advance and beyond due to uncontrollable changes in the Project Area. Section 5090.35 has been removed throughout, where there is no need for it to be listed for authority.

In the appendix, updates have been made to the Environmental Review Data Sheet, Habitat Management Program and the Soils Conservation Plan to update program requirements and to reduce confusion. In addition, the General Provisions have been updated to reduce confusion as well and new forms have been adopted to increase efficiency and consistency throughout the Grants program. The DPR 364 and Project Agreement have been updated to reflect new terms from the State's new FISCAL system, which is used to track all Grant funds. Lastly, the Evaluation Criteria questions have been updated to reduce confusion on what is being asked.

Overall, the intent of the proposed regulation revision is to reduce confusion for Applicants, address changes based on the OHMVR Division's past experience and to ensure public funds are being spent wisely and within the State's best interest. The proposed revisions will allow for a more clear understanding of the regulations and Grant administration by both the Grantees and OHMVR Division staff. These changes will provide Program efficiency and will allow the OHMVR Division to fully support motorized recreation.

PURPOSE

The following provides the specific purpose and necessity for each proposed amendment to sections in CCR Title 14, Division 3, Chapter 15, § 4970.00 – 4970.26.

4970.00. – APPLICATION OF CHAPTER

Specific Purpose

Section 4970.00 is amended to add the Department of Parks and Recreation (Department) and to reflect current applicable Program dates for proposed revisions.

Necessity

The amendment to Section 4970.00 is necessary to maintain regulatory consistency and program efficiency and to reflect that the OHMVR Division is a division within the Department.

4970.01 – DEFINITIONS

Specific Purpose

Section 4970.01 is amended to repeal one definition that is no longer needed, amend two existing definitions, and to adopt two new definitions to align with changes that came from SB 249. Two additional definitions were amended to align with department changes that came about during our department transformation. Lastly, PRC Sections have been repealed because they no longer apply to the “Conservation” definition.

Necessity

The amendment to Section 4970.01(f) is necessary to conform to recent legislative action which redefined “Conservation” in Public Resource Code (PRC) 5090.10. The removal of PRC Sections 5090.10, 5090.50, and 5090.53 is made to align with changes that came from SB 249 and to repeal Sections that no longer apply to the definition. This amendment will also clarify to Grantees that the new definition shall be used for Projects under this program.

The repeal of Section 4970.01(o) is necessary due to changes in SB 249, Section 15.5090.50(2)(C), which prompted an update to 4970.11(a)(1). Due to the amendments in 4970.11(a)(1) the term “Ecological Restoration” is no longer needed.

The amendments to the lettering of 4970.01(p) through 4970.01(qq) is necessary for document consistency.

The amendment to Section 4970.01(t) is necessary to provide an updated definition for the term “Good Standing”. The proposed change explicitly puts the Grantees on notice that they must abide by all program regulations at all times and that any outstanding refunds due to the Department, through any of their Grants program it administers, shall be cause for any new agreements and/or payment requests to be held until the Grantee is back in Good Standing. This change will allow the OHMVR Division staff to safeguard public monies by ensuring that no funds are given to a Grantee if the regulations are not being fully adhered to. This regulatory will ensure that public money is not given to a Grantee while trying to recover outstanding refunds that are due through another Grants program administered by the same State department.

The amendment to Section 4970.01(u) is necessary to align with changes that came from SB 249, which added State Recognized Native American Tribes and Certified Conservation Corps as eligible Grant Applicants.

The amendment to Section 4970.01(w) is necessary to clarify to Applicants/Grantees that these three specific Project activities are not considered Ground Disturbing Activities for the purposed of this program. As part of the Grants and Cooperative Agreements Program, Grantees must adhere to the 2008 Soils and Conservation Standards and Guidelines (Soil Standard). The Soil Standard tasks Grantees with ensuring OHV Recreation Facilities are managed for sustainable long-term prescribed use without generating soil loss that exceeds restorability and without causing erosion or sedimentation that significantly affects resource values beyond the Facilities. There are various Projects that have been proposed by Applicants/Grantees whereby the only Project activities they are seeking Grant funds for are for these three specific activities listed in this definition. Applicants/Grantees have been confused on whether any of the activities are considered a Ground Disturbing Activity and have repeatedly sought clarification from the OHMVR Division. This change will alleviate that confusion and make it clear to the Applicant/Grantee that the specific activities listed are not considered Ground Disturbing Activity.

The amendment to Section 4970.01(x) is necessary to maintain regulatory consistency. PRC Section 5090.53 requires all Grants and Cooperative Agreements with Ground Disturbing Activities to prepare a wildlife habitat protection program to sustain a Viable Species Composition for the Project Area. PRC Section 5090.35 no longer refers to wildlife habitat protection programs or Viable Species Composition. The amendment also updates punctuation consistent with omitting the section reference.

The adoption of Section 4970.01(pp) is necessary to define a State Recognized Native American Tribe and who the official Tribal Contact list is managed by. The OHMVR Division will refer to this list when verifying Applicants. The State of California does not have a formal process to recognize a State Native American Tribe. In consultation with the California Native American Heritage Commission (NAHC), it was found that NAHC keeps a listing of American Indian Tribes, both Federal and State, that its staff works with. Since there is no formal process for California to recognize a State Native American Tribe, using the list maintained by the California Native American Heritage Commission is a reasonable approach to meeting the legislative intent. State Recognized Native American Tribes were added as eligible Applicants in SB 249.

The adoption of Section 4970.01(rr) is necessary to define a Youth Mentoring Program. As part of its core beliefs, the Department believes in the development and implementation of programs that increase services to non-traditional park users and under-served communities. Specifically, the Department believes in the value of promoting youth programs that use OHVs. Current regulations prohibit any Project activity to expend Grant and/or match funds on any lands owned or managed by the Department. The Department realizes the benefit to the State of California in Youth Mentoring Programs and the importance in increasing services to youths in under-

served and urban areas. The Department deems it important to allow the use of lands owned and/or managed by the Department in providing Facilities for Youth Mentoring Programs.

4970.04. GRANTS PROGRAM CYCLE

Specific Purpose

Section 4970.04, Table 2, Grant Cycle, is revised to add additional time for the review of Preliminary and final Applications. Additionally, the change in Grant Cycle dates will provide the public additional time to review and provide public comments on the Preliminary Applications. Lastly, "OHMVR" is removed from the appeal period date box.

Necessity

The number of Grants and Cooperative Agreements Applications have been consistently increasing year by year. With the exception of the Restoration category, every other Grant category has historically been over-subscribed; in these categories, the number of Applications has far exceeded the amount of funding available.

With the recent legislative change lowering the match requirement in the Restoration category from 25 percent to 10 percent, the Department believes the total amount of Applications seeking Restoration Projects will be increasing. Thus, the total amount of Applications being submitted for each Grant cycle will be increasing substantially.

Regardless of the funding amount, all Applications submitted are reviewed and evaluated. Current regulations provide for the review and evaluation of Preliminary Applications during the month of March and final Applications during the month of May. With the increasing number of Applications and the short review period, there has been an increase in mistakes, errors, and/or items being overlooked. In order to safeguard public funds and to provide for a complete and thorough review of all Applications, a proposed extension of two months will provide a reasonable time-frame for both review and efficient Grant funding delivery.

Additionally, the current regulations provide a public review and comment period for Preliminary Applications during the month of March. A constant concern voiced to the OHMVR Division during every Grant cycle is the short time period allocated for the public to review and comment on Preliminary Applications. The OHMVR Division is consistently being asked to extend the public comment period. This proposed change is in response to the public feedback.

Lastly, "OHMVR" is removed from the appeal period date box because "Division Website" is a defined term. In the definition, it is explained that the website is the OHMVR Division's internet page.

4970.05. GENERAL APPLICATION REQUIREMENTS

Specific Purpose

Section 4970.05(e)(4) is amended to align with the updates in Section 4970.04, Table 2, Grants Cycle, which will provide additional time for the review and evaluation of Preliminary and final Applications. Additionally, the changes also provide for an additional month for the public to review and comment on Preliminary and final Applications. This change will clarify to Applicants and the public when public comments are due.

Necessity

The amendment to Section 4970.05(e)(4) is necessary to reflect the change provided in the dates for the Grants Cycle as outlined in Section 4970.04, Table 2, Grants Cycle. Current regulations provide a public review and comment period for Preliminary Applications during the month of March. A constant concern voiced to the OHMVR Division during every Grant cycle is the short time period allocated for the public to review and comment on Preliminary Applications. The OHMVR Division is consistently being asked to extend the public comment period. This proposed change is in response to the public feedback.

Specific Purpose

Section 4970.05(l)(2) is amendment to define when the written permission is due.

Necessity

The amendment to Section 4970.05(l)(2) is necessary to clarify that the land manager's written permission letter must be submitted at the Preliminary Application submission date and that the date on the land managers letterhead shall not be later than the Preliminary Application due date. There has been confusion by Applicants on the date required on the written permission provided by the land manager to Applicants that are proposing Project activities on lands not owned by them. Current regulations states that a land manager must provide a written permission on their letterhead with a date no earlier than six months from the start of the grant cycle for which the Project will be requested. The current regulations are silent with regard to the latest date when the written permission letter must have on the land manager's letterhead; this has caused confusion by Applicants and OHMVR Division staff. This change will provide clarity.

Specific Purpose

The adoption of Section 4970.05(p) is to define how the OHMVR Division will verify a Certified Community Conservation Corps, which are new eligible Applicants per SB 249.

Necessity

The adoption of Section 4970.05(p) is necessary to disclose to the public and Certified Community Conservation Corps how their certified status will be verified. The California Conservation Corp has a formalized process for an organization to be registered as a Conservation Corp. This regulatory change is necessary to ensure an Applicant that wants to submit as a Certified Community Conservation Corps has met all the requirements established by the State in order to be certified as a Community Conservation Corp.

Sub article 1. ENVIRONMENTAL REQUIREMENTS

4970.06.1. California Environmental Quality Act (CEQA) Requirements

Specific Purpose

Section 4970.06.1(b)(2) is amended to add “OHMVR” before “Division”.

Necessity

The amendment to section 4970.06.1(b)(2) is necessary for document consistency; “OHMVR” is listed before “Division” throughout to distinguish that the division being referenced is the OHMVR Division.

Specific Purpose

Section 4970.06.1(b)(3) is amended for clarity.

Necessity

The amendment to section 4970.06.1(b)(3) is necessary to avoid confusion as to funding of Project Deliverables prior to completion of CEQA review.

Specific Purpose

Section 4970.06.1(c) and 4970.06(c)(1) are amended to include State Recognized Native American Tribes and Certified Conservation Corps who were added as eligible Applicants in SB 249.

Necessity

The amendment to Section 4970.06.1(c) and 4970.06(c)(1) is necessary to align with changes that came from SB 249, which added State Recognized Native American Tribes and Certified Conservation Corps as eligible Grant Applicants. State Recognized Native American Tribes and Certified Conservation Corps were added as eligible Applicants in SB 249.

Specific Purpose

Section 4970.06.1(c)(1)(A) is amended to add “OHMVR” before “Division”.

Necessity

The amendment to section 4970.06.1(c)(1)(A) is necessary for document consistency; “OHMVR” is listed before “Division” throughout to distinguish that the division being referenced is the OHMVR Division.

Specific Purpose

Section 4970.06.1(c)(3) is amended to correct a reference in the regulations.

Necessity

The amendment to 4970.06.1(c)(3) is necessary to correctly refer to CEQA compliance obligations of non-Federal Applicants.

Specific Purpose

Section 4970.06.1(d)(1)(A) is amended to ensure regulatory compliance.

Necessity

The amendment to Section 4970.06.1(d)(1)(A) is necessary to make it clear to Cooperative Agreement Applicants that Project-related environmental review at least comparable with CEQA requirements must be completed, documented, and submitted as part of the Application. Documentation is necessary to ensure compliance with PRC Section 5090.50 (d)(4).

Specific Purpose

Section 4970.06.1(d)(1)(B) is amended to ensure regulatory compliance.

Necessity

The amendment to Section 4970.06.1(d)(1)(B) is necessary to make it clear to Cooperative Agreement Applicants that NEPA or other Project-related environmental review submitted to comply with PRC Section 5090.50 (d)(4) must be clearly applicable to the Project Application. NEPA documents can be lengthy and may cover a broader set of activities than are proposed for Grants Program funding. By clearly identifying which sections of a NEPA or other document are relevant to the Project, the OHMVR Division can correctly assess whether the Project has been addressed by NEPA or comparable review.

Specific Purpose

The amendment to the Authority cited note at the end of Section 4970.06.1. is to remove the PRC Reference 5090.35.

Necessity

The amendment to the Authority cited note at the end of Section 4970.06.1. is to remove PRC Reference 5090.35, which does not apply to the CEQA requirements.

4970.06.2. Habitat Management Program (HMP)

Specific Purpose

Section 4970.06.2(a) is amended to eliminate confusion as to when a HMP is required for a Project that has been phased consistent with Section 4970.06.1(b).

Necessity

The amendment to Section 4970.06.2(a) is to eliminate confusion as to when a HMP is required. Under two-phase Projects, the first phase is for completing environmental compliance or other related studies only and does not include ground disturbance. The second phase may involve Ground Disturbing Activities. Since the requirement to submit a HMP is only for Projects with Ground Disturbing Activities, this revision makes it clear that the HMP is required at the second phase of a two-phase Project, should that phase include Ground Disturbing Activities.

Specific Purpose

Section 4970.06.2(d) is repealed because the previous language implied authority that does not exist.

Necessity

The amendment to Section 4970.06.2(d) is necessary because, as previously written, the section implies the OHMVR Division has the authority to require a Habitat Management Program throughout an area used for OHV activity even if the Grant Applicant is unsuccessful in receiving Grant funds specifically for the Habitat Management Program. Because the OHMVR Division does not have that authority, the previous language was inaccurate.

Specific Purpose

The amendment to the Authority cited note at the end of Section 4970.06.2. is to remove the PRC Reference 5090.35.

Necessity

The amendment to the Authority cited note at the end of Section 4970.06.2. is to remove PRC Reference 5090.35, which does not apply to the HMP requirements.

4970.06.3. Soil Conservation

Specific Purpose

Section 4970.06.3(a) is amended to refer to the correct title of the referenced document.

Necessity

The amendment to Section 4970.06.3(a) is necessary to maintain accuracy.

Specific Purpose

Section 4970.06.3(c) is amended for clarity.

Necessity

The amendment to Section 4970.06.3(c) is necessary because Applicants may not receive Grant funding for every proposed Project, and the submitted Soil Conservation Plan may thus have addressed activities that would not be implemented with Grant funding. By providing a separate Soil Conservation Plan for each Project, this revision ensures that Soil Conservation Plans will ultimately reflect only Project activities actually approved for Grant funding.

Specific Purpose

Section 4970.06.3(e) is amended because, as originally written, the section simply duplicated the components given in the 2008 Soil Conservation Standard without providing Applicants with any compliance guidance and failed to acknowledge that some requirements can only be fulfilled upon Project completion. The revised language gives specific examples of documentation that will demonstrate compliance with the 2008 Soil Conservation Standard at the time the Application is due.

Necessity

The amendment of Section 4970.06.3(e) is necessary because the previous language implied the required Soil Conservation Plan could be presented in its entirety with the Grant Application and before the Grant-funded work had been completed. It also offered no explanation of or guidance on how to comply with the 2008 Soil Conservation Standard. As revised, the language now clarifies specific items to be included with the Soil Conservation Plan upon submission with the Grant Application. Documents that can only be provided upon completion of activities to be funded by Grant monies are now requested under an adopted Section 4970.06.3(g).

Specific Purpose

Section 4970.06.3(g) is amended because the previous language implied authority that does not exist. As such, this language was stricken in its entirety. Language regarding the documentation requirements for activities to be funded by requested Grant monies has been inserted into this section.

Necessity

The amendment to Section 4970.06.3(g) is necessary because, as previously written, the section implies the OHMVR Division has the authority to require a Soil Conservation Plan be implemented throughout a Grant-funded area even if the Grant Applicant is unsuccessful in receiving Grant funds specifically for the Soil Conservation Plan. Because the OHMVR Division does not have that authority, the previous language was inaccurate. This section is revised to be specific to the end process of an awarded Grant. It explains what documentation is required to be submitted to the Department after activities funded by awarded Grant monies have been completed.

4970.07.2. Final Application Defects

Specific Purpose

Section 4970.07.2(f) has been adopted to alert potential Applicants that their Application may be rejected if their conduct is incompatible and/or contrary to the Mission Statement of the OHMVR Division.

Necessity

The adoption of 4970.07.2(f) is necessary to reduce the risk of liability for the Program and to reinforce that Applicants need to conduct themselves in a manner that is similar to the mission of the OHMVR Division which is “to provide leadership statewide in the area of off-highway vehicle (OHV) recreation; to acquire, develop, and operate state-owned vehicular recreation areas; and to otherwise provide for a statewide system of managed OHV Recreational opportunities through funding to other public agencies. The OHMVR Division works to ensure quality recreational opportunities remain available for future generations by providing for education, Conservation, and enforcement efforts that balance OHV Recreation impacts with programs that conserve and protect cultural and natural resources.”

Specific Purpose

Section 4970.07.2(g)(6) has been adopted to add a sixth item whereby the OHMVR Division may decrease a requested amount in an Applicant's Project Cost Estimate and/or eliminate a proposed Project activity.

Necessity

The adoption of Section 4970.07.2(g)(6) is necessary because during previous Grant cycles, several situations were presented that could have resulted in the funding of items or activities that were incompatible or inappropriate for the Program. Applicants have previously requested funding for activities and/or costs that were excessive or incompatible with the Program. This change is necessary to clarify to an Applicant specific Grant requests and Project activities may be adjusted or eliminated. This allows the Department to be prudent with tax payers' funds and to ensure Projects contain reasonable and supported costs and activities.

4970.08. ELIGIBLE PROJECT COSTS

Specific Purpose

Section 4970.08(b)(5) is repealed to remove redundancy based on newly adopted Sections 4970.08(b)(12) and 4970.08(b)(13).

Necessity

The repeal of Section 4970.08(b)(5) is necessary as the content of this section, as well as others, is incorporated into a revised section below that will cover all the necessary information with regard to Equipment purchases and costs of operating such Equipment. By moving all Equipment purchase and cost related information into one common section, it will be easier for Applicants and OHMVR Division staff to understand what the Program will allow. Equipment purchases and costs of operation information will be covered and defined in adopted Sections 4970.08(b)(12) and 4970.08(b)(13).

Specific Purpose

Sections 4970.08(b)(6) through 4970.08(b)(12) are renumbered.

Necessity

The renumbering of the sections above are necessary for document consistency and to ensure correct numerical/alphabetical order.

Specific Purpose

Section 4970.08(b)(10) is amended to provide clarity on what the Program will allow for transportation costs as it related to materials and personnel and the word "Equipment" is removed and will be defined in adopted Sections 4970.08(b)(12) and 4970.08(b)(13).

Necessity

The amendment to Section 4970.08(b)(10) is necessary to remove potential confusion from Applicants on what the program considers "base of operation". Applicants are consistently confused and seek clarification from the OHMVR Division on what it

determines “base of operations” to be. By making the parameters more definitive, it removes the possible misinterpretation by Applicants making cost estimates and ensures public funds are being spent appropriately. Additionally, the removal of Equipment in this section is necessary because additional guidelines have been created to be prudent with tax payer funds and to ensure Projects contain reasonable and supported costs and activities.

Specific Purpose

Section 4970.08(b)(11) is amended to capitalize “Trust Fund”.

Necessity

The amendment to Section 4970.08(b)(11) is necessary for document consistency and to stay consistent with PRC Section 5090.06.

Specific Purpose

Section 4970.08(b)(12) is adopted to further define eligible Equipment cost for a Nonprofit Grantee.

Necessity

The adoption of Section 4970.08(b)(12) is necessary to provide a more standardized method for the Program to allow for the purchase, costs of operation and management of Equipment and related costs. Current regulations provides for a variety of ways the Program can be charged for fees and operating costs of Equipment and/or vehicles bought with funds outside this Program and for Equipment and/or vehicles bought with funds from this Program. As currently encountered, practically every Grantees provides and documents the purchase of Equipment and cost of operation charges differently, which causes an extraordinary amount of staff time review and back and forth with the Grantee to ensure accuracy of the documentation. The current process causes quite a bit of confusion on the requirements and has proven to have an excessive amount of documentation in order verify charges causing extraordinary delay in paying the Grantee their reimbursements.

The OHMVR Division believes that by standardizing the Equipment purchase and cost of operation charges, it will provide for a more efficient and streamlined process that will maximize the public funds. With the OHMVR Division staff being taxed with the amount of Projects they manage, the regulatory change will not allow for a more efficient and streamline process, and it will ensure that the public funds are used effectively.

The revision to this section also provides the Applicants/Grantees a centralized section that incorporates all the necessary information/requirements for Equipment purchases and cost operation for all Grantee types.

Finally, the regulatory change in this section provides for more flexible changes and restrictions for Nonprofit Grantees. The changes eliminates the \$15,000 per Equipment item purchase but keeps the \$30,000 maximum purchase of Equipment requirement. This will allow Nonprofit Grantees the flexibility to purchase the necessary Equipment to

successfully accomplish projects while maintaining the safeguards on the public funds. Additionally, the revisions requires Equipment and/or vehicle purchases to show the OHMVR Division as the lien holder of such Equipment. This new requirement is to ensure that public funds are safeguarded and used appropriately. History has shown that with the relative ease of Nonprofits to be founded and dissolved, Equipment has been misappropriated and misused by various Nonprofit Grantees. This new requirement will provide the Department the ability to seek reimbursement and/or recourse when future instances of similar nature occur.

Specific Purpose

Section 4970.08(b)(13) is repealed and replaced with a revised section documenting what the Program will allow with regard to Equipment purchases and costs of operating such Equipment.

Necessity

The repeal of Section 4970.08(b)(13) is necessary to provide a more standardized method for the Program to allow for the purchase, costs of operation and management of Equipment and related costs. The newly adopted Sections 4970.08(b)(12) and 4970.08(b)(13) will expanded and further define what is address in the original Section 4970.08(b)(13).

Specific Purpose

Section 4970.08(b)(13) is adopted to further define eligible Equipment cost for all other Grantees.

Necessity

The adoption of Section 4970.08(b)(13) is necessary to provide a more standardized method for the Program to allow for the purchase, costs of operation and management of Equipment and related costs. Current regulations provides for a variety of ways the Program can be charged for fees and operating costs of Equipment and/or vehicles bought with funds outside this Program and for Equipment and/or vehicles bought with funds from this Program. As currently encountered, practically every Grantees provides and documents the purchase of Equipment and cost of operation charges differently, which causes an extraordinary amount of staff time review and back and forth with the Grantee to ensure accuracy of the documentation. The current process causes quite a bit of confusion on the requirements and has proven to have an excessive amount of documentation in order verify charges causing extraordinary delay in paying the Grantee their reimbursements.

The OHMVR Division believes that by standardizing the Equipment purchase and cost of operation charges, it will provide for a more efficient and streamlined process that will maximize the public funds. With the OHMVR Division staff being taxed with the amount of Projects they manage, the regulatory change will not allow for a more efficient and streamline process, and it will ensure that the public funds are used effectively.

The revision to this section also provides the Applicants/Grantees a centralized section that incorporates all the necessary information/requirements for Equipment purchases and cost operation for all Grantee types.

4970.09. INELIGIBLE PROJECT COSTS

Specific Purpose

Section 4970.09(b)(10) is amended to provide an exception for a “Youth Mentoring Program” on the restriction of expending any Grant or match funds on lands owned or managed by the Department. Additionally, “OHMVR” is added before “Division”.

Necessity

The amendment to Section 4970.09(b)(10) is necessary to provide for an exception to the current restriction of not having any Grant or match funds be expended on lands owned or managed by the Department.

As part of its core beliefs, the Department believes in the development and implementation of programs that increase services to non-traditional park users and under-served communities. Specifically, the Department believes in the value of promoting youth programs that use OHVs.

Current regulations prohibit any Project activity to expend Grant and/or match funds on any lands owned or managed by the Department. The Department realizes the benefit to the State of California in Youth Mentoring Programs and deems it important to allow the use of lands owned and/or managed by the Department in providing Facilities for Youth Mentoring Programs as long as no financial value is gained by the Department.

Additionally, it is necessary to add “OHMVR” before “Division” for document consistency; “OHMVR” is listed before “Division” throughout to distinguish that the division being referenced is the OHMVR Division.

Specific Purpose

Section 4970.09(b)(13) is repealed as the information is incorporated in the newly adopted Section 4970.08(12) and (13).

Necessity

The repeal of Section 4970.09(b)(13) is necessary in order to reduce redundancy. The proposed adopted Section 4970.08(12) and (13) addresses the fact that a use fee for Equipment purchased with moneys from the OHV Trust Fund are ineligible. Maintaining the same language in this section would unnecessarily cause redundancy and possible confusion.

Specific Purpose

Section 4970.09(b)(14) is renumber to 4970.09(b)(13) due to the repeal of the prior Section 4970.09(b)(13).

Necessity

The renumbering of the section above is necessary for document consistency and to ensure correct numerical/alphabetical order.

ARTICLE 2 – TYPES OF PROJECTS AND SPECIFIC APPLICATION REQUIREMENTS

Specific Purpose

Sections 4970.10.1(d)(1), 4970.10.2(d)(1), 4970.10.3(d)(1), 4970.10.4(d)(1), 4970.11(f)(1)(A), 4970.13(f)(1) are added to provide the Applicant the opportunity to provide background information on their or the land manager's organization. The narrative will be allowed in a different box within the Project Description section of the on-line grant application system.

Necessity

The adoption of Sections 4970.10.1(d)(1), 4970.10.2(d)(1), 4970.10.3(d)(1), 4970.10.4(d)(1), 4970.11.(f)(1)(A), 4970.13(f)(1) are necessary so Grantees can provide background information about their organization and their program as a whole. Consistently, Applicants have taken the majority of the narrative space within the on-line grant application that is supposed to be used for the Project Description. Applicants believe that it is important to provide context of their program as it relates to the Project Description; the OHMVR Division agrees. However, as a result of providing a background on their program, very little space has been left to provide a substantive narrative of the Project Description that provides sufficient information for the OHMVR Division and the public to determine what the project is. In order to solve this problem, the OHMVR Division proposes to add a separate narrative box within the Project Description Section of the on-line grant application. This will allow the Applicant the ability to describe their Project and still have the ability to provide sufficient information on their Project Description.

Specific Purpose

Sections 4970.10.1(d)(1), 4970.10.2(d)(1), 4970.10.3(d)(1), 4970.10.4(d)(1), 4970.13(f)(1) have been amended to 4970.10.1(d)(2), 4970.10.2(d)(2), 4970.10.3(d)(2), 4970.10.4(d)(2), 4970.13(f)(2) due to the adoption of the new background section.

Necessity

The amended numerical change is necessary for document consistency and to ensure correct numerical/alphabetical order.

Specific Purpose

Sections 4970.10.1(d)(1)(A), 4970.10.2(d)(1)(A), 4970.10.3(d)(1), 4970.10.4(d)(1)(A), 4970.11(f)(1)(A) and 4970.13(f)(1) have been amended to reduce confusion and to create consistency.

Necessity

The amendment to Sections 4970.10.1(d)(1)(A), 4970.10.2(d)(1)(A), 4970.10.3(d)(1), 4970.10.4(d)(1)(A), 4970.11(f)(1)(A) and 4970.13(f)(1) are necessary to consistently list Project Deliverables as an Application requirement. The language being removed has the same meaning but using the defined term Project Deliverables reduces confusion.

4970.10.2 Development

Specific Purpose

Section 4970.10.2(e)(2) is amended to add “OHMVR” before “Division”.

Necessity

The amendment to section 4970.10.2(e)(2) is necessary for document consistency; “OHMVR” is listed before “Division” throughout to distinguish that the division being referenced is the OHMVR Division.

Specific Purpose

Section 4970.10.2(c)(2) is amended to provide clarity to an Applicant of what type of activity on a parking lot would be considered a Development Project as opposed to a Ground Operation activity.

Necessity

This regulatory change is necessary to provide clarity on the type of activity that will be considered a Development activity when maintaining a parking lot of an OHV Facility.

The OHMVR Division is constantly being asked to clarify whether a particular activity with the maintaining of a parking lot is considered a Development activity versus a Ground Operation activity. This new language is to clarify that the removal and replacement of pavement in a parking lot is considered a Development activity. Otherwise, the patching of a parking lot is considered a Ground Operation activity.

4970.11. RESTORATION

Specific Purpose

Sections 4970.11(a)(1) is amended to align with changes to terminology that came from SB 249.

Necessity

The amendment to Section 4970.11(a)(1) is necessary because the language for Restoration was updated in SB 249, Section 15.5090.50(2)(C). The amendments simplify the language so it is clear that the purpose of a Restoration Project is to restore or Repair habitat damaged by either legal or illegal OHV use.

Specific Purpose

Section 4970.11(f)(1)(A) has been amended to 4970.11(f)(1)(B).

Necessity

The amended letter change is necessary for document consistency and because the letter B follows the letter A.

Specific Purpose

Sections 4970.11(f)(1)(B) through 4970.11(f)(1)(H) have been adjusted to reflect correct numerical/alphabetical order.

Necessity

The amended letter change is necessary for document consistency and because the letter C follows B, letter D follows C, letter E follows D, letter F follows E, letter G follows F, letter H follows G and letter I follows H.

ARTICLE 3 – APPLICATION EVALUATION SYSTEM AND FUNDING

4970.15.3. LAW ENFORCEMENT

Specific Purpose

Section 4970.15.3(b)(6) is adopted to add a sixth item whereby the OHMVR Division may decrease a requested amount in an Applicant’s Project Cost Estimate and/or eliminate a proposed Project activity.

Necessity

The adoption of Section 4970.15.3 is necessary due to several situations that were presented that could have resulted in the funding of items or activities that were incompatible or inappropriate for the Program. Applicants have previously requested funding for activities and/or costs that were excessive or incompatible with the Program. This change is necessary to clarify to an Applicant specific Grant requests and Project activities may be adjusted or eliminated. This allows the Department to be prudent with tax payer funds and to ensure Projects contain reasonable and supported costs and activities.

4970.18. CONTINGENCY LIST(S)

Specific Purpose

Section 4970.18 is adopted to create a “Contingency List” process for the Department to capture unexpended and unencumbered Grant funds from previous Grant Projects. The process provides the framework on how the Contingency List will be established.

Necessity

The adoption of Section 4970.18 is necessary to provide the Department a mechanism to capture previously awarded Grant funds that were not utilized by a Grantee, to fund current Projects. This process will conform to the legislative intent of the program to fund as many Projects as possible. Current regulation does not contain the framework on how a Contingency List is created or the requirements needed for an Applicant to be on the Contingency List.

4970.18. AWARD OF GRANTS

Specific Purpose

Section 4970.18 and subsequent sections are renumbered to 4970.19 et seq. due to the adoption of 4970.18 Contingency List(s).

Necessity

Renumbering of Sections 4970.18 et seq. is necessary for the consistency of the document and to ensure correct numerical/alphabetical order.

ARTICLE 4 – PROJECT ADMINISTRATION PROCEDURES

Specific Purpose

Sections 4970.19, 4970.19.1, 4970.19.2., 4970.19.3., 4970.19.4., 4970.19.5., 4970.19.6., 4970.20, 4970.21., 4970.22, 4970.23., 4970.23.1., 4970.23.2., 4970.24., 4970.24.1., 4970.24.2., 4970.25.1., and 4970.25.2. are renumbered to 4970.20, 4970.20.1., 4970.20.2., 4970.20.3., 4970.20.4, 4970.20.5., 4970.20.6., 4970.21, 4970.22., 4970.23, 4970.23., 4970.23.1., 4970.24.2., 4970.25., 4970.25.1., 4970.25.2., 4970.26.1., and 4970.26.2.

Necessity

The renumbering of the sections above is necessary for document consistency and to ensure correct numerical/alphabetical order.

4970.19.2. Project Amendments

Specific Purpose

Sections 4970.19.2. is amended to alert Grantees that they must get approval for Project Cost Estimate adjustments.

Necessity

The amendment to Section 4970.19.2. is necessary because it has always been the OHMVR Division's policy that a funded Grantee must get approval to make adjustments to their Project Cost Estimate but it has not been added to the language of our regulations. Adding it will allow for more clarity and consistency.

4970.20. EQUIPMENT MANAGEMENT REQUIREMENTS

Specific Purpose

Section 4970.20(a) is amended to clarify that Equipment purchased with OHV Trust Funds shall only be used for its intended purpose.

Necessity

The amendment to Section 4970.20(a) is necessary to clarify that Equipment purchased with OHV Trust Funds must only be used for its intended purpose for the duration of its useful life. The OHMVR Division understands that Equipment purchases are necessary,

in many instances, for the successful completion of a project. Additionally, the Division understands there is value to the State of California for a Grantee to keep the Equipment as part of their resources in order for them to continually maintain and manage their OHV Recreation program. However, there have been instances in the past where a Grantee has procured Equipment towards the end of a performance period, used the Equipment for a short period of time and then redirected that Equipment to activities outside the intended purpose of the original purchase. Finally, the wear and tear of the Equipment during the non-intended use often leads to Grantees asking for additional Equipment sooner than needed if they had only used the Equipment for its intended purpose. In order to efficiently use State funds, the Division is providing clarity to Grantees that Equipment bought for a specific purpose shall only be used for that purpose, for the duration of the Equipment's useful life.

Specific Purpose

Section 4970.20(f) is amended to conform to the new language in Section 4970.8(b)(10) with regard to the requirements for Nonprofits and the purchase of Equipment.

Necessity

The amendment to Section 4970.20(f) is necessary to protect public funds from the possibility of Nonprofit Grantees misusing and inappropriately disposing of Equipment that was purchased with Grant funds. Additionally, the change to 4970.21(f) is necessary to conform to the new requirements listed in Section 4970.8(13)(B).

4970.22. ACCOUNTING PRACTICES

Specific Purpose

Section 4970.22(c) is amended to eliminate redundant regulatory language contained in Section 4970.08(b)(5). The changes also adds "date of activity" as information necessary when completing a logbook or source document.

Necessity

The amendment to Section 4970.22(c) is necessary to clarify when Project activity is completed. Program regulations state that all Project activities must be completed within the Project performance period. When a Grantee completes a Project and submits closing documentation, Departmental staff must be able to identify when the Project's activity occurred. Without adding the "date of activity" to a logbook or other source document, it would be difficult for Departmental staff to determine the eligibility of costs expended or Project activities completed. Adding the "date of activity" will elevate the necessity to reach out to the Grantee for the dates of activity.

4970.23. PAYMENT REQUESTS

Specific Purpose

Section 4970.23. is amended to replace "OHMVR Division" with "Department" due to a potential shift in responsibilities as dictated by the Operational Transition Plan. The term

Payment Request has also been replaced with Expenditure Workbook to list a new workbook that is being adopted into the appendix.

Necessity

The amendment to Section 4970.23 is necessary due to a potential shift in responsibilities as dictated by the Operational Transition Plan. Listing Department instead of the OHMVR Division will address these potential changes because a new division within the Department may be in charge of these responsibilities, and if that does not come to fruition, the OHMVR Division is within the Department. It is necessary to update the term Payment Request to Expenditure Workbook because this is the new workbook a Grantee will fill out when requesting Payment Requests.

4970.23.1. Advances

Specific Purpose

Section 4970.23.1(a) is amended to replace “written justification” with the new “Advance Justification Request” form. The requirement for GPS coordinates and photos of Project areas where activities will be conducted is being removed because those items are no longer required for the first advance. Additionally, “OHMVR” is added before “Division”.

Necessity

The amendment to 4970.23.1(a) is necessary because the new Advance Justification Request form is a standardized written justification. Removing the requirement for GPS coordinates and photos of Project areas where activities will be conducted is necessary because conditions can change due to weather which can change the GPS coordinates. Requiring these items before the Project starts can be a waste of time and resources. This information is now only required after the first advance

Additionally, it is necessary to add “OHMVR” before “Division” for document consistency; “OHMVR” is listed before “Division” throughout to distinguish that the division being referenced is the OHMVR Division.

Specific Purpose

Section 4970.23.1(b)(5) is amended to replace “statement of activities/accomplishment” with “Project Accomplishment Report”.

Necessity

The amendment to 4970.23.1(b)(5) is necessary because the new Project Accomplishment Report form is a standardized statement of activities/accomplishments.

4970.23.2. Reimbursements

Specific Purpose

Section 4970.23.2(e) is amended to replace “statement of activities/accomplishment” with “Project Accomplishment Report”.

Necessity

The amendment to 4970.23.2(e) is necessary because the new Project Accomplishment Report is a standardized statement of activities/accomplishments.

Specific Purpose

Section 4970.23.2(f) is being repealed because the new Project Accomplishment Report includes the information being requested in this section, which the Grantee will fill out when submitting it.

Necessity

The repeal of Section 4970.23.2(f) is necessary because the items requested in this section will be turned in with the Project Accomplishment Report which is a standardized version of this information.

4970.24. PROJECT CLOSEOUT
4970.24.1 Project Documentation**Specific Purpose**

Section 4970.24.1(a) is amended to replace "OHMVR Division" with "Department" due to a potential shift in responsibilities as dictated by the Operational Transition Plan. The term Payment Request has also been replaced with Expenditure Workbook to list a new workbook that is being adopted into the appendix.

Necessity

The amendment to Section 4970.24.1(a) is necessary due to a potential shift in responsibilities, as dictated by the Operational Transition Plan. Listing Department instead of the OHMVR Division will address these potential changes because a new division within the Department may be in charge of these responsibilities and if that does not come to fruition the OHMVR Division is within the Department. It is necessary to update the term Payment Request to Expenditure Workbook because this is the new workbook a Grantee will fill out when requesting Payment Requests.

Specific Purpose

Section 4970.24.1(a)(1) is amended to replace "report of Deliverables completed" with the "Project Accomplishment Report".

Necessity

The amendment to Section 4970.24.1(a)(1) is necessary because the new Project Accomplishment Report is a standardized report of deliverables completed.

Specific Purpose

Section 4970.24.1(a)(3) is being repealed because the items requested in this section will be turned in with the new Project Accomplishment Report.

Necessity

Repeal of Section 4970.24.1(a)(3) is necessary because the new Project Accomplishment Report is a standardized report of deliverables completed.

Specific Purpose

Section 4970.24.1(b) is amended to replace “OHMVR Division” with “Department” due to a potential shift in responsibilities as dictated by the Operational Transition Plan.

Necessity

The amendment to Section 4970.24.1(b) is necessary due to a potential shift in responsibilities as dictated by the Operational Transition Plan. Listing Department instead of the OHMVR Division will address these potential changes because a new division within the Department may be in charge of these responsibilities, and if that does not come to fruition the OHMVR Division is within the Department.

Specific Purpose

Section 4970.24.1(c) is amended to replace the word “may” with “shall” to be less ambiguous.

Necessity

The amended to Section 4970.24.1(c) is necessary indicated that a Grantee shall be ineligible for a payment if they turn it in after one hundred twenty (120) calendar days. This may also result in suspension of future payments and reimbursement to the State of any advances or other payments made.

Specific Purpose

Section 4970.24.1(d) is amended to replace “OHMVR Division” with “Department” due to a potential shift in responsibilities as dictated by the Operational Transition Plan.

Necessity

The amendment to Section 4970.24.1(d) is necessary due to a potential shift in responsibilities as dictated by the Operational Transition Plan. Listing Department instead of the OHMVR Division will address these potential changes because a new division within the Department may be in charge of these responsibilities, and if that does not come to fruition the OHMVR Division is within the Department.

4970.24.2 Project Performance Review

Specific Purpose

Sections 4970.24.2(a), 4970.24.2(e), 4970.24.2(e)(1), and 4970.24.2(e)(2) are amended to replace “OHMVR Division” with “Department” due to a potential shift in responsibilities as dictated by the Operational Transition Plan.

Necessity

The amendment to Sections 4970.24.2(a), 4970.24.2(e), 4970.24.2(e)(1), and 4970.24.2(e)(2) are necessary due to a potential shift in responsibilities as dictated by the Operational Transition Plan. Listing Department instead of the OHMVR Division will

address these potential changes because a new division within the Department may be in charge of these responsibilities, and if that does not come to fruition the OHMVR Division is within the Department.

Subarticle 1.Audits

4970.25.1. Financial Audits of Grantees

Specific Purpose

The amendment to 4970.25.1(d) is made to capitalize "Parks".

Necessity

The amendment to 4970.25.1(d) is necessary because Department of Parks and Recreation is the name of a department and each word in a name should be capitalized.

Specific Purpose

The amendment to the Authority cited note at the end of Section 4970.25.1. is to remove the PRC Reference 5090.35.

Necessity

The amendment to the Authority cited note at the end of Section 4970.25.1. is necessary to remove PRC Reference 5090.35, which does not apply to Audits.

4970.25.2. Final Audit Report

Specific Purpose

The amendment to the Authority cited note at the end of Section 4970.25.2. is to remove the PRC Reference 5090.35.

Necessity

The amendment to the Authority cited note at the end of Section 4970.25.2. is remove PRC Reference 5090.35, which does not apply to Final Audit Reports.

ARTICLE 5 – CONTACTING THE OHMVR DIVISION

4970.26. HOW TO CONTACT THE OHMVR DIVISION

Specific Purpose

Section 4970.26. is amended to 4970.27 due to the adoption of the new Section 4970.18 Contingency List(s).

Necessity

The amendment to 4970.26 is necessary for the consistency of this document and because the number 4970.27 follows the number 4970.26.

SPECIFIC PURPOSE AND NECESSITY FOR EACH PROPOSED AMENDMENT TO DOCUMENTS INCORPORATED BY REFERENCE INTO THE REGULATIONS

The following provides the specific purpose and necessity for each proposed amendment to documents incorporated by reference into the regulations.

ENVIRONMENTAL REVIEW DATA SHEET (ERDS) (1/11)

Specific Purpose

Item 3 is amended to make it clearer what constitutes a Project under CEQA.

Necessity

The amendment is necessary because some Applicants dismiss activities such as grading land as not a CEQA Project. Under this revision, Applicants will know that use of heavy Equipment to grade trails requires completion of Items 4-10. Item 3 also modifies “Project” to lower case to distinguish between CEQA projects and Grants Program Projects.

Specific Purpose

Item 4 is amended to make it clear to federal agency and tribal Applicants that California special-status species must be addressed.

Necessity

The amendment is necessary because some Applicants do not address special-status species that are only California designated, such as California species of special concern. Under NEPA, federal agencies only consider federally-designated special-status species. This revision makes it clear that all species should be considered and addressed in Item 4.

HABITAT MANAGEMENT PROGRAM (HMP) (1/14)

Specific Purpose

Punctuation in HMP Part 2, Section II is corrected.

Necessity

The text introducing the list of special-status species has been corrected for proper sentence capitalization.

Specific Purpose

Punctuation in HMP Part 2, Section III is corrected.

Necessity

Punctuation in the text describing Concerns/Risks/Uncertainties has been corrected for clarity.

Specific Purpose

HMP Part 2, Table 4 is amended to 1) separate information about validation monitoring from change detection and effectiveness monitoring, 2) better clarify change detection

monitoring and effectiveness monitoring, and 3) provide more space for and better clarify triggers for management change.

Necessity

The amendments address several issues that can make it difficult for Applicants to correctly complete the existing Table 4. Very few Applicants perform validation monitoring, and the Validation Monitoring column in existing Table 4 thus confuses most Applicants. This confusion is removed by adding a separate table (Table 4b) solely for validation monitoring information, if applicable. The revisions to the remainder of Table 4 (which becomes Table 4a) are needed to better clarify the distinction between change detection and effectiveness monitoring. The titles of “OHV Effects Detection” and “Management Action Effectiveness Monitoring” more clearly describe the purpose of each kind of monitoring, which should help Applicants provide correct information and link monitoring to the objectives, actions, and success criteria in Table 3. The revisions also provide added clarity to and space for describing triggers for management change.

Specific Purpose

Table 5 is amended to clarify what information is needed in each column and update Table 5 consistent with changes made to Table 4.

Necessity

The amendments are necessary to clarify what information is necessary to adequately describe an Applicant’s approach to adaptive management. The OHMVR Division has observed that Applicants frequently repeat information in one column in the existing Table 5 in other columns, thus creating unnecessary redundancy without providing a clear description of the monitoring program. The columns have been reduced in number to eliminate unnecessary information, and a better explanation of the remaining column contents has been added. Additionally, adding table/column references to Table 5 column titles should make it clearer what information is needed in Table 5.

Specific Purpose

Table 6 is amended to make it clearer what information is needed in each column.

Necessity

The amendments are necessary to help Applicants fill out the table more accurately. Adding Table references to column titles will make it clearer what information is needed in Table 6.

SOIL CONSERVATION PLAN (SCP) (1/16)

Specific Purpose

Part 1. DETERMINE THE NEED FOR FULL SCP is amended to remove the direction that a Grantee must fill out SCP PARTS 1 and 2 if they select “no” and replaces the direction to refer to the newly adopted Soil Conservation Section 4970.06.3. Part 2. SOIL CONSERVATION PLAN is repealed to match the new direction in Part 1.

Necessity

The amendment to Part 1. DETERMINE THE NEED FOR FULL SCP is necessary to direct Grantees to the newly adopted Soil Conservation Section 4970.06.3. where they will follow the updated guidelines. The repeal of Part 2. SOIL CONSERVATION PLAN is necessary to reduce confusion because Grantees no longer need to fill out PART 2. All of what is expected of the Grantee is expressed in the newly adopted Soil Conservation Section 4970.06.3.

GOVERNING BODY RESOLUTION**Specific Purpose**

Governing Body Resolution is amended to match the language in Section 4970.05(m).

Necessity

The amendment to the Governing Body Resolution is necessary to align with the language in 4970.05(m), which was amended in a previous regulations update. This amendment will reduce confusion and phone calls to the OHMVR Division.

PROJECT AGREEMENT**Specific Purpose**

The Project Agreement has been amended to update terms that are no longer valid due to the state mandated FI\$Cal system enhancement.

Necessity

The amendments to the Project Agreement are necessary because the terms being replaced are no longer valid. Updating these terms to the new FI\$Cal system terms allows for consistency and will reduce confusion.

GENERAL PROVISIONS**Specific Purpose**

The number of Project Agreement General Provisions will be reduced from three to two separate documents.

Necessity

The reduction of Project Agreement General Provisions is necessary to reduce confusion for Applicants and curtail unnecessary repetitive language. The Project Agreement General Provisions were originally designed to accommodate three different types of Applicants: U.S. Forest Service only, Federal Agencies other than Forest Service, and Non-Federal Applicants Only. In an effort to reduce superfluous forms and excessive paper use, the OHMVR Division determined that several forms with similar requirements and language could be combined. The proposed revisions would include two forms instead of three: United States Federal Agencies, and Nonfederal Applicants Only. The reduced number of forms could potentially simplify needs assessments of Applicants. Changes to the General Provision forms were required to correct

misspellings and/or other grammatical errors and to make provisions consistent between both United States Federal Agencies and Nonfederal Applicants. The U.S. Forest Service only and Federal Agencies other than Forest Service are combined for clarity and consistency.

NONFEDERAL APPLICANTS ONLY GENERAL PROVISION

Specific Purpose

Nonfederal Applicants only is amended to clarify and to provide consistency with the United States Federal Agencies General Provisions.

Necessity

Section B(3) is amended to provide clarity to Applicants. The amendment to section B(3) is for consistency with the United States Federal Agencies General Provisions. The section needed to be simplified to meet the needs of the Applicant to reduce confusion due to the length of the paragraph and total information provided.

Section B(4) is created to provide consistency with the United States Federal Agencies General Provisions. The created section is to maintain clarity of requirement of facilities to be accessibly for inspection by the State.

Section C(1) is created to provide consistency with format of the General Provisions. The information is currently in the General Provisions but did not have a section label.

Section C(2) is amended to ensure regulatory compliance. The amended section is to ensure consistency with program regulation 4970.10.4(e)(3). Information listed in the current General Provision C(2) was revised to remove duplicating provisions as it is written in section D(3).

Sections D(3) and D(4) are reorganized for clarity and amended for regulatory compliance. The amended sections are reorganized to ensure consistency with program regulation 4970.23.1. Newly renumbered section D(3) is amended to reflect program regulation 4970.23.1.

Section D(5) is created to provide consistency with United States Federal Agencies General Provisions. The created section is to maintain clarity of the requirement to sign Project sites that being funded with OHV Trust Fund monies.

Section D(6) is amended to ensure regulatory compliance. The amended section is to ensure consistency with program regulation 4970.08(b)(13)(c). Per regulation definition (jj) "Project" means the activities and Deliverables described in the Project Application to be accomplished with funding through a Project Agreement, which includes both Grant funds and matching funds, a Project Agreement. Therefore, the purchase funding not dedicated to OHV purpose must not be included in the Project as match.

Section E(2) is amended to provide clarity to Applicants. New language includes the necessity of a Grantee to refund the State Grant funds if a Grantee failed to comply with the Agreement. Section E(2) is amended to include the provision E(3) as the information is related and was duplicative when separated.

Section G(1) is amended to ensure regulatory compliance. The amended section is to ensure consistency with program regulation 4970.22(d)(1) and 4970.22(d)(2).

Section H(1) is repealed. The section is repealed as the information included is already addressed in program regulation 4970.10.2(e)(1).

Section I(3) is repealed as the provision was unnecessary. The California Vehicle Code (CVC) 16.5 Section 38001, which established our program states: (a) Except as otherwise provided, this OHMVR Division applies to off-highway motor vehicles, as defined in Section 38006, on lands, other than a highway, that are open and accessible to the public, including any land acquired, developed, operated, or maintained, in whole or in part, with money from the Off-Highway Vehicle Trust Fund, except private lands under the immediate control of the owner or his or her agent where permission is required and has been granted to operate a motor vehicle. For purposes of this OHMVR Division, the term "highway" does not include fire trails, logging roads, service roads regardless of surface composition, or other roughly graded trails and roads upon which vehicular travel by the public is permitted. This means that all monies can only be used on lands that are open to the public.

Section L(3) is created to ensure regulatory compliance. New language is added to be consistent with language contained in current regulations. Additionally, the proposed new language is meant to further clarify to a Grantee that it is the regulations in place when the Cooperative Agreement was authorized that governs that particular Cooperative Agreement.

ADVANCE JUSTIFICATION REQUEST

Specific Purpose

The Advance Justification Request is adopted to standardize the advance justification process and to increase the efficiency of the administrative process.

Necessity

The adoption of the Advance Justification Request is necessary to increase the efficiency of the Grant administration process. Currently, Grantees send their written advance justification, mentioned in Section 4970.23.1(a), in different ways, often missing key pieces of information needed to approve an advance. The current process requires many emails and phone calls back and forth between the OHMVR Division and the Grantee to get the information needed to approve an advance. The Advance Justification Request includes fields the Grantee can fill out that will automatically load into the DPR 364 form; all of the information on both pages is required to approve an advance. The creation of this standardized form will reduce the confusion of what is

needed and reduce the time it takes to approve an advance, which will increase the OHMVR Division's efficiency and allow for the Grantee to receive their funds in a timely manner.

EXPENDITURE WORKBOOK – ADVANCE

Specific Purpose

The Expenditure Workbook – Advance is adopted to standardize the advance payment request process and to increase the efficiency of the Grant administrative process.

Necessity

The adoption of the Expenditure Workbook – Advance is necessary to increase the efficiency of the Grant administration process. Currently, Grantees send their advance paperwork, mentioned in Section 4970.23, in different ways, often missing key pieces of information needed. The current process requires many emails and phone calls back and forth between the OHMVR Division and the Grantee to get the information needed to verify that the advance funds have been spent within the guidelines. The creation of this standardized form will reduce the confusion of what is needed and will reduce the time it takes to review advance receipts and paperwork, which will increase the OHMVR Division's efficiency.

EXPENDITURE WORKBOOK – REIMBURSEMENT

Specific Purpose

The Expenditure Workbook - Reimbursements is adopted to standardize the reimbursement payment request process, to increase the efficiency of the Grant administration process, and to reduce the amount of time it takes for a Grantee to receive their funds.

Necessity

The adoption of the Expenditure Workbook – Reimbursement is necessary to increase the efficiency of the Grant administration process. Currently, Grantees send their reimbursement paperwork, mentioned in Section 4970.23, in different ways, often missing key pieces of information needed. The current process requires many emails and phone calls back and forth between the OHMVR Division and the Grantee to get the information needed to verify that the reimbursement funds have been spent within the guidelines. The Expenditure Workbook - Reimbursement includes fields the Grantee can fill out that will automatically load into the DPR 364 form; all of the information on both pages are required to approve a reimbursement. The creation of this standardized form will reduce the confusion of what is needed and will reduce the time it takes to review advance receipts and paperwork, which will increase the OHMVR Division's efficiency.

PAYMENT REQUEST DPR 364

Specific Purpose

The Payment Request DPR 364 has been amended to update terms that are no longer valid due to the state mandated FI\$Cal system enhancement.

Necessity

The amendments to the Payment Request DPR 364 are necessary because the terms being replaced are no longer valid. Updating these terms to the new FI\$Cal system terms allows for consistency and will reduce confusion.

PROJECT ACCOMPLISHMENT REPORT (PAR) – GROUND OPERATIONS
PROJECT ACCOMPLISHMENT REPORT (PAR) – DEVELOPMENT
PROJECT ACCOMPLISHMENT REPORT (PAR) – PLANNING
PROJECT ACCOMPLISHMENT REPORT (PAR) – ACQUISITION
PROJECT ACCOMPLISHMENT REPORT (PAR) – RESTORATION
PROJECT ACCOMPLISHMENT REPORT (PAR) – LAW ENFORCEMENT
PROJECT ACCOMPLISHMENT REPORT (PAR) – EDUCATION AND SAFETY

Specific Purpose

A Project Accomplishment Report (PAR) has been adopted for each Project type to clarify what is required in a statement of activities/accomplishments and to increase the OHMVR Division's efficiency.

Necessity

The adoption of the PARs are necessary to clarify what is required in a statement of activities/accomplishments (GPS coordinates, photos, etc.) and to increase the OHMVR Division's efficiency. Currently, Grantees send in many different versions of a statement of activities/accomplishments, mentioned in Section 4970.23.1(b)(5), Section 4970.23.2(e), Section 4970.23.2(f), and Section 4970.24.1(a)(1), which are often missing key pieces of information needed to approve an advance, reimbursement, or Project closeout. This results in many phone calls and emails back and forth between the OHMVR Division and the Grantee. The creation of these standardized forms will ensure Grantees provide necessary information, reducing the time it takes to review the Project accomplishments for an advance, reimbursement, or Project close out, which will increase the OHMVR Division's efficiency.

GENERAL CRITERIA

Specific Purpose

Evaluation Criteria - General Criteria (Rev. 12/11) is amended to provide additional instruction to Applicants revise scoring criteria, and request more specific explanations or data where applicable.

Necessity

The amendment to the introduction on the *Evaluation Criteria - General Criteria (Rev. 1/14)* is necessary to clearly instruct Applicants that do not manage OHV Opportunities about which questions they should answer. Items 1 through 10 are applicable only to Applicants that manage land with legal OHV Opportunity, but Applicants without legal

OHV Opportunity frequently attempt to answer them even though the questions are not applicable.

Item 1 is amended to remove text made obsolete by the changes to the introduction.

Item 2 is amended to include printed and digital maps and to remove the no legal OHV riding opportunity selection. The selection of map with OHV Recreation opportunity ... is amended to include printed or digital formats as the OHMVR Division noticed that Applicants have expanded the ways in which they disseminate their information to the public and wants to include both options for more effective scoring. The selection of no legal OHV riding opportunity is deleted as Item 2 is only applicable to Applicants that have legal riding opportunity.

Item 3(a) and 3(b) are amended to remove the no legal OHV riding opportunity selection, which has been deleted because the question is only applicable to Applicants that have legal riding opportunities.

Item 4 is amended to change language to clarify what cost information is required by clarifying Applicants must include the entire budget regardless of expenditure or funding source. OHMVR Division noticed through previous Grant Applications that Applicants were confused as to what this question specifically entailed

Item 5 is amended to change language to reduce confusion by Applicants. The question is amended to mirror the information that is being stated in the Program Regulations. 4970.01(u) was added to the 1/16 Regulation revision, defining the term "Good Standing." Item 5 is amended to reflect that Applicants should be in Good Standing versus how many Projects were closed out. The definition of closed out was interpreted differently by each Applicant, and the clarification of Good Standing will provide consistency.

Item 7(b) is amended to clarify how to respond to the question. OHMVR Division noticed through previous Grant Applications that Applicants were confused as to what this question specifically entailed and what information OHMVR Division was seeking to justify their selection.

Item 7(c) is amended to obtain more effective and relevant information when scoring the Application. OHMVR Division noticed that through previous Grant Applications, the detailed information requested was only for one option and not both. Accurate scoring requires justification for both selections on Applicants' efforts to prevent OHV trespass.

Item 8(b) is amended to obtain more effective and relevant information when scoring the Application. Requesting detailed explanation for the "Yes" response also adds consistency with the remaining question 8(a).

Item 9(a), (b) and (c) are amended to obtain more effective and relevant information when scoring the Application. The Applicant is added to each question, as certain Land Managers will be requiring that the Applicant implement the Soil Conservation Plan.

Item 10 is amended to change language for consistency. The wording is changed to eliminate confusion with the Applicant that they could also provide their own Sound Testing in addition to testing that may be completed by the Land Manager. This will allow for more effective and relevant scoring.

Item 11(b) is amended to obtain more effective and relevant information when scoring the Application. Land Manager is repealed from the question as the question is intended to get information on efforts of the Applicant in hosting Education programs on safe and responsible OHV Recreational practices. The Land Manager was originally responsible for the Education program, but OHMVR Division is seeking Applicants that are taking larger involvement in education.

Item 11(c) is amended to obtain more effective and relevant information when scoring the Application. The additional language gives more information about staff availability for visitor education, including within the trail, which is desirable. OHMVR Division is only seeking information that Applicant staff is available while the public is at their location, but Applicants were submitting information that was not applicable. The detailed explanation request was removed as the information is no longer required.

Item 11(d) is amended to change language to include additional sources of OHV educational suppliers. The Recreational Off-Highway Vehicle Association was developed after the regulation revision in 1/16. This association provides training courses to the public. The OHMVR Division wants to allow Applicants that offer this training a chance to gain points by offering these classes. This will allow for more effective and relevant information when scoring the Application.

Item 14 is amended to adjust the scoring of the question. The goal of the Grants Program is to provide for well-managed OHV Recreation. The current scoring system weighed programs that already had OHV Opportunity heavier than those that do not. By adjusting the points to this question, Applicants that do not currently have OHV Opportunity are given an increased probability to be funded by the Grants program. The inclusion of a detailed explanation for each statement checked is to assist the Applicant in providing justification for their selections.

EVALUATION CRITERIA – Acquisition Project Criteria (Rev. 1/14)

EVALUATION CRITERIA – Development Project Criteria (Rev. 1/14)

EVALUATION CRITERIA – Education and Safety Criteria (Rev. 1/14)

EVALUATION CRITERIA – Ground Operations Project Criteria (Rev. 1/14)

EVALUATION CRITERIA – Planning Project Criteria (Rev. 1/14)

EVALUATION CRITERIA – Restoration Project Criteria (Rev. 1/14)

Specific Purpose

Each of the Evaluation Criteria in six categories are amended to revise specific Project evaluation criteria in order to obtain more effective and relevant information when scoring the Projects.

Necessity

A criterion for Applicants to provide match is common between all six categories (Acquisition #1, Development #1, Ground Operations #1, Planning #1, Education and Safety #1 and Restoration #1). The revised criterion establishes new targets for the Applicants to reach. The separation of choices reduces the increments between the selections. OHMVR Division increased the point opportunity for those Applicants that wanted to supply more than the minimum match requirement. OHMVR Division noticed with previous Grant cycles Applicants that were willing to offer more than the minimum match were not being rewarded sufficiently.

A criterion regarding special status species (Acquisition #2a and Acquisition #2b) is amended to include additional selections. The criterion did not include a selection to establish that analysis has not yet been completed. This selection needs to be added as the Applicant is asking to purchase land and they may not yet know this information. Additionally, this criterion (Acquisition #2a and Development #2a) did not require the Applicant to provide justification that there was a reference document. OHMVR Division requires a document that supports the Applicants claim.

A criterion regarding Cultural Resources (Acquisition #2c and Development #2c) is amended to include a Yes/No selection as is frequently used in other criterion questions. This allows for consistency between Applications. The first selection now requires Applicants to provide a detailed explanation to justify their selection. Additionally, the selections of "Project area has no known cultural sites" and "Project has unavoidable..." were removed. No cultural sites is already addressed by providing the Yes/No selection, and the unavoidable impacts selection was removed because impact significance is addressed via the CEQA process, and not the scoring criteria. The reference document requirement was amended for consistency with other criterion questions, which specify what reference information is required.

A criterion regarding future funding sources (Acquisition #4, Development #12, and Restoration #6) is amended for clarity and consistency between the categories. It was noted in previous Grant cycles Applicants were confused on the selections; therefore, the amount of selections was limited, and the choices were further defined. The criterion is also amended for grammatical consistency with the other criteria.

A criterion regarding motorized access to nonmotorized recreation opportunities is common to four of the categories (Acquisition #5, Development #9, Planning #3, and Ground Operations #8). The criterion is clarified to eliminate confusion of the Applicants. It was noted in previous Grant cycles that Applicants were unsure about the true meaning of the question and how it applied to the Project.

A criterion regarding development of the Project with public input is common to all six categories (Acquisition #6, Development #9, Education and Safety #6, Ground Operations #4, Planning #4, and Restoration #7). The criterion is amended for clarity. It is necessary to indicate dates of meetings, how the public was notified, who hosted the meetings, who stakeholders are, and how they are stakeholders to the Project to verify the public input occurred before the preliminary filing date. To assist with clarification of requirements the information required was moved from one location to another within the question.

A criterion regarding diversified OHV use is common to two categories (Development #4, Education and Safety #5). The criterion is amended for clarity. It was noted in previous Grant cycles that Applicants were unsure about the true meaning of the question and how it applied to the Project. The OHMVR Division is requiring that the Applicant further define how vehicle types will benefit from the Project to verify applicability of Applicant's selection.

A criterion regarding substantial use of recycled content building materials appears in two categories (Development #6 and Ground Operations #7). The criterion is amended to clear confusion of the Applicant.

A criterion regarding substantial use of sustainable technologies appears in Development category (#7). During previous Grant cycles, it became apparent there was considerable variation in what Applicants consider to be substantial and how the Project utilizes the technologies. In order to obtain additional points, the Applicant to use sustainable technology in at least 50% of the Project activities. Criterion is amended to clear confusion of the Applicant.

A criterion regarding sustaining OHV Recreation appears in three categories (Development #8, Planning #7, and Ground Operations #3). The criterion is amended to clear confusion of the Applicant. It has been noted in previous Grant cycles that Applicants were not clear how the Project sustained OHV Recreation therefore the selections are clarified and Applicants are being asked to justify their selections.

A criterion regarding the utilization of partnerships to accomplish the program appears in five categories (Development #11, Planning #6, Ground Operations #5, Education and Safety #4 and Restoration #8). The amendment is necessary to clarify expectations regarding partners participating in the Project. The instructions are revised to indicate partners must be an organization only.

Acquisition criterion #4 is amended to put "Grant" in lower case because the grant that is referred to is not the Grant that is defined in the definitions.

Development criterion #3 is amended to clearly instruct Applicants to provide a name and date for a reference document.

Development criterion #4 is to clearly instruct Applicants to provide a name and date for an adopted plan and/or environmental document that supports the need for the Project. Previous responses have included a variety of undated documents that could not be verified.

Development criterion #13 is amended to prompt Applicants to provide more detail regarding the Project's offsite impacts. Prior responses to this question have been minimal, making it difficult for the OHMVR Division to validate the score indicated by the Applicant.

Planning criterion #5 is amended to prompt Applicants to provide more detail regarding the question. Prior responses to this question have been minimal, making it difficult for the OHMVR Division to validate the score indicated by the Applicant.

Planning criterion #8 is amended to revise the scoring for the question. Increasing the points will allow Land Managers without any existing OHV Opportunity to be more competitive with Applicants that do not have an OHV Opportunity. Increasing the points will partially offset the lack of points an Applicant without OHV Opportunity could obtain in the General Criteria, thereby providing a better chance for success and encouraging Projects that create opportunity. The amendment also prompts Applicants to provide more detail regarding the question. Prior responses to this question have been minimal, making it difficult for the OHMVR Division to validate the score indicated by the Applicant.

Ground Operations criterion #6 is amended for clarity. The final selection often caused confusion to Applicants on the meaning of the selection.

Education and Safety criterion #2 is amended to change language to reduce confusion by Applicants. The question is amended to mirror the information that is being stated in the Program Regulations. With the Regulation revision of 1/16 the definition (u) Good Standing was added the program regulations. Item 5 is amended to reflect that Applicants should be in Good Standing versus how many Projects were closed out. The definition of closed out was interpreted differently by each Applicant and the clarification of Good Standing will provide consistency.

The introductory information and selections for Education and Safety criterion #7 are amended to prompt Applicants to provide more detail regarding the question. Prior responses to this question have been minimal, making it difficult for the Division to validate the score indicated by the Applicant.

Education and Safety criterion #8 is amended to update the selection opportunities. As advancements have been made in technology the OHMVR Division wanted to provide additional response selections. Additionally prompt has been reworded for consistency.

Education and Safety criterion #9 and #10 are amended to eliminate Applicant confusion. Prior responses to this question have been minimal and unclear, making it difficult for the Division to validate the score indicated by the Applicant.

Education and Safety criterion #11 is amended to change language to include additional sources of OHV educational suppliers. The Recreational Off-Highway Vehicle Association was developed after the regulation revision in 1/16. This association provide training courses to the public. The OHMVR Division wanted to allow Applicants that offer this training a chance to gain points by offering these classes. This will allow for more effective and relevant information when scoring the Applicant.

Restoration criterion #2 is amended to improve the clarity and accuracy of the responses. The response regarding domestic water supply is repealed. The response stream or other watercourse is changed to body of water and amended to include examples. The response regarding Soils is amended to include examples. The response of Sensitive areas is amended to update examples.

Restoration criterion #3 is amended for clarity. Previous requests for reference documents have included a variety of undated data sources that could not be verified.

Restoration criterion #4 is amended for consistency. Measures to success was duplicative of what the question was already asking.

Restoration criterion #5 is amended to instruct Applicants to provide a name and date for an adopted plan that supports the need for the Project. Previous responses have included a variety of undated documents that could not be verified.

Restoration criterion #9 is amended to prompt Applicants to provide more detail regarding the question. Prior responses to this question have been minimal, making it difficult for the OHMVR Division to validate the score indicated by the Applicant.

Restoration criterion #10 is amended to clarify the meaning of the question. OHMVR Division notes through previous Grant cycles that the Applicant was confused to the actual meaning of the question.

Restoration criterion #11 is amended to mirror the language that is used in criterion #2. This is completed for consistency.

Restoration criterion #12 is amended to prompt Applicants to provide more detail regarding the question. Prior responses to this question have been minimal, making it difficult for the OHMVR Division to validate the score indicated by the Applicant. The word riding is also changed to OHV Recreation as that is definition (hh) in regulations.

NO SIGNIFICANT ADVERSE ECONOMIC IMPACT

The Program supports the planning, acquisition, development, maintenance, administration, operation, enforcement, restoration, and conservation of trails, trailheads, areas, and other facilities associated with the use of off-highway motor vehicles, and programs involving off-highway motor vehicle safety or education.

The Program is totally voluntary and provides supplementary funding to the operating budgets of participants. The Department has found that since the inception of this Program, there has not been an adverse economic impact. On the contrary, the Department has found that an economic benefit is generated when OHV recreationists spend money in local communities close to areas they recreate in for recreational trip items such as gasoline, food, lodging and souvenirs.

ECONOMIC IMPACT ANALYSIS

Existing law restricts eligible Applicants to the Program to cities, counties, Districts, State agencies, federal agencies, State and Federally Recognized Native American tribes, Educational Institutions, Nonprofit organizations and Certified Community Conservation Corps. The proposed regulatory action would apply only to those Applicants.

The OHMVR Grants and Cooperative Agreement Program is a voluntary program intended to supplement an Applicant's existing budget, not support it. The OHMVR Division finds that jobs, at worst would not be affected, but mostly likely foresee increase in job creation throughout the State because Grantees could possibly need to hire individuals to complete their Projects. Furthermore, the OHMVR Division finds that at worst, no new business will be created and no business eliminated because of Grant funds being infused into the local community. Actually, OHMVR Grants and Cooperative Agreement Program history shown that local small businesses typically benefit from Grants funds being used in their area because Grantees typically utilize local businesses when purchasing goods and services.

This regulatory action benefits the health and welfare of California residents by providing recreational opportunities in the State. This regulatory action benefits the state's environment by providing broader funding for resource protection and Restoration activities.

MANDATES FOR SPECIFIC ACTIONS OR PROCEDURES OR SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed amendments do not impose any mandates on agencies or organizations. Participation in the Program is voluntary.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Department did not rely upon any other technical, theoretical, or empirical studies, reports, or documents other than those incorporated by reference in proposing these amendments.

UNNECESSARY DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS

The Department has determined that the proposed rulemaking action does not unnecessarily duplicate or conflict with federal regulations contained in the Code of Federal Regulations. Participation in the Program is voluntary and is not addressed in the Federal Code of Regulations.

CONSIDERATION OF ALTERNATIVES

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed. Furthermore, no reasonable alternative would be as effective or less burdensome to affected private persons, and be equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.