

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

**2<sup>nd</sup> REVISED INITIAL STATEMENT OF REASONS**

The original proposal is in regular font style and not underlined. Changes made during the 1<sup>st</sup> 15 day notice are illustrated by single underline for proposed additions and by strikeout for proposed deletions. Changes made during the 2<sup>nd</sup> 15 day are illustrated by double underline and double strikeout for proposed deletions.

**INTRODUCTION**

Public Resources Code (PRC) 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 grants and cooperative agreements with cities, counties, districts, federal agencies, federally recognized Native American tribes, Nonprofit organizations, Educational Institutions, and State agencies. The Grants and Cooperative Agreements Program (Program) is administered by the Off-Highway Motor Vehicle Recreation (OHMVR) Division within the Department of Parks and Recreation (Department). The program allows the State to assist eligible agencies and organizations to develop, maintain, expand, and manage high-quality off-highway vehicle (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.

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. 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 provide new definitions, important program dates, clarify required documentation for specific projects, identify new guidelines for eligible/ineligible costs, insert new and revised current language, and modify documents incorporated by reference. The intent of the proposed regulation revisions are to reduce confusion for applicants and to ensure public funds are being spent wisely and within the State's best interest. The proposed revisions will allow for clearer understanding of the regulations and grant administration by both the grantees and OHMVR Division staff. These changes will provide for more overall Program efficiency and will allow the OHMVR Division to fully support motorized recreation.

The OHMVR Division is revising the Initial Statement of Reasons (ISOR) to clarify the necessity to some of the proposed regulatory changes. All additional text is underlined and any text removed has a strikethrough.

## **SPECIFIC PURPOSE AND NECESSITY FOR EACH PROPOSED AMENDMENT OF THE REGULATIONS**

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 reflect current applicable program dates for proposed revisions.

#### **Necessity**

The amendment to Section 4970.00 is necessary to maintain regulatory consistency and program efficiency.

### **4970.01 – DEFINITIONS**

#### **Specific Purpose**

Section 4970.01 is amended to change language for two existing definitions to reduce confusion and to add one new defined term. The section is also re-lettered to maintain alphabetical order.

#### **Necessity**

The amendment to Section 4970.01(u) is necessary to provide a definition for the term “Good Standing”. The proposed change explicitly puts the Grantee on notice that they must abide by all program regulations at all times. If a Grantee is not in “Good Standing” they may have their new agreements and/or payment requests held until they are back in “Good Standing”. This change will allow the OHMVR Division staff to safeguard public monies by ensuring that no funds are given to the Grantee if the regulations are not being adhered to.

The amendment to Section 4970.01(aa) is necessary to reduce confusion by Applicants on what activities are considered indirect expenses for a Project. In previous grant cycles, Applicants have submitted project cost estimates and Grantees have submitted payment requests for activities misidentified as direct costs. As a result of their misinterpretation, they had to significantly alter their Projects. The proposed revision will provide Applicants a clearer understanding of what type of items the OHMVR Division will consider as “Indirect Costs” vs “direct costs”.

The amendment to Section 4970.01(bb) is necessary to change language to include Land Managers from non-public agencies. The proposed revision allows for program eligibility of

Applicants requesting funds for potential Projects activities being conducted on non-public land. Benefits resulting from this revision would be the expansion of important Education messages and safety training conveyed to OHV users on non-public lands which would create a greater awareness of proper OHV recreation throughout the state. Additionally, this would also allow Grant activities to occur on Native American Tribal land.

#### **4970.04 – GRANTS PROGRAM CYCLE**

##### **Specific Purpose**

Table 2 is amended to identify the deadline for submitting a public comment.

##### **Necessity**

The amendment to Section 4970.04 is necessary to inform Applicants about the time-zone specific deadline for submittal of public comments to avoid confusion and to allow for optimal public participation. Under this revision a member of the general public which is interested in providing comments will be made aware of the Pacific standard time-zone absolute cut off for comment submittal.

#### **4970.05 – GENERAL APPLICATION REQUIREMENTS**

##### **Specific Purpose**

Section 4970.05(e)(4) is amended to provide clarity for specific program dates for public comment submission.

##### **Necessity**

The amendment to Section 4970.05(e)(4) is necessary to inform Applicants about the time-zone specific deadline for public comments submission to avoid confusion and allow for optimal public participation. This proposed language would also be slightly altered to reflect that the OHMVR Division must receive public comments as opposed to the previous requirement of Applicants submitting public comments by the cited due date. The language revision would allow for the OHMVR Division to conduct a more thorough review to ensure regulatory compliance. This proposed revision is also necessary to ensure regulations remain consistent.

##### **Specific Purpose**

Section 4970.05(f)(1) is amended to clarify general application requirements regarding matching funds.

##### **Necessity**

The amendment to section 4970.05(f)(1) is necessary to avoid confusion on behalf of Applicants and to further clarify what are considered eligible matching funds under the program. In previous grant cycles, Applicants have attempted to meet the matching funds requirement for activities and Deliverables that were assessed to be ineligible as they were not part of the proposed Project as outlined in the original Grant application. The proposed change clearly states that matching funds must be part of a proposed Project which will eliminate confusion by Applicants.

**Specific Purpose**

Section 4970.05 (g) is amended to provide Grantees information of where to find an example of the Project Cost Estimate form.

**Necessity**

The amendment to section 4970.05 (g) is necessary to inform Applicants of the location on where to find the Project Cost Estimate form.

**Specific Purpose**

Section 4970.05(l) is amended to correct language identifying which Applicants are required to obtain and submit written permission from a Land Manager.

**Necessity**

The amendment to Section 4970.05(l) is necessary to ensure that any Applicant proposing to submit a Grant application for activities to be conducted on lands in which they do not own or manage, must have permission to conduct such activities by the Land Manager. Previous regulations only required Nonprofits and Educational Institutions to submit written permission. The OHMVR Division has seen an increase in other type of Applicants seeking Grants to conduct activities on lands other than their own. This change will ensure that a Land Manager is aware and approves of such activities.

**Specific Purpose**

Section 4970.05(l)(2) is amended to ensure Project Agreements between Land Managers and Applicants meet time specific date range prior to grant submission.

**Necessity**

The amendment to Section 4970.05(l)(2) is necessary to clarify what is considered current for a written permission from Land Manager. By identifying a clear timeframe for what would be considered current for the required documentation, the Program would benefit by reducing confusion and increasing awareness between Applicants, Land Managers, and grant administrators. The proposed revision would also ensure that Project Agreements meet current on the ground needs, regulatory compliance, and the public interest. With this revision, the OHMVR Division is providing further clarification to Applicants on what is considered “current”.

**Specific Purpose**

Section 4970.05(m) is amended to change language which would allow local governments and District Applicants more flexibility to apply for OHMVR Division grants.

**Necessity**

The amendment to Section 4970.05(m) is necessary to improve the Grant Application process for local governments and districts. In previous grant cycles, local government and district Applicants have experienced difficulty in obtaining timely permission from their governing body, in the form of a governing body resolution, to apply for program funding on a yearly basis. The proposed revision would require local governments and districts to obtain permission from a

governing body to receive program funding (rather than permission to apply for program funding) which allows those Applicants to avoid obtaining permission prior to the final Application submittal. The amendment would also allow local governments' ample time to prepare and assess their needs prior to Application deadlines. Additionally, the revision provides the Applicant additional time to submit the required governing resolution to the OHMVR Division.

## **4970.06.1. California Environmental Quality Act (CEQA) Requirements**

### **Specific Purpose**

Section 4970.06.1(b)(3) is amended to ensure regulatory compliance.

### **Necessity**

The amendment to Section 4970.06.01(b) (3) is necessary for the OHMVR Division to publicly address and acknowledge the importance and significance of completing all required actions of the CEQA review process. The proposed revision would also thoughtfully remind Applicants that the OHMVR Division is committed to ensuring that all necessary CEQA reviews are completed prior to any public funding distribution for Project Deliverables.

### **Specific Purpose**

~~Section 4970.06.1(c)(1) is amended to ensure regulatory compliance.~~

### **Necessity**

~~The amendment to Section 4970.06.1(c)(1) is necessary to deliberately point out to Applicants that the OHMVR Division is responsible for ensuring that all activities included in a project proposal undergo the CEQA review process. In past grant cycles, Applicants have not been able to provide all necessary documentation for all aspects of a proposed Project. Under the proposed revision Applicants would be made aware what documentation is to be expected so that ample time is provided to gather information to ensure a complete CEQA review process.~~

### **Specific Purpose**

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

### **Necessity**

~~The amendment to Section 4970.06.1(d)(1) is necessary to deliberately point out to Applicants that the OHMVR Division is responsible for ensuring that all activities included in a Project proposal undergo the CEQA review process for federal applicants. The proposed revision would also ensure consistency throughout program regulations.~~

### **Specific Purpose**

Section 4970.06.1(d)(1)(A) is amended to reduce confusion by federal Applicants regarding regulatory compliance.

### **Necessity**

The amendment to Section 4970.06.1(d)(1)(A) is necessary to make to provide a more reader friendly format. Additionally, the language was modified to be more clear and concise. The intent of this revision is not to alter or diminish the CEQA review process but to increase program efficiency by reducing confusion and miscommunication about required documentation and necessary reviews.

## **4970.07 – Application Submission**

### **Specific Purpose**

Section 4970.07(b)(5) is amended to maintain consistency throughout program regulations.

### **Necessity**

The amendment to Section 4970.07(b)(5) is necessary to reflect proposed regulation revisions to 4970.05(l) general application requirements. Current regulation language requests that only Educational Institutions and Nonprofit organizations provide a written permission from a Land Manager for proposed Projects on land the Applicants does not own. However, recent Project proposals have revealed that language should be more inclusive for all Applicants.

## **4970.08 – ELIGIBLE PROJECT COSTS**

### **Specific Purpose**

Section 4970.08(b)(3) is amended to provide specific instructions on acceptable rates in order to be eligible to receive stipends for volunteers.

### **Necessity**

The amendment to Section 4970.08(b)(3) is necessary to ensure consistency amongst Applicants and to provide definitive guidance on what can be claimed under a stipend. Current regulatory language provides Applicants the ability to create their own stipend rate according to a Grantees normal practice. However, due to the growth of the program, the OHMVR Division has determined that in some instances stipend rates being claimed had become excessive for these “volunteer” positions. In order to meet the growing number of yearly Applicants and overall ensuing costs, the OHMVR Division has found that a fixed stipend rate for volunteer positions is justifiable. Under the proposed revision stipends for volunteers could be claimed as a per diem expense and only when volunteers are performing work in a remote location for three or more consecutive days. Proposed revision language includes a definition for a “remote location” and a reference for per diem rates.

The parameters of three day and over 50 miles away from their headquarters were derived from a need to adhere to the legislative intent of this program in funding as many Projects as possible. The OHMVR Division is defining “remote location” as traveling 50 miles or more from the Grantees’ headquarters location. The OHMVR Division believes the 50 miles radius is a reasonable distance for volunteers traveling to a work location and the need to provide

per diem allowances. For most Grantees or volunteers, traveling beyond 50 miles places them in remote locations and outside urban areas. Having the Grantees or volunteers stay at the remote location instead of returning to their headquarters is believed to be more efficient use of their time. For this, the OHMVR Division believes per diem may be necessary.

In addition to the 50 miles requirement, the Grantees and/or volunteers must stay at the remote location for three or more consecutive days in order to request per diem. The OHMVR Division chose a minimum of three days, as it believes, three days is a reasonable time frame in order to maximize the available funding. A high number of volunteers will provide volunteer labor a minimum of one or two days; this would be considered as the casual, overnight and/or weekend volunteer. If the OHMVR Division were to use a less than three day minimum, grant funds would be exhausted quickly. The OHMVR Division believes that in order to maximize its Grant funding, the program must only provide per diem allowances to those volunteers that are committed to a long term (three days or more) assignment.

### **Specific Purpose**

Section 4970.08(b)(4) is amended to provide specific instructions and avoid confusion regarding acceptable claims for travel expenses and per diem.

### **Necessity**

The amendment to Section 4970.08(b)(4) is necessary to clarify what policies and guidelines Applicants must adhere to in order to claim travel expenses and per diems. Under the proposed revision new language would be inserted to further an Applicant's understanding on how to meet established programmatic rates. This revision would also ensure that public funds are being spent appropriately and accordingly as specified in the travel reimbursement and per diem rates for state and federal agencies.

### **Specific Purpose**

Section 4970.08(b)(10) is amended to provide Applicants a clear and concise understanding of what is acceptable for transportation costs.

### **Necessity**

The amendment to Section 4970.08(b)(10) is necessary to remove confusion from Applicants. The revision would include language that specifies transportation cost can only be claimed between the base of operations and the Project Area. The base of operation is considered the location of where the Project activities occur. Previously, Applicants would mistakenly claim travel expenses beginning from their personal homes which the program would consider an ineligible cost. By including language to make the parameters more definitive, possible misinterpretation by Applicants is reduced and ensures public funds are being spent appropriately.

### **Specific Purpose**

Section 4970.08(b)(12) is amended to clarify that rent/lease of facilities and/or Equipment must be a direct cost.

### **Necessity**

The amendment to Section 4970.08(b)(12) is necessary to avoid Applicant confusion when creating their project cost estimates. Under the proposed revision new language would be inserted to emphasize that the rent and/or lease of facilities must be needed to directly complete a Project in order to be allowed under direct costs. The revision would remind Applicants that if the rent or lease of facilities is to be claimed, an explanation must be included in their Applications to justify the expense. This would reduce time spent between grant administrators and Applicants thus increasing program efficiency. The proposed change would also maintain programmatic interest and ensure public funds are being spent appropriately.

### **Specific Purpose**

~~Section 4970.08(b)(13)(A) is amended to inform Applicants about the OHMVR Division's new policy regarding equipment purchases. The proposed new language would clarify that the OHMVR will not directly fund equipment purchases but rather provide funding for the rental/leasing of equipment for each year necessary to complete a project. Section 4970.08(b)(13)(A) would be followed by new subsections to provide specifics on the required parameters for this new policy. New subsection language would specify the duration for the eligibility of rent/lease of equipment, the available option for equipment purchase following the performance period, a project amendment option to extend the continual rent/lease of equipment, and specify the maximum amount the OHMVR will allocate toward the rent/lease of equipment.~~

### **Necessity**

~~The amendment to Section 4970.08(b)(13)(A) is necessary to assure that public funds are being spent in an appropriate manner. Currently, the Program is oversubscribed and this revision could allow more funds to be distributed to more projects that might have not been funded there by enhancing OHV recreation statewide and furthering the desired goals of the OHMVR Division. The proposed revision could also reassure the public perception that equipment purchases from the Program are not a gift of public dollars to applicants. In order to meet the growing needs of the Program the OHMVR Division has determined that this shift in policy is justifiable.~~

### **Specific Purpose**

~~Section 4970.08(b)(13)(E) is amended to allow Nonprofit Applicants more flexibility for eligible equipment purchases.~~

### **Necessity**

~~The amendment to Section 4970.08(b)(13)(E) is necessary to allow Nonprofit Applicants the ability to purchase higher quality equipment. Current regulations restrict Nonprofits to \$15,000 per item. The OHMVR Division has received numerous comments that this restriction is too confining. By eliminating the \$15,000 per item limit, Nonprofit Applicants can request equipment that could be better suited for proposed projects/activities.~~

### **Specific Purpose**

Section 4970.08(b)(13)(~~FE~~) is created to clarify programmatic parameters required for equipment purchases.

### **Necessity**

The amendment to Section 4970.08(b)(13)(~~FE~~) is necessary to identify what parameters are to be considered when requesting equipment purchase for Applicants. The meaning of this statement “shall not exceed the minimum requirements necessary to successfully accomplish the Project” deals with the issue that the cost of a piece of equipment may be far in excess of the value of the whole Project. The Grantee cannot ask for funding that would make the project cost more than what is required to complete the Project. For example, the cost of repairing a trail would be \$30,000 during one grant year if the applicant had it’s own equipment. But it doesn’t, and it needs to buy a \$30,000 piece of Equipment and requests a \$60,000 grant. That is not a reasonable expenditure of grant funds. However, if the Applicant is in a position to show that it will be using the Equipment for 30 years (or whatever it depreciates at), then it’s allowable. The Applicant must provide justification for any equipment purchase of any Equipment that the OHMVR Division considers excessive.

## **4970.09 – INELIGIBLE PROJECT COSTS**

### **Specific Purpose**

Section 4970.09(b)(10) is amended to insert new language to avoid confusion about where grant funding can be spent.

### **Necessity**

The amendment to Section 4970.09(b)(10) is necessary due to continual request by Applicants who were confused and/or unaware about the specific restriction that prohibits spending program funds for projects/activities within any California State Park.

In 2005, the California State Auditor published an audit report of the Off-Highway Motor Vehicle Recreation Program. Among many items identified by the report, the audit report questioned the use of OHV trust fund money to support state parks that do not have OHV recreation. Additionally, the audit report found that the OHMVR Division’s management of the funds expended through the Grants Program

In 2007, Senate Bill 742, approved by the California State Legislature and signed by the Governor, sought to address issues identified in the audit report. Portion of the bill addressed the OHMVR Division’s management of grant funds by totally revising the Grants Program. A complete revision of the Grants Program regulations was initiated by the OHMVR Division and approved by the Office of Administrative Law in 2008. This was done to provide accountability on the distribution of OHV Trust Funds.

In order to avoid conflict of interest and avoid a perception that Grant funds would be used to further activities within a State Park unit, a concern expressed within the audit report, the executive management of California State Parks, in 2008, made a determination that no grant funds (including match) would be used on any lands owned or managed by California State Parks. The 2008 program regulation changes included language that provided for this

restriction. However, through time, Grantees have argued the language is not clear and have sought to expend funds on California State Park lands. The proposed language provides clear intent by California State Parks that it will seek to avoid any conflict of interest and a possible perception that it will use Grant funds to further their own interest.

### **Specific Purpose**

Section 4970.09(b)(12) is amended to insert new language to identify conditional parameters and clarify the ability of the OHMVR Division to eliminate or reduce costs in Applications.

### **Necessity**

The amendment to Section 4970.09(b)(12) is necessary to include new regulatory language that would allow the OHMVR Division to refuse Grant requests for equipment repair or replacement from Applicants who have exhibited negligence in the proper use and care of Equipment purchased by grant funds. Under the proposed revision the OHMVR Division will ensure that public funds are being spent appropriately.

## **4970.10.4 – ACQUISITION**

### **Specific Purpose**

Section 4970.10.4(d)(1)(i) is amended to revise language regarding new parameters for required documentation specific to acquisition projects. The new parameters would require that estimated property values are to be based on a competitive market analysis provided by a real estate professional.

### **Necessity**

The amendment to Section 4970.10.4(d)(1)(i) is necessary to assure property estimates have been evaluated and validated by a credible source. Previously, Applicants were not required to obtain a competitive market analysis, but only an appraisal which could be cost prohibited to Applicants. Under this proposed revision the OHMVR Division can determine that property values from Applicants are legitimate and ensure public funds are being spent appropriately.

### **Specific Purpose**

Section 4970.10.4(e)(2) is amended to revise language regarding what federal Applicants can legally agree to for acquisition projects.

### **Necessity**

The amendment to 4970.10(e)(2) is necessary to include language that is compatible with the statutory requirements federal agencies are obligated to follow. The revised language would ensure that federal Applicants understand and acknowledge the OHMVR Division's policy for acquisition projects which would maintain the regulatory consistency of the program.

### **Specific Purpose**

Section 4970.10.4(e)(3) is amended to insert new language to identify the deadline for submitting documentation required for acquisition projects.

### **Necessity**

The amendment to Section 4970.10.4(e)(3) is necessary to ensure that the OHMVR Division has adequate time to review and comment on the escrow prior to the close of escrow. The proposed revision would allow the OHMVR Division to ensure regulatory compliance which would ensure programmatic interests are met.

### **4970.17 – APPEAL PROCESS**

#### **Specific Purpose**

Section 4970.17(b) is amended to include new language to identify the specific deadline for submitting an appeal.

#### **Necessity**

The amendment to Section 4970.17(b) is necessary to inform Applicants about the time-zone specific deadline for appeals to be submitted to avoid confusion and allow for optimal participation.

### **4970.23 – PAYMENT PROCESS**

#### **Specific Purpose**

Section 4970.23 is amended to insert language to clarify the ability of the OHMVR Division to withhold approving and/or processing payment requests.

#### **Necessity**

The amendment to Section 4970.23 is necessary to clearly advise Applicants that they must maintain Good Standing (as now defined in Section 4970.01(u)) in order to ensure that their payment requests can be approved and processed.

With this change, the OHMVR Division is addressing a problem where Grantees become delinquent in repaying monies owed to the State and/or do not close existing projects in the time period required in regulation Section 4970.24.1 of these regulations. Current regulations only allow Grantees to have future Project Agreements withheld if they fail to be current in their refunds to the State or if they are not timely with their closeout documentation. The OHMVR Division has found that Grantees tend to work diligently to become current on refunds and/or be timely closeouts in order to receive their new Project Agreement. Once the Project Agreement is obtained, many Grantees revert to not being current with their refunds and/or closeout documentation. In order for the OHMVR Division to further safeguard the monies from the OHV Trust Funds, the proposed change will hold Grantees responsible at all times. If at any time, a Grantee fails to be responsible and meet their obligations, the OHMVR Division will have the ability to withhold future Project Agreements as well as any payment request. The OHMVR Division has determined that providing a definition of “Good Standing” is required to provide Grantees and the OHMVR Division staff a clear delineation on when a Project Agreement or payment request will be withheld.

## **4970.24 – PROJECT CLOSEOUT**

### **Specific Purpose**

Section 4970.24.1(d) is created to clarify when refunds are to be returned back to the State.

### **Necessity**

The creation of Section 4970.24.1(d) is necessary to provide Applicants a specific deadline to submit refunds to avoid confusion and ensure that public funds be returned in a timely manner to the State. In analyzing the amount of time that would be responsible for a Grantee to return any funds due to the State, the OHMVR Division believed 30 days was too short of a time frame for a Grantee to comply. Furthermore, the OHMVR Division believed that 90 days was too long of a time period for a Grantee to repay any funds due to the State. As a compromise, the OHMVR Division believed that a 60 day period would provide sufficient time for the Grantee to comply.

## **Subarticle 1.AUDITS**

### **4970.25.1. Financial Audits**

#### **Specific Purpose**

Section 4970.25.1 is amended to revise the name of the section to “Performance Audits”.

#### **Necessity**

The amendment to Section 4970.25.1 is necessary to better pertain to the article subsection’s content and to maintain consistency with the new proposed section 4970.25.3.

#### **Specific Purpose**

Section 4970.25.1(e) is created to specify the deadline for when refunds are due back to the State upon completion of an audit.

#### **Necessity**

The amendment to Section 4970.25.1(e) is necessary to provide Applicants with a specific deadline to submit refunds to avoid confusion and misinterpretation. This new regulation would ensure that all Applicants understand that refunds are to be returned to the State within a specific time frame. In analyzing the amount of time that would be responsible for a Grantee to return any funds due to the State, the OHMVR Division believed 30 days was too short of a time frame for a Grantee to comply. Furthermore, the OHMVR Division believed that 90 days was too long of a time period for a Grantee to repay any funds due to the State. As a compromise, the OHMVR Division believed that a 60 day period would provide sufficient time for the Grantee to comply.

### **4970.25.3. Financial Audits**

### **Specific Purpose**

~~Section 4970.25.3 and its pursuing subsections are being proposed to provide insight about how the Department will conduct audits to the OHMVR Division Grants and Cooperative Agreements Program.~~

### **Necessity**

~~The proposed section 4970.25.3 is necessary to include in the program regulations to ensure Grantees are aware of the Departments obligation to conduct audits of the Grants and Cooperative Agreements Program. The following subsections are provided to further clarify the Department's audit process of the program over the course of a three year period.~~

## **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.

### **SOIL CONSERVATION PLAN (12/11)**

#### **Specific Purpose**

The Soil Conservation Plan (SCP) Part 1: Determine the need for full SCP is amended to include new language that requires Applicants to identify each individual Project that needs a SCP and how each individual Project will comply with a SCP.

#### **Necessity**

The additional language to the SCP form is necessary to ensure that Applicants are adequately assessing their proposed Projects individually. Previously, the SCP allowed Applicants to produce a SCP that would cover all their proposed projects. However, the typical SCP plans submitted were often generic. Applicants would submit copies of their Best Management Practices which were not necessarily specific to an individual project. With this new proposed revision, the OHMVR Division believes that Applicants will conduct a more thoughtful and thorough assessment for achieving an SCP compliance.

### **PAYMENT REQUEST FORMS (Rev. 1/16)**

#### **Specific Purpose**

~~The payment request and close out forms are~~ Section 6 (Payment Information) and Section 10 (Submit Request To) are amended to help create ensure the Grantee is entering the correct information for each section and remove confusion for the Grantee. ~~and to remove confusion to see how the total are~~

~~generated for that section forms that are consistent with the project cost estimate.~~

### **Necessity**

~~The payment request forms will reduce confusion for Applicants by clearly identifying the match requirement on the form. A second payment request is added and tailored specifically to law enforcement Applicants to reduce confusion. Successful Applicants are frequently unsure of the match requirement and how to portray it on the existing payment request. Additionally, the payment request form will identify the categories used on the project cost estimate to determine project costs. This will allow Applicants to accurately track their expenditures. The necessity for amending Section 6 (Payment Information) by entering more detail into the formula for how the Grantee can generate the correct totals for category b. Reimbursement Requested to Date Current Amount and category e. Remaining Grant Funds Available helps ensure the Grantee is entering the correct information for this section.~~

The necessity for amending Section 10 (Submit Request To) by changing the current language from “(Name) Grants Administrator” to “Name of your Grant Administrator” will correct the problem of Grantees sending the payment request to the incorrect Grant Administrator. By making this change the Grantee will enter in the correct information and speed up the process of receiving a processed payment request because they are avoiding the delay caused by sending it to incorrect Grant Administrator

## **GENERAL PROVISIONS**

### **Specific Purpose**

The number of Project Agreement General Provisions will be reduced from five to three separate forms.

### **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 five different types of Applicants: US Forest Service (USF), Bureau of Land Management, all other federal, local agencies, and Nonprofit organizations. 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 three forms instead of five: USFS, all other Federal Agencies, and all other Applicants U.S. Forest Service Only, Federal Agencies Other Than Forest Service, and Nonfederal Applicants Only. The reduced number of forms could potentially simplify needs assessments of Applicants.

## **EVALUATION CRITERIA**

### **Specific Purpose**

A new evaluation question (#12) for Restoration Projects will ensure that the Program is funding pertinent Projects that promote responsible OHV recreation.

### **Necessity**

The amendment to the evaluation criteria questions for Restoration Projects is necessary to prioritize Projects that currently provide OHV Recreation opportunities. In past grant cycles, Applicants who previously managed land for OHV Recreation had applied for Restoration Projects with inordinate costs and in some cases prevented some lower scoring projects from receiving Program funds. In order to meet the State's best interest for the Program, the OHMVR Division is allowing Applicants who are applying for Restoration Projects with the majority of the restoration being performed in the Projects Area caused by current OHV damage to be awarded more points than those that do not. This revision would prioritize Projects that meet the programmatic goal of the OHMVR Division to maintain existing responsible OHV Recreation opportunities throughout the State. Additionally, the California State Legislature gave California State Parks the discretion to distribute grant funds as it deems necessary to protect natural and cultural resources.

### **ECONOMIC IMPACT ANALYSIS**

Existing law to the program restricts eligible Applicants to the cities, counties, districts, State agencies, federal agencies, federally recognized Native American tribes, Educational Institutions, and Nonprofit organizations. The proposed regulatory action would apply only to those Applicants.

The OHMVR Grants and Cooperative Agreement Program is a voluntary program intended to augment an Applicant's existing budget, not support it. The OHMVR Division has determined that jobs will not be created or eliminated because these jobs are currently in place within the organizations that receive OHV Grant funds. The OHMVR Grants and Cooperative Agreement Program's historical data suggests that the majority of Grant funds distributed to Applicants are utilized for staff expenses in the area of recreational facilities maintenance. In addition, OHMVR Grant funds are awarded through a competitive process, and if an Applicant is unsuccessful in receiving an OHV Grant, they would still have an obligation to their local constituents to provide services. Furthermore, new businesses will not be created, existing businesses will not be eliminated, nor will existing businesses be expanded because Applicants who receive OHV Grant funds are already supported and have a working relationship with the local businesses. Lastly, the OHMVR Grants and Cooperative Agreement Program's historical data has shown that local small businesses typically do benefit from Grants funds being used in their area because Applicants utilize local businesses when purchasing goods and services. However, this increase is not substantial enough in size or duration to justify expanding their current business.

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.