

**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 (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 minor 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 slightly change the funding distribution for the development, planning, and acquisition subcategories within the Operations and Maintenance category. This action would ensure that some development, planning, and acquisition projects would be recommended for funding each grant cycle. The revisions would also protect the State's investment in development projects by requiring that the resulting facilities remain available and used for long-term OHV recreation, or the project funds must be returned. Applicants and Program administrators would benefit from improvements to the several documents incorporated by reference. These actions would allow the Department to more efficiently support motorized recreation and motorized access to non-motorized recreation throughout the state.

**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 refer to the date of the first applicable grant cycle.

### **Necessity and Rationale**

The amendment to Section 4970.00 is necessary to ensure applicants and administrators are using the appropriate version of the Program regulations.

### **4970.10.2 – Development**

### **4970.10.3 – Planning**

### **4970.10.4 – Acquisition**

### **Specific Purpose**

Sections 4970.10.2, 4970.10.3, and 4970.10.4 are amended to indicate a minimum of ten percent (10%) of the Operation and Maintenance funding will be awarded to each of the development, planning, or acquisition subcategories.

Sections 4970.10.2(e) is amended to require applicants with successful development projects to ensure their funded facilities are used for long-term OHV recreation. The amendment also requires that applicants return the grant funding to the State if they fail to keep their facilities available for OHV recreation for at least 25 years.

### **Necessity and Rationale**

The amendments to Sections 4970.10.2, 4970.10.3 and 4970.10.4 are necessary to ensure funding within development, planning, and acquisition subcategories. There are four subcategories under Operation and Maintenance: ground operations, development, planning, and acquisition. Existing regulations specify that at least 70 percent of the funding allotted to Operation and Maintenance is dedicated for ground operations. Of the remaining Operation and Maintenance funding, up to 10 percent may be used for each of the development, planning, and acquisition subcategories. Instead, the proposed regulations would require *at least* 10 percent of the Operation and Maintenance funding be awarded to development, planning, and acquisition projects. This change would continue the preferential funding of existing OHV recreation opportunities through the ground operations subcategory, but would also ensure ongoing improvements to facilities by requiring funding in the other subcategories.

The amendment to Section 4970.10.2(e) is necessary to protect the long-term investment the State is making when awarding funds for a development grant. Recently, a prior grant recipient removed several recreation facilities that had been installed with grant funds, and the regulations did not give the Department the authority to request a refund. This action caused an outcry from supporters of the Program. The proposed regulation encourages the long-term use of funded

facilities, and protects the investment by requiring the funding be returned to the State if the facilities are no longer available or used for OHV recreation.

#### **4970.15.1 – Operation and Maintenance (O&M)**

##### **Specific Purpose**

Section 4970.15.1 is amended to indicate that development, planning and acquisition projects will, within each subcategory, compete for a minimum of ten percent (10%) of the available Operation and Maintenance funding.

##### **Necessity and Rationale**

The amendment to Section 4970.15.1 is necessary to maintain consistency with the revisions to Sections 4970.10.2, 4970.10.3 and 4970.10.4.

### **SPECIFIC PURPOSE AND NECESSITY FOR EACH PROPOSED AMENDMENT TO DOCUMENTS INCORPORATED BY REFERENCE**

##### **Specific Purpose**

*Habitat Management Program (HMP) Part 2 (Rev. 1/11)* is amended to update outdated information, provide additional instruction, and improve usability.

##### **Necessity and Rationale**

The amendments to the *Habitat Management Program (HMP) Part 2 (Rev. 1/11)* are necessary to reduce confusion about what information is expected in the document. The HMP has proven to be one of the most confusing parts of the application each grant cycle. By incorporating recommendations from applicants and HMP reviewers, the revisions will increase the usability and understanding of the document.

Section II, Table 2 and instructions are amended to update the California Native Plant Society List 1 and 2 which have been replaced with the current California Rare Plant Rank 1A – 4. Additionally, the agency name and website address for the former California Department of Fish and Game is revised to reflect the new name, California Department of Fish and Wildlife. The description of California Natural Diversity Database data delivery is also revised to reflect current practices.

Section III is amended to update the format of maps required to be submitted with the HMP. Instructions indicating only one acceptable electronic format are revised to suggest several possible formats. The revisions also delete the outdated option to submit maps on paper; the Program requires applicants to submit their applications and all supporting documentation online.

Section IV, Table 3 instructions are amended to delete reference to definitions at the end of Section IV. These definitions are being moved into the Table 4 instructions. Table 3 is amended to provide additional instruction in the table

headers. These instructions prompt the applicant to reference the appropriate columns within Table 3, thereby eliminating a common source of confusion.

Section IV, Table 4 instructions are amended to incorporate several definitions that were located at the end of the Section. By placing the definitions before Table 4, applicants are more likely to read and understand what is expected to be entered into the Table. The instructions are also expanded to provide more specific guidance for applicants.

Section IV, Table 5 instructions are amended to eliminate confusion about what must be included in Table 5. The expanded instructions now direct the applicant to include specific data from prior Tables.

Section V, Table 6 instructions are amended to eliminate confusion about what must be included in Table 6. The expanded instructions now direct the applicant to include specific data from prior Tables.

Section V, Table 7 instructions are amended to eliminate confusion about what must be included in Table 7. The expanded instructions now direct the applicant to include specific data from prior Tables.

### **Specific Purpose**

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

### **Necessity and Rationale**

The amendment to the introduction on the *Evaluation Criteria - General Criteria (Rev. 12/11)* is necessary to clearly instruct applicants that do not manage OHV opportunities about which questions they should answer. Items 2 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.

The amendment to Item 1 is necessary to remove text made obsolete by the changes to the introduction. The amendment also clearly instructs applicants to provide a name and date for a reference document. Previous requests for reference documents have included a variety of undated data sources that could not be verified.

The amendment to Item 4 is necessary to remove unnecessary and redundant text. The amendment also clearly instructs applicants to provide a name and date for a reference document. Previous requests for reference documents have included a variety of undated data sources that could not be verified.

The amendment to Item 5 is necessary to require applicants to identify the closeout status of prior applications. Previously applicants were asked to identify the “percentage of deliverables accomplished.” However, this term is ambiguous and applicants are often unclear how to answer, particularly if projects were partially completed or terminated early. Requiring the status of closeouts according to the regulations will provide a readily quantifiable measure of the applicant’s project management history.

The amendments to Item 7 are necessary to prompt applicants to provide more detail regarding questions actions taken to prevent OHV trespass. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 8 is necessary to renumber the question as Item 11 and move it to the end of the document to consolidate the questions to be answered by applicants that do not manage OHV opportunities. Item 8 is also amended to prompt applicants to provide more detail regarding questions about OHV education. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 9 is amended to renumber the question as Item 12 and move it to the end of the document to consolidate the questions to be answered by applicants that do not manage OHV opportunities. The content in Item 9 is unchanged regarding questions about the applicant’s website.

The amendment to Item 10 is necessary to renumber the question as Item 13 and move it to the end of the document to consolidate the questions to be answered by applicants that do not manage OHV opportunities. The content in Item 10 is unchanged regarding questions about the applicant’s OHV outreach efforts.

The amendment to Item 11 is necessary to renumber the question as Item 8. Item 11 is also amended to prompt applicants to provide more detail regarding questions actions taken relative to natural and cultural resources. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant. Lastly, Item 11 is amended to clearly instruct applicants to provide a name and date for a reference document. Previous requests for reference documents have included a variety of undated data sources that could not be verified.

The amendment to Item 12 is necessary to renumber the question as Item 9. Item 12 is also amended to prompt applicants to provide more detail regarding questions actions taken relative to soil management. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 13 is necessary to renumber the question as Item 10. Item 13 is amended to specify that applicants should only address sound level testing on individual OHVs. In several instances applicants have discussed sound level testing for an entire facility, which is not the intent of the question. The question is intended to identify efforts to ensure compliance with vehicle noise limits in California Vehicle Code Section 38370(h)(1). Lastly, Item 13 is amended to prompt applicants to provide more detail regarding the sound testing program. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 14 is necessary to prompt applicants to provide more detail regarding efforts to sustain OHV recreation. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

### **Specific Purpose**

*Evaluation Criteria – Acquisition Project Criteria (Rev. 1/11)* is amended to revise specific scoring criteria and request more specific explanations or data where applicable.

### **Necessity and Rationale**

The amendment to Item 2 is necessary to accommodate situations where the applicant has not been able to conduct natural or cultural resources analysis on property they intend to acquire. Past applicants, particularly federal agencies, have indicated they may not have legal access to perform necessary inventories prior to applying for a grant to fund the purchase. Item 2 is also amended to clearly instruct applicants to provide a name and date for reference documents. Previous requests for reference documents have included a variety of undated data sources that could not be verified.

The amendment to Item 3 is necessary to prompt applicants to provide more detail regarding the project's benefits to the applicants OHV program. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 4 is necessary to acknowledge the real-world situation of most applicants requesting funds through the Program. In most instances, the future costs will be borne by a combination of OHV grants and the applicant's budget. Thus, an option is added to account for that scenario. Item 4 is also amended to prompt applicants to provide more detail regarding the project's funding. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 5 is necessary to provide a narrative box for the question. The narrative will allow applicants to provide more detail regarding how the project will provide motorized access to nonmotorized recreation. Project

descriptions elsewhere in the application have not thoroughly explained this topic, making it difficult to verify the applicant's answers. Item 5 is also amended to remove an extraneous check box.

The amendment to Item 6 is necessary to clarify expectations regarding public input. Applicants are prompted to identify meeting dates and participants providing public input. The instructions are also clarified to establish a reasonable 12 month time limit on the public input and to exclude internal meetings and conference calls. Previously applicants have included meetings that were not project-specific and/or occurred several years prior to the application and did not appear to relate directly to the project. The revised list of allowable meetings also better reflects desired outreach to the broader public. The scoring maximum is deleted because it is no longer necessary.

### **Specific Purpose**

*Evaluation Criteria – Development Project Criteria (Rev. 1/11)* is amended to revise specific scoring criteria and request more specific explanations or data where applicable.

### **Necessity and Rationale**

The amendment to Item 2 is necessary to accommodate situations where the applicant has not yet conducted natural or cultural resources analysis for development projects. Item 2 is also amended to clearly instruct applicants to provide names and dates for reference documents. Previous requests for reference documents have included a variety of undated data sources that could not be verified.

The amendment to Item 13 is necessary to renumber it as Item 3. This amendment places Item 13, which addresses riparian and wetland issues, next to Item 2, which concerns natural and cultural resources. This move consolidates resource-related questions and improves the logical flow of the evaluation criteria. The amendment also deletes confusing language that makes it appear restoration activities could be performed under a development grant. Item 3 is also amended to clearly instruct applicants to provide a name and date for a reference document.

The amendment to Item 3 is necessary to renumber the question as Item 4. Item 3 is amended to spell out the word "motorcycle" and to include the "Side-by-side" as a vehicle type. "Side-by-side" is a common name for certain four-wheeled OHVs and is synonymous with Recreation Utility Vehicles, which exists as an option to the question. In the past applicants have attempted to include side-by-sides as a separate vehicle type. Item 3 is also amended to delete the unnecessary "Other" option, as there are no other vehicle types that could be indicated. Item 3 is also amended to prompt applicants to provide more detail regarding the question. Prior responses to this question have been minimal,

making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 4 is necessary to renumber the question as Item 5. The amendment also clearly instructs 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.

The amendment to Item 5 is necessary to renumber the question as Item 6. The amendment also prompts applicants to provide more detail regarding the question. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 6 is necessary to renumber the question as Item 7. The amendment also prompts applicants to provide more detail regarding the question. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 7 is necessary to renumber the question as Item 8. The amendment also provides an additional response to the question. Several past development projects, such as storage buildings, do not fit any of the three existing options. In these instances the applicant cannot accurately answer the question.

The amendment to Item 8 is necessary to renumber the question as Item 9. The amendment also clarifies the Department's interpretation that a trail provides improved access to nonmotorized recreational opportunities. Other eligible projects, such as restrooms or campsites, are support facilities that improve recreational opportunities, but do not provide for improved access.

The amendment to Item 9 is necessary to renumber the question as Item 10. The amendment is also necessary to clarify expectations regarding public input. Applicants are prompted to identify meeting dates and participants providing public input. The instructions are also clarified to establish a reasonable 12 month time limit on the public input and to exclude internal meetings and conference calls. Previously applicants have included meetings that were not project-specific and/or occurred several years prior to the application and did not appear to relate directly to the project. The revised list of allowable meetings also better reflects desired outreach to the broader public. The scoring maximum is deleted because it is no longer necessary.

The amendment to Item 10 is necessary to renumber the question as Item 11. The amendment is also necessary to clarify expectations regarding partners participating in the project. The instructions are revised to indicate partners must be an organization or group actively engaged in the project, cannot be a subcontractor, and cannot be paid by any Program project. Additionally, to avoid

the appearance of favoritism, any unit of the OHMVR Division may not be claimed as a partner. Applicants are also prompted to specifically identify partners and their role in the project. Previously applicants have included paid workers, groups, and individuals that might potentially participate in the project, and others whose relation to the project has been unclear.

The amendment to Item 11 is necessary to renumber the question as Item 12. The amendment is also necessary to acknowledge the real-world situation of most applicants requesting funds through the Program. In most instances, the future costs will be borne by a combination of OHV grants and the applicant's budget. Thus, an option is added to account for that scenario. Item 11 is amended to prompt applicants to provide more detail regarding the project's funding source. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 12 is necessary to renumber the question as Item 13. The amendment is also necessary 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 administrators to validate the score indicated by the applicant.

### **Specific Purpose**

*Evaluation Criteria – Education and Safety Project Criteria (Rev. 12/11)* is amended to revise specific scoring criteria and request more specific explanations or data where applicable.

### **Necessity and Rationale**

The amendment to Item 2 is necessary to require applicants to identify the closeout status of prior applications. Previously applicants were asked to identify the "percentage of deliverables accomplished". However, this term is ambiguous and applicants are often unclear how to answer, particularly if projects were partially completed or terminated early. Requiring the status of closeouts according to the regulations will provide a readily quantifiable measure of the applicant's project management history.

The amendment to Item 4 is necessary to clarify expectations regarding partners participating in the project. The instructions are revised to indicate partners must be an organization or group actively engaged in the project, cannot be a subcontractor, and cannot be paid by any Program project. Additionally, to avoid the appearance of favoritism, any unit of the OHMVR Division may not be claimed as a partner. Applicants are also prompted to specifically identify partners and their role in the project. Previously applicants have included paid workers, groups and individuals that might potentially participate in the project, and others whose relation to the project has been unclear.

The amendment to Item 5 is necessary to spell out the word “motorcycle” and to include the “Side-by-side” as a vehicle type. “Side-by-side” is a common name for certain four-wheeled OHVs and is synonymous with Recreation Utility Vehicles, which exists as an option to the question. In the past applicants have attempted to include side-by-sides as a separate vehicle type. Item 5 is also amended to delete the unnecessary “Other” option, as there are no other vehicle types that could be indicated.

The amendment to Item 6 is necessary to clarify expectations regarding public input. Applicants are prompted to identify meeting dates and participants providing public input. The instructions are also clarified to establish a reasonable 12 month time limit on the public input and to exclude internal meetings and conference calls. Previously applicants have included meetings that were not project-specific and/or occurred several years prior to the application and did not appear to relate directly to the project. The revised list of allowable meetings also better reflects desired outreach to the broader public. The scoring maximum is deleted because it is no longer necessary.

The amendment to Item 7 is necessary to prompt applicants to provide more detail regarding the question. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment is necessary to move Item 10 and renumber it as Item 8. This amendment places Item 10 ahead of former Items 8 and 9. This move improves the logical flow of the evaluation criteria as former Items 8 and 9 both refer to the responses presented in former Item 10. The amendment also prompts applicants to provide more detail regarding their selections. Prior responses to this question have been minimal, making it difficult for administrators to validate the selections indicated by the applicant.

The amendment to Item 8 is necessary to renumber the question as Item 9 and reference the new Item 8. The amendment also prompts applicants to provide more detail regarding the applicant’s selection. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 9 is necessary to renumber the question as Item 10 and reference the new Item 8. The amendment also prompts applicants to provide more detail regarding the applicant’s selection. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 11 is necessary to remind applicants that training addressed in the question must be provided to members of the public. Numerous applicants have indicated training will be provided exclusively to agency

personnel, not the public. The amendment also prompts applicants to provide more detail regarding the applicant's selection. Prior responses to this question have been minimal, making it difficult for administrators to validate the selection indicated by the applicant.

### **Specific Purpose**

*Evaluation Criteria – Ground Operations Project Criteria (Rev. 1/11)* is amended to revise specific scoring criteria and request more specific explanations or data where applicable.

### **Necessity and Rationale**

The amendment to Item 2 is necessary to prompt applicants to provide more detail regarding the question. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 3 is necessary to delete an unnecessary narrative from the question. Unlike many other questions, the response options are sufficiently self-explanatory and can be cross-referenced elsewhere in the application.

The amendment to Item 4 is necessary to clarify expectations regarding partners participating in the project. The instructions are revised to indicate partners must be an organization or group actively engaged in the project, cannot be a subcontractor, and cannot be paid by any Program project. Additionally, to avoid the appearance of favoritism, any unit of the OHMVR Division may not be claimed as a partner. Applicants are also prompted to specifically identify partners and their role in the project. Previously applicants have included paid workers, groups and individuals that might potentially participate in the project, and others whose relation to the project has been unclear.

The amendment to Item 5 is necessary to clarify expectations regarding public input. Applicants are prompted to identify meeting dates and participants providing public input. The instructions are also clarified to establish a reasonable 12 month time limit on the public input and to exclude internal meetings and conference calls. Previously applicants have included meetings that were not project-specific and/or occurred several years prior to the application and did not appear to relate directly to the project. The revised list of allowable meetings also better reflects desired outreach to the broader public. The scoring maximum is deleted because it is no longer necessary.

The amendment to Item 6 is necessary to account for a wider variety of relevant responses. The selection regarding "controlling OHV use" is made more inclusive by removing reference to physical barriers. The proposed response allows the applicant to include other methods to control use, such as signage or seasonal closures. The selection addressing "wet crossings" is revised to no longer specify bridges; installation of a bridge is typically a development project. However, the

response may now include a variety of other methods to address wet crossings, such as culverts or armored crossings. Applicants are also prompted to provide more detail regarding the question. Prior explanations to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

Item 8 is deleted. The question is not generally applicable to ground operations and has proven to be extremely difficult for applicants to receive points for the question. In fact, only one applicant has received points for this question over four grant cycles. Since the question is so rarely applicable, it is ineffective when ranking projects.

The amendment to Item 9 is necessary to renumber the question as Item 8 and delete an extraneous check box.

### **Specific Purpose**

*Evaluation Criteria – Planning Project Criteria (Rev. 1/11)* is amended to revise specific scoring criteria and request more specific explanations or data where applicable.

### **Necessity and Rationale**

The amendment to Item 2 is necessary to include “potential offsite impacts” as an issue a planning project would address. Previously, offsite impacts were considered separately under Item 9. The proposed revision consolidates all of the potential issues into the same question. Applicants are also prompted to provide more detail regarding the question. Prior explanations to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 3 is necessary to remove the expectation that the project must result in improved facilities. In some instances, the results of the planning project may correctly indicate that the proposed undertaking is not the best option and should not be pursued.

The amendment to Item 4 is necessary to clarify expectations regarding public input. Applicants are prompted to identify meeting dates and participants providing public input. The instructions are also clarified to establish a reasonable 12 month time limit on the public input and to exclude internal meetings and conference calls. Previously applicants have included meetings that were not project-specific and/or occurred several years prior to the application and did not appear to relate directly to the project. The revised list of allowable meetings also better reflects desired outreach to the broader public. The scoring maximum is deleted because it is no longer necessary.

The amendment to Item 5 is necessary to prompt applicants to provide more detail regarding the question. Prior responses to this question have been

minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 6 is necessary to clarify expectations regarding partners participating in the project. The instructions are revised to indicate partners must be an organization or group actively engaged in the project, cannot be a subcontractor, and cannot be paid by any Program project. Additionally, to avoid the appearance of favoritism, any unit of the OHMVR Division may not be claimed as a partner. Applicants are also prompted to specifically identify partners and their role in the project. Previously applicants have included paid workers, groups and individuals that might potentially participate in the project, and others whose relation to the project has been unclear.

The amendment to Item 7 is necessary to revise the scoring for the question and to add clarification. The points are increased slightly to offset the potential points reduced by the deletion of item 8. Regarding development of OHV opportunities adjacent to population centers, applicants are now instructed to consider populations centers only within 50 miles of the planning location. Fifty miles is a reasonable distance, as opposed to past applications which have indicated population centers in excess of one hundred miles away. The amendment also prompts applicants to provide more detail regarding the question. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

Item 8 is deleted. It is nearly impossible for applicants to receive points for the question. Most applicants are unable to state with certainty that future funds for project implementation have been identified. Because the question is rarely applicable, it is ineffective when ranking projects.

Item 9 is deleted. The issue of offsite impacts has been incorporated into Item 2, rendering this evaluation question unnecessary.

The amendment to Item 10 is necessary 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 yet have 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 administrators to validate the score indicated by the applicant.

### **Specific Purpose**

*Evaluation Criteria – Restoration Project Criteria (Rev. 12/11)* is amended to revise specific scoring criteria and request more specific explanations or data where applicable.

### **Necessity and Rationale**

The amendment to Item 2 is necessary to improve the clarity and accuracy of the responses. The response regarding domestic water supply is amended to include examples of facilities that might be adversely impacted. The response addressing archaeological and historical resources is modified to include resources potentially eligible to be listed on the California Register of Historical Resources or the National Register of Historic Places. Only a very small fraction of archaeological and historical resources are listed on the Registers, so this change expands the resources that would be protected by the project and for which an applicant could receive points. The response is also modified to properly identify the National Register of Historic Places and spell out the acronym for Area of Critical Environmental Concern. The amendment also prompts applicants to provide more detail regarding the applicant's selections. Prior responses to this question have been minimal, making it difficult for administrators to validate the selections indicated by the applicant.

The amendment to Item 3 is necessary to instruct applicants to provide a name and date for a reference document. Previous requests for reference documents have included a variety of undated data sources that could not be verified.

The amendment to Item 4 is necessary to prompt applicants to provide more detail regarding the question. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 5 is necessary 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.

The amendment to Item 6 is necessary to acknowledge the real-world situation of most applicants requesting funds through the Program. In most instances, the future costs will be borne by a combination of OHV grants and the applicant's budget. Thus, an option is added to account for that scenario. Item 6 is amended to prompt applicants to provide more detail regarding the applicant's selection. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 7 is necessary to clarify expectations regarding public input. Applicants are prompted to identify meeting dates and participants providing public input. The instructions are also clarified to establish a reasonable 12 month time limit on the public input and to exclude internal meetings and

conference calls. Previously applicants have included meetings that were not project-specific and/or occurred several years prior to the application and did not appear to relate directly to the project. The revised list of allowable meetings also better reflects desired outreach to the broader public. The scoring maximum is deleted because it is no longer necessary.

The amendment to Item 8 is necessary to clarify expectations regarding partners participating in the project. The instructions are revised to indicate partners must be an organization or group actively engaged in the project, cannot be a subcontractor, and cannot be paid by any Program project. Additionally, to avoid the appearance of favoritism, any unit of the OHMVR Division may not be claimed as a partner. Applicants are also prompted to specifically identify partners and their role in the project. Previously applicants have included paid workers, groups and individuals that might potentially participate in the project, and others whose relation to the project has been unclear.

The amendment to Item 9 is necessary to prompt applicants to provide more detail regarding the question. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

The amendment to Item 10 is necessary to prompt applicants to provide more detail regarding the question. Prior responses to this question have been minimal, making it difficult for administrators to validate the score indicated by the applicant.

### **ECONOMIC IMPACT ANALYSIS**

Existing law restricts eligible applicants to the Program to: cities, counties and 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 Department finds that jobs will not be created or eliminated, new businesses will not be created and existing businesses will not be eliminated, nor will existing businesses be expanded because of the proposed action.

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 or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.