

**TITLE 14. NATURAL RESOURCES  
GRANTS AND COOPERATIVE AGREEMENTS PROGRAM REGULATIONS**

**NOTICE OF PROPOSED RULEMAKING**

**NOTICE IS HEREBY GIVEN** the California Department of Parks and Recreation (Department) proposes to amend the regulations and documents incorporated by reference described below after considering all comments, objections and recommendations regarding the proposed action.

**PROPOSED REGULATORY ACTION**

The Department proposes to amend the regulations in the California Code of Regulations, Title 14, Division 3, Chapter 15, Articles 1 through 5 (CCR), Sections 4970.01, 4970.03, 4970.05.1, 4970.06.1, 4970.06.2, 4970.06.3, 4970.07, 4970.08, 4970.08.1, 4970.08.2, 4970.10, 4970.10.1, 4970.10.2, 4970.10.3, 4970.10.4, 4970.11, 4970.13, 4970.20, 4970.24.1, and Grants and Cooperative Agreements Program – Appendix (Appendix) pertaining to the Off-Highway Motor Vehicle Recreation Division (OHMVR Division) Grants and Cooperative Agreements Program (Program).

**PUBLIC HEARING**

The Department has scheduled a telephonic public hearing on the proposed rulemaking. The hearing will be held on July 27, 2021 and can be accessed through the conference line number below. The meeting will commence at 2:00 p.m.

Conference Line: 1 (877) 952-2063  
Participant Code: 31875622

Any interested person, or his or her authorized representative, may present oral or written statements, arguments, or contentions relevant to the proposed action described in the Informative Digest. The Department may impose reasonable limits on oral presentations. The Department requests, but does not require, persons making oral comments at the hearings also submit a written copy of their testimony. Additionally, pursuant to Government Code Section 11125.1, any information presented to the Department during the open hearings in connection with the subject matter open to discussion or consideration becomes part of the public record. Such information shall be retained by the Department and shall be made available upon request.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relative to the proposed rulemaking to the Department. The written comment period ends on July 26, 2021. The Department will consider only written comments received at the Department's office by that time. Written comments may be mailed to the following address:

California Department of Parks and Recreation  
Off-Highway Motor Vehicle Recreation Division  
Attn: Sixto Fernandez, Grants Manager  
Grants and Cooperative Agreements  
1725 23<sup>rd</sup> Street, Suite 200  
Sacramento, California 95816-7100

Written comments delivered by email or facsimile will also be accepted by the Department. Written comments may be submitted by email to [OHV.Grants@parks.ca.gov](mailto:OHV.Grants@parks.ca.gov) or via facsimile at (916) 324-1610. Electronic mail or facsimile transmission must be completed by the deadline given above.

#### AUTHORITY AND REFERENCE

*Authority Citation:* The proposed amendments are authorized by Public Resources Code (PRC) Sections 5001.5 and 5003.

*Reference Citation:* The particular code sections implemented, interpreted, or made specific by these proposed amendments are PRC Sections 5020.1(j), 5024.1, 5090.01 through 5090.65 and 21000 et seq.; Vehicle Code Sections 38001 and 38006; Education Code Sections 210.3 and 66010.4; 25 CFR Section 83.5(a); 40 CFR part 1500.1 et seq.; U.S. IRC Section 501(c)(3); USC Title 42, Section 4371.

#### INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

##### *Summary of Existing Laws and Regulations*

PRC Section 5090.01 et seq., also known as the Off-Highway Motor Vehicle Recreation Act of 2003, as amended, governs the OHMVR Division's 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 Division within the Department. The 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.

### *Effect of the Proposed Rulemaking*

Generally, the proposed regulatory revisions will make the regulatory language more concise, clear, and consistent by amending Program regulations and various documents within the Appendix, incorporated by reference.

Specifically, the proposed regulatory revisions would:

#### Article 1. General Provisions

##### Amend CCR Section 4970.01:

The proposed makes the section language consistent with all sections of the CCR and clarifies the definition of a “District”.

##### Amend CCR Section 4970.03:

The proposed makes the section language consistent with all sections of the CCR.

##### Amend CCR Section 4970.05.1

The proposed updates the Grants and Cooperative Agreements Program Regulations – Appendix version date; adds reference to the existing Equipment Inventory form and the Grants and Cooperative Agreements Program Regulations – Appendix, as incorporated by reference; clarifies and amends Equipment Inventory form reporting requirements; corrects reference to sections within the CCR.

##### Amend CCR Section 4970.06.1

The proposed adds reference to the Grants and Cooperative Agreements Program Regulations – Appendix, as incorporated by reference; makes the section language consistent with all sections of the CCR; corrects reference to sections within the CCR; renumbered section to be consistent within the CCR.

##### Amend CCR Section 4970.06.2

The proposed makes the section language consistent with all sections of the CCR and adds references to the Grants and Cooperative Agreements Program Regulations – Appendix, as incorporated by reference; clarifies Habitat Management Plan reporting requirements.

##### Amend CCR Section 4970.06.3

The proposed makes the section language consistent with all sections of the CCR; adds references to the Grants and Cooperative Agreements Program Regulations – Appendix, as incorporated by reference; clarifies Soil Conservation form and plan reporting requirements.

##### Amend CCR Section 4970.07

The proposed incorporates by reference the existing Habitat Management Plan Part 1 and Soil Conservation Plan form as a preliminary Application requirement.

Amend CCR Section 4970.08

The proposed clarifies eligible daily transportation costs.

Amend CCR Section 4970.08.1

The proposed clarifies the maximum allowable Equipment purchase amount; clarifies eligible daily Equipment costs; clarifies limits to transportation of Heavy Equipment; clarifies eligible Heavy Equipment costs; renumbered section based on updated language.

Amend CCR Section 4970.08.2

The proposed clarifies eligible Equipment and Heavy Equipment use fee costs; clarifies limits to reimbursements on equipment acquired with funds outside the program; clarifies limits to equipment maintenance cost and repair on equipment acquired with Grant funds from the program; clarifies eligible Heavy Equipment repair costs; renumbers section based on revised language.

Amend CCR Section 4970.10

The proposed clarifies number of eligible Applicants per Operation and Maintenance Project funding requests.

Amend CCR Section 4970.10.1

The proposed updates the Ground Operations Project Criteria form version date.

Amend CCR Section 4970.10.2

The proposed updates the Development Project Criteria form version date.

Amend CCR Section 4970.10.3

The proposed updates the Planning Project Criteria form version date.

Amend CCR Section 4970.10.4

The proposed updates the Acquisition Project Criteria form version date.

Amend CCR Section 4970.11

The proposed updates the Restoration Project Criteria form version date.

Amend CCR Section 4970.13

The proposed updates the Education and Safety Criteria form version date.

Amend CCR Section 4970.10.4

The proposed updates the Acquisition Project Criteria form version date.

Amend CCR Section 4970.20

The proposed amends and clarifies Equipment management requirements and incorporates by reference the new Equipment Disposition Request form requirement.

Amend CCR Section 4970.24.1

The proposed amends and clarifies Equipment documentation requirements.

Amend Grants and Cooperative Agreements Program –Appendix (Rev. 1/19)

The proposed updates and amends the Appendix version, Table of Contents, Equipment Inventory form, Environmental Review Data Sheet form, Habitat Management Program-Part 1 form, Habitat Management Program-Part 2 form, Soil Conservation Plan form, Project Agreement General Provisions - (Federal Agencies other than U.S. Forest Service), Evaluation Criteria-Acquisition Projects form, adopts the Project Agreement General Provisions - (U. S. Forest Service Only) and the Equipment Disposition Request form.

*Comparable Federal Regulations*

The proposed amendments do not duplicate or conflict with federal regulations or statutes.

*Policy Statement Overview and Anticipated Benefits of the Proposed Rulemaking*

The overall objective of the proposed action is to improve the Program's regulatory language, documents incorporated by reference, and ensure public funds are being spent wisely and within the State's best interest in supporting motorized recreation. These proposals, based on Division experience implementing the Program, will also reduce confusion for Applicants and Grantees and make the regulatory language concise, clear, and consistent by adopting, amending, and repealing Program regulations and various documents within the Appendix, incorporated by reference.

*Determination of Inconsistency/Incompatibility with Existing Regulations*

After conducting an evaluation for any regulations related to this area, the Department has found that there are no other regulations concerning grants that 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. Therefore, the Department has determined that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

FORMS INCORPORATED BY REFERENCE

Grants and Cooperative Agreements Program – Appendix (Rev. 1/21)

MANDATED BY FEDERAL LAW OR REGULATIONS

None.

## OTHER STATUTORY REQUIREMENTS

None.

### DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

*Mandate on Local Agencies and School Districts:* None.

*Cost to any Local Agency or School District:* None.

*Cost or Savings to any State Agency:* None.

*Other Non-Discretionary Cost or Savings Imposed of Local Agencies:* None.

*Cost or Savings in Federal Funding to the State:* None.

*Significant Effects on Housing Costs:* None.

*Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including Ability to Compete:* None.

### RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Department finds that jobs, at worst would not be affected, but, mostly likely may see an increase in the creation of jobs. Additionally, the Department finds that at worst, no new business will be created and no business will be eliminated; however, the Department finds that it is likely that private businesses may be created and or expanded because of the proposed action.

This regulatory action benefits the health and welfare of California residents by improving the funding method that assists Land Managers and partners to provide recreational opportunities within the State. This regulatory action also benefits the State's environment by improving the funding method that supports resource protection and Restoration activities related to OHV Recreation.

### COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The Division is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### BUSINESS REPORTING

None.

## SMALL BUSINESS DETERMINATION

The Department has determined there are no cost impacts on small businesses. Program history has shown that small businesses benefit by the Program. Many of the Grant funds go to entities that utilize small businesses when they purchase goods and services. The proposed changes will provide a more streamline and efficient program that should boost the ability of small business to capture revenue from the various Grantees.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Department must determine that no reasonable alternative it considered or has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the public comment period or at the public hearing.

## CONTACT PERSON(S)

*Inquiries concerning the proposed action may be directed to:*

Sixto Fernandez, Grants Manager  
California Department of Parks and Recreation  
Off-Highway Motor Vehicle Recreation Division  
1725 23<sup>rd</sup> Street, Suite 200  
Sacramento, CA 95816  
(916) 324-1572  
sixto.fernandez@parks.ca.gov.

*The back-up contact person regarding the proposed action is:*

Ethan Mathes, Compliance Officer  
California Department of Parks and Recreation  
Off-Highway Motor Vehicle Recreation Division  
1725 23<sup>rd</sup> Street, Suite 200  
Sacramento, CA 95816  
(916) 323-0157  
ethan.mathes@parks.ca.gov.

## AVAILABILITY OF STATEMENT OF REASONS, TEXT OF REASONS, TEXT OF PROPOSED REGULATION, AND RULEMAKING FILE

The Department will make the entire rulemaking available for inspection and copying throughout the rulemaking process at its office located at California Department of Parks and Recreation, Off-Highway Motor Vehicle Recreation Division, 1725 23<sup>rd</sup> Street, Suite 200, Sacramento, CA 95816.

As of the date this Notice of Proposed Rulemaking is published in the Notice Register, the rulemaking file consists of this Notice of Proposed Rulemaking, the express terms of the regulation, the Initial Statement of Reasons, any information upon which the proposed rulemaking is based, and an economic impact assessment contained in the Initial Statement of Reasons. Copies may be obtained by contacting the above contact person at the above address.

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

After any public hearings and consideration of all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice of Proposed Rulemaking. If the Department makes substantive modifications, which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised.

## AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion, copies of the Final Statement of Reasons may be obtained by contacting Sixto Fernandez, Grants Manager at the above address.

## AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout is available through the Division Website at [www.ohv.parks.ca.gov](http://www.ohv.parks.ca.gov), under the Grants link.