

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

Pursuant to Government Code 11346.9 (a) (1), the Department of Parks and Recreation, Off-Highway Motor Vehicle Recreation (OHMVR) Division is updating the Initial Statement of Reasons to include amendments to the Grants and Cooperative Agreements Program (Grants Program) regulations not originally identified. The following revisions were made after the Initial Statement of Reasons was published on June 19, 2015 and Revised Initial Statement of Reasons published on August 18, 2015.

4970.01. – Definitions

Specific Purpose

Section 4970.01 (jj) “Projects” is amended to provide clarity on what the term “Project” is comprised of.

Necessity

The amendment to Section 4970.01 (jj) “Projects” is necessary to ensure that Applicants/Grantees understand that the term “funding” as currently written in the definition of “Project” is composed of both “match” and “Grant funds”.

4970.05. – General Application

Specific Purpose

Section 4970.05 (e) (4) is amended to resolve a clarity issue and resolve possible confusion by the public and/or the Grantees.

Necessity

The amendment to Section 4970.05 (e) (4) is necessary to ensure the public and/or Grantees understand that public comments shall be received no later than 5:00pm Pacific Standard time on the first Monday of April. The OHMVR Division amended the regulation by removing the word “received” before the “shall be” and replaced the word “submitted” with “received” as the public and/or Grantee could not clearly understand the intent of the regulation.

FINAL STATEMENT OF REASONS

Specific Purpose

Section 4970.05 (g) is amended to provide Grantees information on 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

The creation of Section 4970.05 (o) requires Nonprofit Applicants to submit the appropriate Internal Revenues Service (IRS) 990 Form as part of their Application to the Grants Program.

Necessity

This revision is necessary to ensure that Nonprofit Applicants are abiding with all IRS requirements for 501(c)(3) Nonprofits. Additionally, this requirement will allow the OHMVR Division to have confidence that Grant funds are being used appropriately by a category of Applicants that does not necessarily have public scrutiny. This change was suggested during the 45-day comment period by the California Trail User Coalition (5.14, 5.34).

Sub article 1. ENVIRONMENTAL REQUIREMENTS

4970.06.1 – California Environmental Quality Act (CEQA) Requirements

Specific Purpose

Section 4970.06.1 (b) (3) is amended to ensure that a complete CEQA/National Environmental Policy Act (NEPA) analysis is conducted prior to the OHMVR Division approving funding for any Project activity.

Necessity

The amendment to Section 4970.06.01 (b) (3) is necessary to clarify language from the initial proposed text as contained in the 45-day public comment period. The initial proposed text was misinterpreted by the public and Grantees that the Grants Program would no longer fund CEQA/NEPA activities; this was not the intent of the OHMVR Division. The subsequent proposed language was necessary to provide clarity to the Grantees/Applicants that CEQA/NEPA activities would continue to be funded while at the same time ensuring that the Grantees understand that a complete CEQA/NEPA process must be conducted prior to the OHMVR Division approving funding for any Project activity.

FINAL STATEMENT OF REASONS

Specific Purpose

Proposed regulation text is removed from Section 4970.06.01 (c) (1) to avoid confusion.

Necessity

The OHMVR Division has removed the proposed text “including match” to Section 4970.06.1 (c) (1). The adding of the wording “including match” to the initial proposed text caused confusion by the public and Grantees. In reviewing the comments from the 45-day public comment period, the OHMVR Division found that it was less confusing to the public, while providing the desired clarity to the Grantees, if the OHMVR Division drafted clearer language for the term “Project” listed in Section 4970.01 of these regulations. This action was in response to a comment received during the 45-day public comment period from the Center for Sierra Nevada Conservation (6.2).

Specific Purpose

Proposed regulation text is removed from Section 4970.06.01 (d) (1) to avoid confusion.

Necessity

The OHMVR Division has removed the proposed text “including match” to Section 4970.06.1 (d) (1). The adding of the wording “including match” to the initial proposed text caused confusion by the public and Grantees. In reviewing the comments from the 45-day public comment period, the OHMVR Division found that it was less confusing to the public, while providing the desired clarity to the Grantees, if the OHMVR Division drafted clearer language for the term “Project” listed in Section 4970.01 of these regulations. This action was in response to a comment received during the 45-day public comment period from the Center for Sierra Nevada Conservation (6.3).

4970.08. – ELIGIBLE PROJECT COST

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 only when

FINAL STATEMENT OF REASONS

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 days and over 50 miles away from their headquarters (originally proposed regulation text was home/headquarters but removed “home” to eliminate the possibility of Grantee confusion) 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

Proposed regulation text is removed from Section 4970.08 (b) (13) (A) to avoid confusion.

Necessity

The OHMVR Division removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

Specific Purpose

Removal of proposed regulation text to Section 4970.08 (b) (13) (D) to avoid confusion.

Necessity

The OHMVR Division has removed the proposed regulation text from 4970.08 (b) (13) (D) as a result of the removal of the proposed regulation text 4970.08 (b) (13) (A). The

FINAL STATEMENT OF REASONS

OHMVR Division is maintaining the current regulation text and will reevaluate this proposed regulation once further discussion, definition, and clarity has been given to proposed regulation 4970.08 (b) (13) (A).

Specific Purpose

Proposed regulation text “materials to, and appropriate for the length of anticipated use for” removed from Section 4970.08 (b) (13) (E) in the Text of Modified Regulations to resolve a clarity issue.

Necessity

The OHMVR Division removed the proposed regulation text from 4970.08 (b) (13) (E) as a result of feedback received from the Office of Administrative Law in the November 12, 2015 Notice of Disapproval of Regulatory Action letter. With the removal of this regulation text, the OHMVR Division is maintaining the current language proposed in the Text of Modified Regulation (2nd 15 Day Notice).

4970.10.4. – ACQUISITION

Specific Purpose

Section 4970.10.4 (e) (2) is amended to allow all federal Applicants the ability to meet federal guidelines and statutes as they relate to land acquisitions arising from requirements imposed by the Grants Program.

Necessity

The initial proposed regulation text of 4970.10.4 (e) (2) specifically stated the “Bureau of Land Management” (BLM), where it was intended to apply to all federal Applicants. The initial language caused confusion to the public and Grantees. This action was taken in response to a comment received during the 45-day public comment period from the Stewards of the Sierra National Forest (12.27). Furthermore, the initial proposed text erroneously stated that any refunds were to be sent to the OHMVR Commission. The OHMVR Division needed to clarify in the revised proposed text that all refunds are due to the State and not the OHMVR Commission. Lastly, OHMVR Division amended the Text of Modified Regulations by adding an “l” in front of “and” to create the word “land” to resolve a clarity issue.

Sub article 1. AUDITS

4970.25.1. Financial Audits of Grantees

Specific Purpose

Section 4970.25.1 title is amended to clarify who this Section is referring to.

FINAL STATEMENT OF REASONS

Necessity

The OHMVR Division believes the amended title for Section 4970.25.1 better clarifies who these regulations refer to. The OHMVR Division found confusion by the public and Grantees with regard to the sections that relate to the audit processes. The addition of Section 4970.25.3 necessitated the re-naming of the various audit sections to avoid confusion.

Specific Purpose

The OHMVR Division has removed section 4970.25.3 from the originally proposed text. The section was removed due to confusion by the public.

Necessity

The OHMVR Division removed the proposed Section 4970.25.3 as a result of public comment received from California Trail User Coalition (5.20) and Stewards of the Sierra National Forest (12.34) during the 45-day public comment period. The OHMVR Division believes this proposed Section requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation.

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

Specific Purpose

The OHMVR Division updated the revision date of 12/11 to 1/16.

Necessity

This amendment was necessary to inform the public and/or Grantee the most recent document is in the rulemaking file.

Project Agreement General Provisions (Federal Agencies Other Than Forest Service)

Specific Purpose

The OHMVR Division amended this document by adding a revision date of 1/16. In addition, the OHMVR Division created regulation 2 in Governing Law section L.

FINAL STATEMENT OF REASONS

Necessity

The first amendment was necessary in order to inform the public and/or Grantee the most recent document is in the rulemaking file. In addition, the inclusion of the language was necessary to ensure that Grantees are aware that they must abide by all federal, state, and/or local laws, regulations ordinances, and executive orders. Although the OHMVR Division believes that such requirements were previously mandated, this language provides clear language to the Grantees.

Project Agreement General Provisions (U. S. Forest Service Only)

Specific Purpose

The OHMVR Division amended this document updating the revision date of 1/11 to 1/16. In addition, the OHMVR Division created regulation 2 in Governing Law section K.

Necessity

The first amendment was necessary in order to inform the public and/or Grantee the most recent document is in the rulemaking file. In addition, the inclusion of the language was necessary to ensure that Grantees are aware that they must abide by all federal, state, and/or local laws, regulations ordinances, and executive orders. Although the OHMVR Division believes that such requirements were previously mandated, this language provides clear language to the Grantees.

Project Agreement General Provisions (Nonfederal Applicants Only)

Specific Purpose

The OHMVR Division amended this document by adding a revision date of 1/16. In addition, the OHMVR Division created regulation 2 in Governing Law section L.

Necessity

The first amendment was necessary in order to inform the public and/or Grantee the most recent document is in the rulemaking file. In addition, the inclusion of the language was necessary to ensure that Grantees are aware that they must abide by all federal, state, and/or local laws, regulations ordinances, and executive orders. Although the OHMVR Division believes that such requirements were previously mandated, this language provides clear language to the Grantees.

PAYMENT REQUEST FORM DPR 364

Specific Purpose

The OHMVR Division amended this document by updating the revision date from 1/11 to 1/16. In addition, the OHMVR Section 6 (Payment Information) and Section 10 (Submit Request To) are amended to help ensure the Grantee is entering the correct information for each section and remove confusion for the Grantee.

FINAL STATEMENT OF REASONS

Necessity

The first amendment was necessary in order to inform the public and/or Grantee the most recent document is in the rulemaking file. The second amendment is a 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 third amendment is a 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

EVALUATION CRITERIA RESTORATION PROJECTS

Specific Purpose

The OHMVR Division updated the revision date of 1/14 to 1/16.

Necessity

This amendment was necessary to inform the public and/or Grantee the most recent document is in the rulemaking file.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF JUNE 19, 2015 THROUGH AUGUST 3, 2015.

COMMENT LETTER 1

BLM- State Office, James G. Kenna (Received 8-3-15)

Comment: 1.1: The commenter recommends the OHMVR Division amend the current regulation definition of “Equipment” by increasing the cost of unit acquisition from \$1,000 to \$5,000.

FINAL STATEMENT OF REASONS

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 1.2: The comment recommends the OHMVR Division add the regulation definition of “Heavy Equipment”. The commenter believes that creating this definition will differentiate between equipment that may be lower in cost and heavy equipment that is usually more expensive and is easier to rent or lease.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 1.3: The commenter recommends the OHMVR Division amend the current regulation definition of “Restoration” by replacing the wording within the definition of “at least” with “to”.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 1.4: The commenter recommends the OHMVR Division amend 4970.05. (e) (2) to add social media as a part of one of the public notification methods.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 1.5: The commenter recommends the OHMVR Division amend 4970.05 (e) (4) to change language contained in the section from “shall” to “must”.

FINAL STATEMENT OF REASONS

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations

Comment: 1.6: The commenter recommends the OHMVR Division edit 4970.05 (f) (1) to add Indirect Cost language to the regulation as not all Indirect Cost can be documented in the same manner as other expenses.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 1.7: The commenter recommends the OHMVR Division remove proposed regulation 4970.08 (b) (13) (A) and restore the previous regulation.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08. (b) (13) (A – D) of the regulations.

Comment: 1.8: The commenter recommends the OHMVR Division amend 4970.08 (b) (13) (B) to include language to allow for estimates to be acceptable documentation for the Application.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations

Comment: 1.9: The commenter recommends the OHMVR Division amend 4970.09 (b) (10) to include language that allows for jointly managed property.

FINAL STATEMENT OF REASONS

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations

Comment: 1.10: The commenter recommends the OHMVR Division amend 4970.09 (b) (14) to include language that allows Restoration funding to be utilized for the Development and/or maintenance of motorized trails.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file.

Comment 1.11: The commenter recommends that 4970.25.1 (d) and (e) include language that allow for timely refund to either party within 60 days.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

COMMENT LETTER 2

BLM - Ukiah Field Office Sarah Mathews (Received 8-3-15)

Comment: 2.1: The commenter states their concern with amendments proposed in Section 4970.08 (b) (13) (A). The commenter believes this amendment would have potential to negatively impact trail maintenance, construction, and creation of programs in their service areas.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

COMMENT LETTER 3

FINAL STATEMENT OF REASONS

Blue Ribbon Coalition (BRC), Don Amador (Received 7-24-15)

Comment: 3.1: The commenter does not support the proposed regulation Section 4970.08 (b) (13) (A). The commenter believes this proposed change could negatively impact the trail maintenance and construction programs in the BRC service areas.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08. (b) (13) (A – D) of the regulations.

COMMENT LETTER 4

BRC, Don Amador (Received 8-3-15)

Comment: 4.1: The commenter recommends the OHMVR Division consider amending the appropriate section(s) of Grant regulations to expand funding opportunities for post-fire repairs to green sticker roads and trails.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 4.2: The commenter recommends the OHMVR Division expand the “Restoration” funding section to include “Repairs” to Restoration projects where barricades, water control structures, fencing, signs, etc. have been impacted by wildfires.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

COMMENT LETTER 5

California Trail User Coalition (CTUC), Ed Waldhiem (Received 7-27-15)

FINAL STATEMENT OF REASONS

Comment: The commenter believes refunds should be honored when Grants are closed and not wait for an Audit to be conducted. The commenter believes this change would ensure funds are available to the Grantee and would not revert to the OHV Trust Fund.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.2: The commenter recommends that 4970.25.1 (d) and (e) include language that allows for timely refunds to Applicants within 60 days.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.3: The commenter recommends the OHMVR Division increase the amount that can be requested in advance payment request stipulated in Regulation 4970.23.1 (a).

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.4: The commenter believes the proposed regulation 4970.06.1 (b) (3) would cause a burden on Grantees if they cannot receive Grant funding to complete CEQA and National Environmental Policy Act (NEPA) prior to the completion of CEQA.

Response: The OHMVR Division accepts this comment. Proposed regulation 4970.06.1 (b) (3) has been amended to clarify that CEQA/NEPA activity will continue to be funded.

Comment: 5.5: The commenter supports the proposed regulation 4970.08 (b) (13) (A).

FINAL STATEMENT OF REASONS

Response: The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

Comment: 5.6: The commenter recommends the OHMVR Division amend the proposed regulation 4970.08 (b) (13) (A) so that small equipment not be rented or leased.

Response: The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearing held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08. (b) (13) (A – D) of the regulations.

Comment: 5.7: The commenter requests the OHMVR Division clarify proposed regulation 4970.09 (b) (12) due to the belief that a Grantee should not be penalized for something that they had no control of.

Response: The OHMVR Division rejects this comment. It is not the intent of the proposed regulation to require a Grantee be responsible for the cost of repair or replacement of any Equipment purchased through the Grants Program if the Equipment was “properly used”. However, if the OHMVR Division determines a Grantee used Equipment in a manner that deviates from how a reasonable person would use the Equipment, the Grantee shall be solely responsible for the repair or replacement of the Equipment in question.

Comment: 5.8: The commenter recommends the OHMVR Division allow Nonprofits organizations to reference the General Application documents filed by agencies who manage the land the Nonprofit organization is using for project activities.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at

FINAL STATEMENT OF REASONS

this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.9: The commenter recommends the OHMVR Division award Nonprofit Applicants points in relation to the mileage of trails they manage.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.10: The commenter recommends the OHMVR Division amend the current regulation definition of "Maintenance".

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.11: Commenter recommends the OHMVR Division make private parks ineligible to receive OHV Grant Funding.

Response: The OHMVR Division rejects this comment. Only agencies that are determined eligible under regulation 4970.03 "Determining Applicant Eligibility" can receive OHV Grant funding. Those eligible agencies are:

- (1) For a city or county: a department or comparable subdivision,
- (2) A District,
- (3) For the U.S. Forest Service: A Forest or Regional Office, except for law enforcement Projects for which the Applicant is defined as a Patrol District,
- (4) For the U.S. Bureau of Land Management: A Field, District, or State Office,
- (5) For other Federal Agencies: A Field, District, Regional or State Office, or similar subdivision,
- (6) A Federally Recognized Native American Tribe,
- (7) An Education Institution,
- (8) A Nonprofit organization,
- (9) A State Agency or department, Commission, Conservancy, Board or other comparable subdivision within the government of the State of California.

FINAL STATEMENT OF REASONS

Comment: 5.12: The commenter recommends the OHMVR Division decrease the 25 percent match requirement for Nonprofit organizations.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Furthermore, the OHMVR Division does not have the authority to independently make a change to the match requirement. The requirement for a minimum of 25 percent match for each Grantee is set by Public Resources Code (PRC) 5090.50 and can only be changed through the state legislative process.

Comment: 5.13: The commenter recommends the OHMVR Division amend 4970.05 (l) to accept a Memorandum of Understanding (MOU) between the federal agency and Nonprofit organization in place of written permission from the Land Manager authorizing the Applicant to conduct the proposed Project.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Furthermore, MOUs are general agreements for land use, and their use for this purpose conflicts with Section 5090.50 (f) (2) in the PRC that states, "The Applicant shall provide written permission from the appropriate land manager to conduct a Project, including a description of how the Project fits with the land management goals of the area." An MOU may not be specific enough or may be ambiguous, and it is not the role of the OHMVR Division to have to rely on interpretation of legal documents between other parties

Comment: 5.14: The commenter recommends the OHMVR Division add a requirement that Nonprofit organizations provide yearly Federal Income tax returns, State tax returns, and Attorney General requirements.

Response: The OHMVR Division partially accepts this comment. The OHMVR Division has created Section 4970.05 (o). This regulation ensures that all Nonprofit entities abide by all federal Internal Revenue Services (IRS) requirements for 501(c)(3) Nonprofits.

Comment: 5.15: The commenter recommends the OHMVR Division amend 4970.06.1 (c) and not require Nonprofit organizations to provide CEQA documentation.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file.

FINAL STATEMENT OF REASONS

Comment: 5.16: The commenter supports proposed regulation 4970.08 (b) (13) (A).

Response: The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

Comment: 5.17: The comment recommends the OHMVR Division change the wording of “purchase” to “leasing or renting”.

Response: The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A - D) of the regulations.

Comment 5.18: The commenter requests the OHMVR Division clarify what “properly used” means in proposed regulation 4970.09 (b) (12).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division believes that “properly used” has a common meaning of “equipment that is used in a manner that does not deviate from how a reasonable person would use this equipment”.

Comment: 5.19: The commenter recommends the OHMVR Division amend 4970.25.1 (e) to include language that allow for timely refund to either party within 60 days.

Response: The OHMVR Division rejects this comment. The OHMVR Division strives to provide refunds due to the Grantee in an expeditious manner. However, because the OHMVR Division must rely on outside entities (e.g., the Accounting Office of State Parks, State of California Controllers Office), the OHMVR Division does not have full control of the payment request/refund process. The workload of the various entities within the payment request/refund process in most cases dictates timeliness of the process. The OHMVR Division does not have the authority to make regulations that will dictate the workload of an outside entity nor do we have the ability to set a timeline dictating the timeliness for processing a refund once it leaves the bounds of the OHMVR Division.

FINAL STATEMENT OF REASONS

Comment: 5.20: The commenter requests the OHMVR Division clarify the specific purpose of creating section 4970.25.3 “Financial Audits of the Grants and Cooperative Agreements Program”.

Response: The OHMVR Division accepts this comment and has removed the proposed Section 4970.25.3 as a result of comments received during the 45-day public comment period.

Comment: 5.21: The commenter requests the OHMVR Division revise what activities require a Soil Conservation Plan (SCP).

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.22: The commenter requests the OHMVR Division revise the General Criteria section to allow the Land Manager documentation be applicable for all Projects on those lands if the Land Manager is a Grantee as well.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.23: The commenter requests the OHMVR Division amend 4970.05 (I) to not require Nonprofit organizations to provide written permission from the Land Manager.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Furthermore, the recommendation conflicts with PRC 5090.50 which has a requirement that all Applicants provide written permission from the appropriate land manager to conduct a Project, including a description of how the Project fits with the land management goals of the area.

FINAL STATEMENT OF REASONS

Comment: 5.24: The commenter requests the OHMVR Division award Grant Applicant points for the number of “boots on the ground” the Grantee has working on the project.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.25: The commenter requests the OHMVR Division amend Section 4970.09 “Ineligible Project Cost” by reevaluating what cost activities is considered direct or Indirect cost.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.26: The commenter requests the OHMVR Division award Grant Applicant points to the agencies that are managing a “designated route system” and not to the agencies that own the “designated route system” land but do not manage it.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.27: The commenter requests the OHMVR Division create a regulation requiring agencies who charge fees to report how much revenue they earned from collecting those fees.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

FINAL STATEMENT OF REASONS

Comment: 5.28: The commenter gave a commentary on how Nonprofit organizations are totally dependent on OHV funding and are able to do the work at two-thirds the cost of other agencies. The commenter believes Nonprofit organizations should be given more Grant Applicant points, as the commenter believes this is the most efficient use of OHV Grant funds.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.29: The commenter supports the new evaluation question (#12) for Restoration Projects.

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 5.30: The commenter is requesting the OHMVR Division expand the definition of “Indirect Cost” to properly take care of the management of personnel.

Response: The OHMVR Division rejects this comment. The OHMVR Division believes that in order to adhere to the legislative intent of the Grants Program, grant funds should be used for direct “on-the-ground” project activities to the greatest extent possible. In the past, the OHMVR Division has seen a steady increase in grant request funding for activities it deems as excessive “managerial” and/or indirect project activities; this has caused less funding for actual direct work activities for the successful completion of a project. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible increase of the allowable 15 percent cap for Indirect Cost in future changes to the regulations.

Comment: 5.31: The commenter recommends the OHMVR create a definition of “IRS Annual Reports”.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

FINAL STATEMENT OF REASONS

Comment: 5.32: The commenter recommends the OHMVR Division create a definition for “Designated Trails System” to distinguish it from open designation system.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.33: The commenter recommends the OHMVR Division decrease the 25 percent match requirement.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Furthermore, the OHMVR Division does not have the authority to independently make a change to the match requirement. The requirement for a minimum of 25 percent match for each grantee is set by PRC section 5090.50 and can only be changed through the state legislative process.

Comment: 5.34: The commenter recommends the OHMVR Division add a requirement that Nonprofit organizations provide yearly Federal Income tax returns.

Response: The OHMVR Division accepts this comment. In response to the comment, the OHMVR Division proposed and adopts the creation of Section 4970.05 (o).

Comment: 5.35: The commenter recommends the OHMVR Division amend 4970.06.1 (c) by revising the list of Applicants who are required to provide documentation to the OHMVR Division to determine that CEQA compliance has been met or not for each Project.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.36: The commenter questions the OHMVR Division if a Notice of Exemption (NOE) is sufficient for a project that is solely for training children in riding OHV's.

FINAL STATEMENT OF REASONS

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file.

Comment: 5.37: The commenter believes it is the responsibility of the Land Manager and not the Nonprofit organization to provide the required documentation for 4970.06.1 (c) (1) (E).

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.38: The commenter recommends the OHMVR Division increase the amount that can be requested in advance payment request stipulated in Regulation 4970.23.1 (a).

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations

Comment: 5.39: The commenter recommends the OHMVR Division amend 4970.25.1 (e) to include language that allows for timely refunds to either party within 60 days.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.40: The commenter recommends the OHMVR Division create a regulation to establish an escrow account for Applicant monies that coincides with whatever the Audit department will do.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking

FINAL STATEMENT OF REASONS

file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 5.41: The commenter expressed a general comment on the difficulties Nonprofits have with land managers when responding to questions in the grant application that are considered by the land managers to be publicly sensitive.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

COMMENT LETTER 6

Center for Sierra Nevada Conservation, Karen Schambach (Received 7-22-15)

Comment: 6.1: The commenter recommends the OHMVR Division remove evaluation question #12 for Restoration Projects from the rulemaking file.

Response: The OHMVR Division rejects this comment. With the Restoration category being oversubscribed in the last completed Grant cycle, the OHMVR Division would like to emphasize the restoring of current OHV damage in an effort to avoid further damage to natural and cultural resources.

Comment: 6.2: The commenter recommends the OHMVR Division amend or remove proposed text to regulation 4970.06.1 (c) (1) as she believes the meaning is unclear.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation text in 4970.06.1 (c) (1). In reviewing the comments from the 45-day public comment period, the OHMVR Division found that it was less confusing to the public, while providing the desired clarity to the grantees, if the OHMVR Division drafted clearer language for the term "Project" listed in Section 4970.01 of these regulations.

Comment: 6.3: The commenter recommends the OHMVR Division amend or remove proposed text to regulation 4970.06.1 (d) (1) as she believes the meaning is unclear.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation text in 4970.06.1 (d) (1). In reviewing the comments

FINAL STATEMENT OF REASONS

from the 45-day public comment period, the OHMVR Division found that is was less confusing to the public, while providing the desired clarity to the grantees, if the OHMVR Division drafted clearer language for the term “Project” listed in Section 4970.01 of these regulations.

Comment: 6.4: The commenter does not support the proposed regulation section 4970.08 (b) (13) (A). The commenter believes this proposed change could negatively impact the trail maintenance and construction programs in the Center for Sierra Nevada Conservation service areas.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

Comment: 6.5: The commenter recommends amending regulation 4970.08 (b) (13) (E) because it conflict with proposed regulation 4970.08 (b) (13) (A).

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) and believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations and by going back to current language there is no longer a conflict between regulations in this section.

Comment: 6.6: The commenter recommends amending regulation 4970.08 (b) (13) (F) because it conflict with proposed regulation 4970.08 (b) (13) (A).

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) and believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations; this also eliminates the conflict created in the initial proposed text.

FINAL STATEMENT OF REASONS

COMMENT LETTER 7

Chuck Jones (Received) 7-28-15

Comment: 7.1: The commenter expresses concern with the proposed regulation 4970.08 (b) (13) (A). The commenter believes the proposed regulations may negatively impact the trail maintenance and construction of the Grant funded Projects.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

COMMENT LETTER 8

Desert Search and Rescue Volunteers, Allen Wessel (Received 8-3-15)

Comment: 8.1: The commenter does not agree with proposed regulation 4970.08 (b) (13) (A) and does not believe this regulation should either not apply towards Education and Safety or Nonprofit organization Grants, or OHMVR Division needs to amend the proposed regulation to allow purchases that make sense for the Project.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

Comment: 8.2: The commenter recommends amending regulation 4970.08 (b) (13) (B) as he believes that it conflicts with proposed regulation 4970.08. (b) (13) (A).

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) and believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the

FINAL STATEMENT OF REASONS

OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations and by going back to current language there is no longer a conflict between regulations in this section.

Comment: 8.3: The commenter supports changes to 4970.08 (b) (13) (E) however, the commenter also believes that this proposed text creates a direct conflict with proposed regulation 4970.08 (b) (13) (A).

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) and believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations; this also eliminates the conflict created in the initial proposed text.

COMMENT LETTER 9

Forest Service, Pacific Rim Southwest Regional Office, Garrett Villanueva
(Received 7-31-15)

Comment: 9.1: The commenter recommends the OHMVR Division remove evaluation question #12 for Restoration Projects from the rulemaking file.

Response: OHMVR Division rejects this comment. With the Restoration category being oversubscribed in the last completed Grant cycle, the OHMVR Division would like to emphasize the restoring of current OHV damage in an effort to avoid further damage to natural and cultural resources.

Comment: 9.2: The commenter does not support the proposed regulation section 4970.08 (b) (13) (A). The commenter believes this proposed change could have potential for unintended negative impact for the management of OHV trails.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

FINAL STATEMENT OF REASONS

COMMENT LETTER 10

Inyo County Sheriff, William Lutze (Received 8-3-15)

Comment: 10.1: The commenter does not support the proposed regulation section 4970.08 (b) (13) (A). The commenter believes this proposed change would have severe negative impact on the Inyo County's OHV enforcement.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

COMMENT LETTER 11

Lassen Motorcycle Club, Scott Maas (Received 7-14-15)

Comment: 11.1: The commenter does not support the proposed regulation section 4970.08 (b) (13) (A). The commenter believes this proposed change could negatively impact the trail maintenance and construction programs in the Lassen Motorcycle Club service areas.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

COMMENT LETTER 12

Stewards of the Sierra National Forest, Mike Wubbles (Received 8-3-15)

Comment: 12.1: The commenter supports the OHMVR Division's creation of the definition "Good Standing".

FINAL STATEMENT OF REASONS

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment 12.2: The commenter is requesting the OHMVR Division expand the definition of “Indirect Cost” to incorporate insurance for Equipment coverage be a direct cost.

Response: The OHMVR Division rejects this comment. The OHMVR Division defines “direct cost” as all activities relating to the primary activities for the completion of a Project. Typically, insurance is considered an ancillary to a Project. The OHMVR Division believes that in order to meet the legislative intent of the Grants Program to provide funding to as many Projects as possible, we must maintain the separation between activities that are primary to the completion to those that are ancillary in nature.

Comment 12.3: The commenter requests amending the definition of “Land Manager” because it may allow private businesses (for profit) to receive OHV Grant Funding.

Response: The OHMVR Division rejects this comment. Only agencies that are determined eligible under regulation 4970.03 “Determining Applicant Eligibility” can receive OHV Grant funding. Those eligible agencies are:

- (1) For a city or county: a department or comparable subdivision,
- (2) A District,
- (3) For the U.S. Forest Service: a Forest or Regional Office, except for law enforcement Projects for which the Applicant is defined as a Patrol District,
- (4) For the U.S. Bureau of Land Management: a Field, District, or State Office,
- (5) For other Federal Agencies: a Field, District, Regional or State Office, or similar subdivision,
- (6) A Federally Recognized Native American Tribe,
- (7) An Educational Institution,
- (8) A Nonprofit organization,
- (9) A State Agency or department, Commission, Conservancy, Board or other comparable subdivision within the government of the State of California.

Comment: 12.4: The commenter supports OHMVR Division amendment to regulation 4970.04 Table (2).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

FINAL STATEMENT OF REASONS

Comment: 12.5: The commenter supports OHMVR Division amendment to regulation 4970.04 (e) (4).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.6: The commenter requests the OHMVR Division clarify the intent of this amendment to regulation.

Response: The OHMVR Division is taking no action on this comment. The purpose of this amendment is to clearly state that matching funds must have a nexus to the proposed Project. This action will eliminate confusion for Applicants. In previous Grant cycles, Applicants have attempted to meet the matching funds requirement (4970.05 (f)) using activities and Deliverables that were assessed to be ineligible as they were unrelated or not directly related to the proposed Project as outlined in the original Grant Application. This amendment does not affect the amount of funding the Applicant is required to provide but ensures that eligible expenses are used for the Applicant's 25 percent match requirement.

Comment: 12.7: The commenter supports the OHMVR Division amendment to regulation 4970.05 (l).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment 12.8: The commenter requests the OHMVR Division amend regulation 4970.05 (l) (2) by changing the grant cycle date be specified as stated "within six months of the preliminary application deadline".

Response: The OHMVR Division rejects this comment. The proposed language is consistent with other the OHMVR Division regulations where a date requirement is derived from the start of the Grant Cycle.

Comment: 12.9: The commenter supports the OHMVR Division amendment to regulation 4970.05 (m).

FINAL STATEMENT OF REASONS

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.10: The commenter supports the OHMVR Division amendment to regulation 4970.06.01 (b).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.11: The commenter supports the OHMVR Division amendment to regulation 4970.06.01(c) (1).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.12: The commenter supports the OHMVR Division amendment to regulation 4970.06.01(d) (1).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.13: The commenter supports OHMVR Division amendments to regulations 4970.06.01(d) (1) (A – C).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.14: The commenter supports OHMVR Division amendment to regulation 4970.06.01(b) (5).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

FINAL STATEMENT OF REASONS

Comment: 12.15: The commenter supports OHMVR Division amendment to 4970.08 (b) (3) overall but recommends amending the timeframe from three days to two days.

Response: The OHMVR Division rejects this comment. The OHMVR Division strives to meet the legislative intent of awarding as many Grants as possible with the annual legislative grant appropriation. The OHMVR Division believes changing the time frame from three days to two days could potentially decrease the number of Grants awarded as more funds would be expended for the purposes of paying stipends. Weekend work should be structured to maximize the use of volunteers without the need to pay a stipend.

Comment: 12.16: The commenter supports the OHMVR Division amendment to regulation 4970.08(b) (4).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.17: The commenter finds the proposed regulation 4970.08(b) (10) confusing and requests the OHMVR Division clarify the intent of this amendment.

Response: The OHMVR Division is taking no action on this comment. The purpose of this amendment is to clarify when the grantee can begin to claim reimbursement for grant funds and/or match. For example, previously, there was confusion by the Grantees on when they can begin to claim cost as they began their project activities. This language is to clarify that performance of project activities, which includes any transportation activities, will begin at the project site.

Comment: 12.18: The commenter requests the OHMVR Division amend 4970.08 (a) and increase the Indirect Cost limitation of 15 percent.

Response: The OHMVR Division rejects this comment. The OHMVR Division strives to meet the legislative intent of awarding as many Grants as possible with the annual legislative grant appropriation. The OHMVR Division believes increasing the 15% Indirect Cost allowance will decrease the total amount of projects being funded.

Comment: 12.19: The commenter does not support the proposed regulation section 4970.08(b) (13) (A). The commenter believes this proposed change could adversely affect the ability for Grantees to complete an approved annual Project that is focused on a long term programmatic goal maintaining and repairing a motorized trail and road system beyond a single year.

FINAL STATEMENT OF REASONS

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08(b) (13) (A) (3) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08(b) (13) (A – D) of the regulations.

Comment: 12.20: The commenter requests the OHMVR Division clarify what subsection is being referred to under Section 4970.08(b) (13) (A) (3).

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation Section 4970.08(b) (13) (A). With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08. (b) (13) (A – D) of the regulations. By eliminating the proposed text, there will no longer be a conflict between regulations in this section.

Comment: 12.21: The commenter requests the OHMVR Division amend regulation 4970.08(b) (13) (E) by increasing the ceiling spending limits from \$30,000 to \$60,000.

Response: The OHMVR Division rejects this comment. The OHMVR Division has removed the proposed regulation 4970.08(b) (13) (A) and believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08(b) (13) (A – D) of the regulations.

Comment: 12.22: The commenter recommends amending regulation 4970.08(b) (13) (F) as he believes that it conflicts with proposed regulation 4970.08(b) (13) (A).

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08(b) (13) (A) and believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08(b) (13) (A – D) of the regulations and by going back to current language there is no longer a conflict between regulations in this section.

Comment: 12.23: The commenter supports the OHMVR Division amendment to regulation 4970.08(b) (10).

FINAL STATEMENT OF REASONS

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.24: The commenter requests the OHMVR Division clarify the term “replacement or repair of equipment not properly used, secured, or maintained” in regulation 4970.09(b) (12).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division believes the common definition of “...not properly used, secured, or maintained...” is where specific Equipment is used in a manner that deviates from how a reasonable person would use, secure, or maintain the equipment. If the OHMVR Division determines that a Grantee used Equipment in a manner that deviates from how a reasonable person would use, secure, or maintain the Equipment, the Grantee shall be solely responsible for the repair or replacement of the Equipment in question.

Comment: 12.25: The commenter requests the OHMVR Division amend 4970.09(b) (12) to include a process that gives the Grantee the ability to contest an OHMVR Division ruling that the cause of damage was the fault of the Grantee.

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division believes that Section 4970.26 of the program current regulations affords the Applicant/Grantee the ability to inquire about any issue relating to the Grants Program. The Applicant may address and/or contest any issue made by an OHMVR Division staff member by contacting the appropriate next level of the decision making process within the OHMVR Division. In the situation cited by the commenter, the Grantee will be able to contest a decision of the damage being the fault of the Grantee, by contacting the Grants Program manager, the OHMVR Division Chief and/or the OHMVR Division Deputy Director as appropriate.

Comment: 12.26: The commenter supports the OHMVR Division amendment to regulation 4970.10.4(d) (1) (i).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.27: The commenter requests the OHMVR Division clarify if regulation 4970.10.4 (e) (2) refers to all federal agencies or just BLM.

FINAL STATEMENT OF REASONS

Response: The OHMVR Division accepts this comment. The OHMVR Division amended 4970.10.4 (e) (2) to ensure this regulation applies to all federal agencies.

Comment: 12.28: The commenter supports the OHMVR Division amendment to regulation 4970.10.4 (e) (3).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.29: The commenter supports the OHMVR Division amendment to regulation 4970.17 (b).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.30: The commenter supports the OHMVR Division amendment to regulation 4970.23. However, the commenter expresses concern that the limitation of a 50 percent maximum advance amount adversely affects Nonprofit organizations.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 12.31: The commenter supports the OHMVR Division amendment to regulation 4970.24.1 (d).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.32: The commenter supports the OHMVR Division amendment to regulation 4970.25.1.

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

FINAL STATEMENT OF REASONS

Comment: 12.33: The commenter supports the OHMVR Division amendment to regulation 4970.25.1 (e).

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.34: The commenter rejects the OHMVR Division creation of Section 4970.25.3 as the commenter believes the proposed action is out of the OHMVR Division's scope.

Response: The OHMVR Division accepts this comment and has removed the proposed Section 4970.25.3 as a result of comments received during the 45-day public comment period.

Comment: 12.35: The commenter requests the OHMVR Division clarify the type of activities and how those activities may not require completion of Part 2 of the SCP.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 12.36: The commenter requests the OHMVR Division clarify what meets certification requirements in order to determine that a SCP Part 2 is not required.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 12.37: The commenter supports the OHMVR Division's addition of Payment Request forms.

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.38: The commenter supports the OHMVR Division reducing the General Provision forms from five to three.

FINAL STATEMENT OF REASONS

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

Comment: 12.39: The commenter supports the OHMVR Division's evaluation question #12 for Restoration Projects to the rulemaking file.

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

COMMENT LETTER 13

USFS - Tahoe, Joe Chavez (Received 7-14-15)

Comment: 13.1: The commenter does not support the proposed regulation section 4970.08. (b) (13) (A). The commenter strongly feels that the proposed regulation as written will have an unintended adverse impacts on the OHV programs across the state.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

COMMENT LETTER 14

The Pacific Southwest Regional Office, Ramiro Villalvazo (Received 8-6-15)

The OHMVR Division did not respond to Comment Letter 14 provided by The Pacific Southwest Regional Office. The letter was received after the 45-Day comment period ended. Comment Letter 14 is part of the rulemaking packet and can be found in Tab Four (45 Day Comment Period Comments).

FINAL STATEMENT OF REASONS

SUMMARY AND RESPONSE TO PUBLIC COMMENTS RECEIVED DURING THE PUBLIC HEARING AUGUST 4, 2015 SACRAMENTO, CALIFORNIA.

PUBLIC COMMENT HEARING 1:

USFS - Tahoe, Joe Chavez

Comment 1.1: The commenter does not support the proposed regulation section 4970.08(b) (13) (A). The commenter strongly feels that the proposed regulation as written will have an unintended adverse impacts on the OHV programs across the state.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08.(b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

PUBLIC COMMENT HEARING 2:

Blue Ribbon Coalition (BRC), Don Amador

Comment 2.1: The commenter does not support the proposed regulation Section 4970.08 (b) (13) (A). The commenter believes this proposed change could negatively impact the trail maintenance and construction programs in the BRC service areas.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

Comment 2.2: The commenter is requesting the OHMVR Division establish an emergency fund for catastrophic events that impacted destination OHV sites.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking

FINAL STATEMENT OF REASONS

file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

PUBLIC COMMENT HEARING 3:

Stewards of the Sierra National Forest, Mike Wubbles

Comment: 3.1: The commenter does not support the proposed regulation section 4970.08 (b) (13) (A). The commenter believes this proposed change could adversely affect the ability for Grantees to complete an approved annual Project that is focused on a long term programmatic goal maintaining and repairing a motorized trail and road system beyond a single year.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) (3) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

Comment: 3.2: The commenter supports OHMVR Division amendment to 4970.08 (b) (3) overall but recommends amending the timeframe from three days to two days.

Response: The OHMVR Division rejects this comment. The OHMVR Division strives to meet the legislative intent of awarding as many Grants as possible with the annual legislative grant appropriation. The OHMVR Division believes changing the time frame from three days to two days could potentially decrease the number of Grants awarded as more funds would be expended for the purposes of paying stipends. Weekend work should be structured to maximize the use of volunteers without the need to pay a stipend.

PUBLIC COMMENT HEARING 4:

Mark Cruz

Comment: 4.1: The commenter does not support the proposed regulation section 4970.08 (b) (13) (A). The commenter has concerns about equipment rental but does not believe it will have a major impact on his organization.

FINAL STATEMENT OF REASONS

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) (3) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

Comment: 4.2: The commenter requests the OHMVR Division to clarify regulation 4970.08 (b) (13) (E) because the commenter is confused if that limits the purchasing power of any agency that is not a Nonprofit.

Response: The OHMVR Division rejects this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) and believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

PUBLIC COMMENT HEARING 5:

Stewards of the Sierra National Forest, Steve Caudry

Comment: 5.1: The commenter does not support the proposed regulation section 4970.08 (b) (13) (A). The commenter believes this proposed change could adversely affect the ability for Grantees to complete an approved annual Project that is focused on a long term programmatic goal maintaining and repairing a motorized trail and road system beyond a single year.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) (3) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

PUBLIC COMMENT HEARING 6:

California Off-Road Vehicle Association, Amy Granat

FINAL STATEMENT OF REASONS

Comment: 6.1: The commenter is requesting the OHMVR Division clarify how OHV purchased equipment be used in an active management role within the Grantee's agency.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 6.2: The commenter requests amending the definition Language of "Land Manager" because it may allow private businesses (for profit) to receive OHV Grant Funding.

Response: The OHMVR Division rejects this comment. Only agencies that are determined eligible under regulation 4970.03. "Determining Applicant Eligibility" can receive OHV Grant funding. Those eligible agencies are:

- (1) For a city or county: a department or comparable subdivision,
- (2) A District,
- (3) For the U.S. Forest Service: A Forest or Regional Office, except for law enforcement Project for which the Applicant is defined as a Patrol District,
- (4) For the U.S. Bureau of Land Management: A Field, District, or State Office,
- (5) For other Federal Agencies: A Field, District, Regional or State Office, or similar subdivision,
- (6) A Federally Recognized Native American Tribe,
- (7) An Education Institution,
- (8) A Nonprofit organization,
- (9) A State Agency or department, Commission, Conservancy, Board or other comparable subdivision within the government of the State of California.

Comment: 6.3: The commenter supports the OHMVR Division's evaluation question #12 for Restoration Projects to the rulemaking file.

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division thanks the commenter for their support, thorough review, and their thoughtful comment.

SUMMARY AND RESPONSE TO PUBLIC COMMENTS RECEIVED DURING THE PUBLIC HEARING AUGUST 6, 2015 BAKERSFIELD, CALIFORNIA.

FINAL STATEMENT OF REASONS

PUBLIC COMMENT HEARING 1

Desert Search and Rescue Volunteers, Allen Wessel

Comment: 1.1: The commenter does not support the proposed regulation section 4970.08 (b) (13) (A). The commenter strongly feels that the proposed regulation as written will have an unintended adverse impacts on the OHV programs across the state.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

Comment: 1.2: The commenter supports changes to 4970.08 (b) (13) (E) however, the commenter also believes that this proposed text creates a direct conflict with proposed regulation 4970.08 (b) (13) (A).

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) and believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations; this also eliminates the conflict created in the initial proposed text.

PUBLIC COMMENT HEARING 1

Desert Search and Rescue Volunteers, Rick Buckress

Comment: 2.1: The commenter does not support the proposed regulation section 4970.08 (b) (13) (A). The commenter strongly feels that the proposed regulation as written will have an unintended adverse impacts on the OHV programs across the state.

Response: The OHMVR Division accepts this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in

FINAL STATEMENT OF REASONS

meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE FIRST 15 DAY NOTICE PERIOD OF AUGUST 15, 2015 THROUGH SEPTEMBER 2, 2015.

COMMENT LETTER 1

Desert Search and Rescue Volunteers, Allen Wessel (Received 8-24-15)

Comment: 1.1: The commenter requests the OHMVR Division amend 4970.08 (b) (13) (D) by increasing the Nonprofit organization individual item spending \$15,000 to \$30,000 that was originally proposed in regulation text.

Response: The OHMVR Division rejects this comment. The OHMVR Division has removed the proposed regulation 4970.08 (b) (13) (A) as a result of comments received during the 45-day public comment period and public feedback received during the public hearings held August 4 and 6, 2015. The OHMVR Division believes this proposed regulation requires further discussion, definition, and clarity to be more effective in meeting the desired purpose of the regulation. With the removal of this regulation, the OHMVR Division is maintaining the current language contained in Section 4970.08 (b) (13) (A – D) of the regulations.

COMMENT LETTER 2

California Trail User Coalition (CTUC), Ed Waldhiem (Received 8-25-15)

Comment: 2.1: The commenter recommends the OHMVR Division allow Nonprofit organizations to reference the General Application documents filed by agencies who manage the land the Nonprofit organization is using for project activities.

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. Although the OHMVR Division is taking no action with regard to this comment at this time, the suggestion will be further evaluated for possible inclusion in future changes to the regulations.

Comment: 2.2: The commenter requests the OHMVR Division clarify why Grantees need CEQA for equipment purchase.

FINAL STATEMENT OF REASONS

Response: The OHMVR Division is taking no action on this comment and considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. The Environmental Review Data Sheet provides an opportunity for Applicants to explain if proposed Deliverables are not considered a Project subject to CEQA review.

Comment: 2.3: The commenter recommends the OHMVR Division amend 4970.06.1 (b) (3) and not require Nonprofit organization to provide CEQA and NEPA documentation when purchasing equipment.

Response: All projects funded by the Grants Program must adhere to the environment requirements as set forth in the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; Title 14, CCR, Division 6, Chapter 3, Article 20) and the National Environmental Program Act (42 U.S.C. 4371 et seq., sec. 309 of the Clean Air Act). These environmental requirements must be met by all applicants regardless of applicant category (e.g., nonprofit, local, federal). The OHMVR Division has no authority to exempt any applicant from the two environmental requirements listed by the commenter.

COMMENT LETTER 3

California Trail User Coalition (CTUC), Ed Waldhiem (Received 8-25-15)

Comment: 3.1: The commenter made a general comment stating CTUC would suffer an Economic Impact if the OHMVR Division was no longer available or did not provide CTUC funding.

Response: The OHMVR Division is taking no action on this comment. The OHMVR Division considers it irrelevant to any specific proposed regulation or proposed revision in the rulemaking file. The OHMVR Division acknowledges the general comments made in regards to the economic benefits the CTUC receives from being awarded OHV Grant funds. The Grants Program is a voluntary program intended to augment an Applicant's existing budget, not support it. The OHMVR Grant funds are awarded through a competitive process with no guarantee of an Applicant being successful.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE SECOND 15 DAY NOTICE PERIOD OF NOVEMBER 19, 2015 THROUGH DECEMBER 3, 2015.

COMMENT LETTER 1

Center for Sierra Nevada Conservation, Karen Schambach (Received 11-26-15)

FINAL STATEMENT OF REASONS

Comment: 1.1: The commenter suggests the OHMVR Division amend definition 4970.01 (u) "Good Standing" to include language, "during entire term of the project agreement" in order to prevent the Grantee being bound to the Project past the term of the Project.

Response: The OHMVR Division rejects this comment. In order to protect public funds, the intent of this proposed regulation is to ensure that Grantees (as long as they have active Grants) be responsible for adhering to all regulations at all times with all their Grants. It has been a common occurrence with some Grantees (that have multiple active Grant Projects) that they will adhere to the regulations on one project while not adhering to the regulations on another. This regulation will provide the OHMVR Division the ability to hold the Grantee accountable to adhere to all regulations at all times with their Grants as long as they have active Projects.

ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No alternatives were proposed to the OHMVR Division that would lessen the adverse economic impact on small businesses.

ALTERNATIVES DETERMINATION

The Department has determined that no alternative: would be more effective in carrying out the purpose for which the regulation is proposed; or would be as effective and less burdensome to affected private persons than the proposed regulation; or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.