

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

**INITIAL STATEMENT OF REASONS**

**Subject Matter of Proposed Regulations:** Off-Highway Motor Vehicle Recreation (OHMVR) Grants and Cooperative Agreements Program (Program).

**Sections Affected:** Amend the California Code of Regulations, Title 14, Division 3, Chapter 15 (CCR) Sections 4970.01, 4970.03, 4970.05.1, 4970.06.1, 4970.06.2, 4970.06.3, 4970.07, 4970.08, 4970.08.1, 4970.08.2, 4970.10, 4970.10.1, 4970.10.2, 4970.10.3, 4970.10.4, 4970.11, 4970.13, 4970.20, 4970.24.1, and Grants and Cooperative Agreements Program – Appendix (Appendix) and adopt CCR Sections 4970.05.2, 4970.08.1, 4970.08.2

**BACKGROUND AND PROBLEM STATEMENT**

Public Resources Code Section 5090.01 et seq., also known as the Off-Highway Motor Vehicle Recreation Act of 2003, as amended, governs Off-Highway motor vehicle (OHV) Grants and Cooperative Agreements with cities, counties, Districts, U.S. Forest Service, U.S. Bureau of Land Management, other Federal Agencies, State and Federally Recognized Native American Tribes, Nonprofit organizations, Educational Institutions, Certified Community Conservation Corps, and State agencies.

The Program is administered by the OHMVR Division (Division) within the California Department of Parks and Recreation (Department). The Program allows the State to assist eligible agencies and organizations to develop, maintain, expand and manage high-quality OHV Recreation areas, roads, trails, and other Facilities, while responsibly maintaining the wildlife, soils, and habitat in a manner that will sustain long-term OHV Recreation. Assistance is provided in the form of Project-specific Grant funding.

Grants are awarded through a competitive process where Applicants and their proposed Projects are evaluated using objective criteria. Grantees awarded Grants and/or Cooperative Agreements submit reimbursement requests to the Division funding throughout the term of the Grantee's Project and, once complete, all Projects are reviewed for compliance with Program regulations. Grants are further subject to audit by the Department Audit Office and in some cases Grant funds are returned to the State when certain Projects are not in compliance with Program regulations.

The purpose of the proposed action is to make improvements to the existing Program through amendments to Program regulations and documents incorporated by reference. The proposed regulation revisions will address specific issues, as outlined below, based on the OHMVR Division's ongoing experience administering Grants and/or Cooperative Agreements thereby ensuring public funds are being spent judiciously and within the State's best interest. Additionally, the proposed regulation revisions will allow for a clearer understanding of the regulations by both Grantees and OHMVR Division staff,

as well as address outstanding programmatic issues related to the review and award of Grants and/or Cooperative Agreements.

## SPECIFIC PURPOSE, ANTICIPATED BENEFIT, AND NECESSITY

### CCR Section 4970.01:

#### Amend CCR Section 4970.01(a) and (e):

*Specific Purpose:* The specific purpose of this amendment is to make regulatory language consistent throughout the CCR by the consistent use of initials.

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion with inconsistent language in the CCR by initialing the first use of common words in the CCR.

#### Amend CCR Section 4970.01(k):

*Specific Purpose:* The specific purpose of this amendment is to clarify the meaning of statements within the regulatory language by amending “and” to “or”.

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting regulatory language by amending “or” into regulatory language. The Division intends for “District”, as defined in this subsection, to include any meaning as described in the definition and does not need to include all meanings describes in order to be a defined as a “District”.

#### Amend CCR Section 4970.01(u):

*Specific Purpose:* The specific purpose of this amendment is to uncapitalize “Certified Community Conservation Corps”.

*Benefit/Necessity:* The proposed amendment is necessary to be consistent with capitalization of words in the CCR that are defined. “Certified Community Conservation Corps” is not intended to be defined in the CCR as it has no special meaning as a local agency.

### CCR Section 4970.03

#### Amend CCR Section 4970.03(b) and Table 1:

*Specific Purpose:* The specific purpose of this amendment is to uncapitalize “Certified Community Conservation Corps”.

*Benefit/Necessity:* The proposed amendment is necessary to be consistent with capitalization of words in the CCR that are defined. “Certified Community Conservation Corps” is not intended to be defined in the CCR as it has no special meaning as a local agency.

### CCR Section 4970.05.1

Amend CCR Section 4970.05.1(a)

*Specific Purpose:* The specific purpose of this amendment is to make regulatory language consistent throughout the CCR by updating the Appendix revision date.

*Benefit/Necessity:* The proposed amendment is necessary to update the Appendix revision date based on amendments to the Appendix in this rulemaking file.

Amend CCR Section 4970.05.1(h)

*Specific Purpose:* The specific purpose of this amendment is to add reference to the Equipment Inventory form in the Appendix.

The specific purpose of this amendment is to clarify the meaning of reportable Equipment and specify that “trailers” are to be reported to the Division as equipment inventory.

*Benefit/Necessity:* The proposed amendment is necessary to clarify that Applicants must complete the Equipment Inventory form within the Appendix showing how each Applicant complied with the equipment inventory reporting requirements.

The proposed amendment is necessary for the Division to be able to inventory large pieces of equipment purchased with Grant funds. Due to a prior regulatory amendment, only motorized equipment valued over \$5,000 are required to be inventoried by Grantees. Prior to that amendment, all equipment valued over \$5,000, including trailers, were required to be inventoried by Grantees. The Division is reverting to the requirement to inventory trailers due to their high purchase price and longevity of use consistent with Division policy of reporting motorized equipment valued over \$5,000.

Amend CCR Section 4970.05.1(m)

*Specific Purpose:* The specific purpose of this amendment is to update the referenced CCR section numbering.

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting regulatory language by amending the referenced CCR section numbering to include all CCR sections that pertain to environmental application requirements. Existing reference to Section 4970.06 is incorrect as there is not such section in the CCR.

Amend CCR Section 4970.05.1(n)

*Specific Purpose:* The specific purpose of this amendment is to uncapitalize “Certified Community Conservation Corps”.

*Benefit/Necessity:* The proposed amendment is necessary to be consistent with capitalization of words in the CCR that are defined. “Certified Community Conservation Corps” is not intended to be defined in the CCR as it has no special meaning as a local agency.

CCR Section 4970.06.1

Amend CCR Section 4970.06.1(c) and (c)(1)

*Specific Purpose:* The specific purpose of this amendment is to uncapitalize “Certified Community Conservation Corps”.

*Benefit/Necessity:* The proposed amendment is necessary to be consistent with capitalization of words in the CCR that are defined. “Certified Community Conservation Corps” is not intended to be defined in the CCR as it has no special meaning as a local agency.

Amend CCR Section 4970.06.1(c)(1)(A)

*Specific Purpose:* The specific purpose of this amendment is to make regulatory language consistent throughout the CCR and specify forms within the text that are required, as part of the Appendix, by adding reference to the Appendix.

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting regulatory language and clarify certain forms and/or documents, referenced in the regulatory language, are part of the Appendix by including the Environmental Review Data Sheet form revision date and reference to Appendix.

Amend CCR Section 4970.06.1(c)(3)(B) and (C)

*Specific Purpose:* The specific purpose of this amendment is to make regulatory language consistent throughout the CCR by renumbering existing subsections.

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting the regulatory language due to inconsistent numbering structure by renumbering existing Section 4970.06.1(c)(3)(B) and 4970.06.1(c)(3)(C)(1) through (2).

CCR Section 4970.06.2

Amend CCR Section 4970.06.2(a)

*Specific Purpose:* The specific purpose of this amendment is to set clear due dates and requirements for submitting the Habitat Management Program (HMP) Part 1 and Part 2 forms and specify forms within the text that are required, as part of the Appendix, by adding reference to the Appendix.

*Benefit/Necessity:* The proposed amendment is necessary to allow the Applicant to identify when the HMP Part 1 and HMP Part 2 are due and to plan their Application accordingly. In addition, having the HMP Part 1 due at the time of the preliminary Application will allow the Applicant adequate time to prepare a HMP Part 2 if the grant reviewer decides that the Applicant does indeed need to prepare one.

Additionally, the proposed amendment is necessary to clarify certain forms and/or documents, referenced in the regulatory language, are part of the Appendix by including the HMP Part 1 and Part 2 form revision dates and references to Appendix.

### CCR Section 4970.06.3

#### Amend CCR Section 4970.06.3(c)

*Specific Purpose:* The specific purpose of this amendment is to set clear due dates for the Soil Conservation Plan form and Soil Conservation Plan and specify forms within the text that are required, as part of the Appendix, by adding reference to the Appendix.

*Benefit/Necessity:* The proposed amendment is necessary to allow the Applicant to identify when the Soil Conservation Plan form and Soil Conservation Plan are due and to plan their Application packages accordingly. In addition, having the Soil Conservation Plan form due at the time of the preliminary Application will allow the Applicant adequate time to prepare a Soil Conservation Plan if the grant reviewer decides that the applicant does indeed need to prepare one.

Additionally, the proposed amendment is necessary to clarify certain forms and/or documents, referenced in the regulatory language, are part of the Appendix by including the Soil Conservation Plan form revision dates and references to Appendix.

### CCR Section 4970.07

#### Amend CCR Section 4970.07(b)(4) through (6)

*Specific Purpose:* The specific purpose of this amendment is to clarify that the HMP Part 1 and Soil Conservation Plan form are due at the time of preliminary Application and specify forms within the text that are required, as part of the Appendix, by adding reference to the Appendix.

*Benefit/Necessity:* The proposed amendment is necessary to specify when the HMP Part 1 and Soil Conservation Plan form are due with the preliminary Application, consistent with requirements in Sections 4970.06.2 and 4970.06.3.

Additionally, the proposed amendment is necessary to clarify certain forms and/or documents, referenced in the regulatory language, are part of the Appendix by including the HMP Part 1 and Soil Conservation Plan form revision dates and references to Appendix.

### CCR Section 4970.08

#### Amend CCR Section 4970.08(b)(9)

*Specific Purpose:* The specific purpose of this amendment is to clarify the meaning of statements within the regulatory language by adding “per day”.

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting regulatory language by adding “per day” into regulatory language. The Division intends for reimbursement of specified transportation costs to be on a per day basis; the section language was not clear to the Division’s intent.

CCR Section 4970.08.1

Amend CCR Section 4970.08.1(a)

*Specific Purpose:* The specific purpose of this amendment is to clarify the maximum allowable Equipment purchase amount.

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting regulatory language by clarifying the Equipment purchase maximum amount is the total of the Grant fund and matching fund request. Existing regulatory language has not been clear that that the total maximum allowable purchase price for equipment is the sum of both the Grant funds and matching funds, while current practice imposes this limit and is commonly understood by Grantees.

Amend CCR Section 4970.08.1(b)(3)

*Specific Purpose:* The specific purpose of this amendment is to clarify the meaning of statements within the regulatory language by adding “per day”.

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting regulatory language by adding “per day” into regulatory language. The Division intends for reimbursement of specified transportation costs to be on a per day basis; the section language was not clear to the Division’s intent.

Amend CCR Section 4970.08.1(c)(4)

*Specific Purpose:* The specific purpose of this amendment is to clarify the meaning of statements within the regulatory language by adding “per day”.

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting regulatory language by adding “per day” into regulatory language. The Division intends for reimbursement of specified transportation costs to be on a per day basis; the section language was not clear to the Division’s intent.

Repeal CCR Section 4970.08.1(d)(3)

*Specific Purpose:* The specific purpose of this amendment is to remove cost allowances for Heavy Equipment tires and major repairs.

*Benefit/Necessity:* The proposed amendment is necessary to ensure the best use of OHV Trust Funds. The OHMVR Division appropriately funds tires and major repairs for Heavy Equipment acquired with funds from the Grants program, for use on Grant funded Projects, as its commitment to maintain Heavy Equipment purchased with OHV Trust Funds; however, Heavy Equipment acquired solely with funds outside the Grants program may or may not be solely used on Grant funded Projects. OHV Trust Funds

expended to maintain or repair equipment not necessarily used on Grant funded Projects would be inconsistent with existing regulations including CCR Section 4970.09.

Amend CCR Section 4970.08.1(d)(4)

*Specific Purpose:* The specific purpose of this amendment is to clarify the meaning of statements within the regulatory language by adding “to and” and renumber the subsection.

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting regulatory language by adding “to and” into regulatory language. The Division intends for reimbursement of specified transportation costs to be “to and from” the normal storage location; the section language was not clear to the Division’s intent.

The proposed amendment is necessary to renumber the subsection due to the repeal of CCR Section 4970.08.1(d)(3), thereby renumbering the existing subsection as CCR Section 4970.08(d)(3).

Amend CCR Section 4970.08.1(d)(4)

*Specific Purpose:* The specific purpose of this amendment is to clarify the meaning of statements within the regulatory language by adding “to and”.

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting regulatory language by adding “to and” into regulatory language. The Division intends for reimbursement of specified transportation costs to be “to and from” the normal storage location; the section language was not clear to the Division’s intent.

CCR Section 4970.08.2

Amend CCR Section 4970.08.2(a)(1)

*Specific Purpose:* The specific purpose of this amendment is to clarify the meaning of statements within the regulatory language by adding “or the Grantee’s actual cost”.

The specific purpose of this amendment is to clarify use fee reimbursement includes the use of Equipment and/or Heavy Equipment only for Project activities.

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting regulatory language by adding “or the Grantee’s actual cost” into regulatory language. The Division intended in the existing language for reimbursement of specified use fees to cover either the market rental rate or actual cost; the section language was not clear to the Division’s intent.

The proposed amendment is necessary to reduce confusion when interpreting regulatory language by clarifying the appropriate reimbursement of a use fee for Equipment and/or Heavy Equipment must be based on use of the equipment during Project activities. The use fee is intended to reimburse for expenses incurred on Project

activities that may include rental fees, agency motor pool use fees, and/or regular maintenance of equipment.

Amend CCR Section 4970.08.2(b)(2)

*Specific Purpose:* The specific purpose of this amendment is to clarify limits to reimbursement of Equipment and/or Heavy Equipment regular maintenance costs on equipment acquired with Grant program funds.

*Benefit/Necessity:* The proposed amendment is necessary to ensure regular maintenance on Equipment and/or Heavy Equipment is performed by a licensed repair facility, or by an equivalent means as approved by the OHMVR Division, to ensure Grant fund purchased equipment is properly maintained and OHV Trust Funds are protected.

Adopt CCR Section 4970.08.2(b)(3)

*Specific Purpose:* The specific purpose of this amendment is to relocate existing language from Section 4970.08.2(d)(2) to new Section 4970.08.2(b)(3) and make the language consistent with the similar requirement in Section 4970.08.1(e)(3); the subsection language meaning and intent has not changed.

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting regulatory language by combining all eligible costs requirements for Equipment and/or Heavy Equipment acquired with funds from the Grants program into the same subsection of regulation.

The proposed amendment is necessary to reduce confusion when interpreting regulatory language and make language consistent when referencing eligible costs for tires and major repairs of Heavy Equipment.

Repeal CCR Section 4970.08.2(d)(1)

*Specific Purpose:* The specific purpose of this amendment is to delete the purchase or repair Application requirement for Equipment and/or Heavy Equipment.

*Benefit/Necessity:* The proposed amendment is necessary to remove unnecessary language due to other sections of regulation specifying purchase or repair of equipment is required as part of the Application. For example, Section 4970.08.1 defines that a Project includes Deliverables, which include the purchase of equipment. Additionally, equipment repair requirements are addressed in Section 4970.08.2(b).

Repeal CCR Section 4970.08.2(d)(2)

*Specific Purpose:* The specific purpose of this amendment is to combine Equipment and Heavy Equipment requirements by deleting and moving this subsection to section 4970.08.2(b).

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting regulatory language by combining all eligible costs requirements for

Equipment and/or Heavy Equipment acquired with funds from the Grants program into the same subsection of regulation.

Amend CCR Section 4970.08.2(e)

*Specific Purpose:* The specific purpose of this amendment is to renumber the subsection.

*Benefit/Necessity:* The proposed amendment is necessary to renumber the subsection due to the repeal of CCR Section 4970.08.2(d), thereby renumbering the existing subsection as CCR Section 4970.08(d).

Amend CCR Section 4970.08.2(d)

*Specific Purpose:* The specific purpose of this amendment is to clarify the meaning of statements within the regulatory language by specifying criteria for purchasing or repairing equipment in this section is limited to equipment acquired with funds from the Program.

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting regulatory language by specifying purchasing or repairing equipment in this section. In its most recent regulatory amendment, the Division intended for this section to apply to only equipment acquired with funds from the Program and understands existing language was not clear with the Division's intention.

Amend CCR Section 4970.08.2(d)(2)

*Specific Purpose:* The specific purpose of this amendment is to require that a public agency Grant Application requests for Heavy Equipment repair is justified and cost effective. The amendment removes an allowance for Equipment repair and, instead, limits repair to Heavy Equipment only; this is consistent with Heavy Equipment repair allowances for nonprofit organizations.

*Benefit/Necessity:* The proposed amendment is necessary to ensure Grantees provide photographs of tires needing replacement and/or an analysis that the cost of Heavy Equipment major repairs do not exceed replacement costs.

This language is reverting to public agency Heavy Equipment repair requirements that were in prior versions of the regulation. The Division believes these allowances more effectively capture the type of Heavy Equipment repairs Applicants request on Grant Applications.

CCR Section 4970.10

Amend CCR Section 4970.10(c)

*Specific Purpose:* The specific purpose of this amendment is to clarify the meaning of statements within the regulatory language by adding "per Applicant".

*Benefit/Necessity:* The proposed amendment is necessary to reduce confusion when interpreting regulatory language by adding “per Applicant” into regulatory language. The Division intends for only one Applicant to apply for funding for each Project type in the Operation and Maintenance category; the section language was not clear to the Division’s intent. This is also consistent with other Project categories in the CCR.

#### CCR Section 4970.10.1

##### Amend CCR Section 4970.10.1(f)

*Specific Purpose:* The specific purpose of this amendment is to make regulatory language consistent throughout the CCR by updating the Ground Operations Project Criteria form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to update the Ground Operations Project Criteria form revision date based on amendments to the form in this rulemaking file.

#### CCR Section 4970.10.2

##### Amend CCR Section 4970.10.2(g)

*Specific Purpose:* The specific purpose of this amendment is to make regulatory language consistent throughout the CCR by updating the Development Project Criteria form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to update the Development Project Criteria form revision date based on amendments to the form in this rulemaking file.

#### CCR Section 4970.10.3

##### Amend CCR Section 4970.10.3(f)

*Specific Purpose:* The specific purpose of this amendment is to make regulatory language consistent throughout the CCR by updating the Planning Project Criteria form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to update the Planning Project Criteria form revision date based on amendments to the form in this rulemaking file.

#### CCR Section 4970.10.4

##### Amend CCR Section 4970.10.4(g)

*Specific Purpose:* The specific purpose of this amendment is to make regulatory language consistent throughout the CCR by updating the Acquisition Project Criteria form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to update the Acquisition Project Criteria form revision date based on amendments to the Appendix in this rulemaking file.

#### Amend CCR Section 4970.11

##### Amend CCR Section 4970.11(g)

*Specific Purpose:* The specific purpose of this amendment is to make regulatory language consistent throughout the CCR by updating the Restoration Project Criteria form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to update the Restoration Project Criteria form revision date based on amendments to the form in this rulemaking file.

#### CCR Section 4970.13

##### Amend CCR Section 4970.13(h)

*Specific Purpose:* The specific purpose of this amendment is to make regulatory language consistent throughout the CCR by updating the Education and Safety Project Criteria form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to update the Education and Safety Project Criteria form revision date based on amendments to the form in this rulemaking file.

#### CCR Section 4970.20

##### Amend CCR Section 4970.20(d)

*Specific Purpose:* The specific purpose of this amendment is to require “trailers” purchased with Grant funds display the Division insignia.

*Benefit/Necessity:* The proposed amendment is necessary align with amendments to the Section 4970.05.1 that classifies Equipment and trailers similarly for purposes of tracking Grantee equipment inventory.

##### Amend CCR Section 4970.20(e)

*Specific Purpose:* The specific purpose of this amendment is to incorporate by reference the new Equipment Disposition Request form requirements.

*Benefit/Necessity:* The proposed amendment is necessary to clarify that Grantees must now complete the Equipment Disposition Request form if they wish to dispose of any Equipment. Existing regulation is not clear how a Grantee would submit a disposition request to the Division; by requiring Grantees submit an Equipment Disposition Request form, the Division will be able to obtain a request that is clear and consistent detailing

the Equipment and any other necessary information that assists the Division's decision to approve a disposition request.

#### CCR Section 4970.24.1

##### Amend CCR Section 4970.24.1(a)(5)

*Specific Purpose:* The specific purpose of this amendment is to require "trailers" purchased with Grant funds display the Division insignia and make the section language consistent with all sections of the CCR.

*Benefit/Necessity:* The proposed amendment is necessary align with amendments to the Section 4970.05.1 that classifies Equipment and trailers similarly for purposes of tracking Grantee equipment inventory.

The proposed amendment is necessary to reduce confusion when interpreting the regulatory language by making consistent reference throughout the CCR to the display requirements of Division insignia on equipment.

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

##### Amend Appendix – Cover Page

*Specific Purpose:* The specific purpose of this amendment is to update the Appendix Cover Page revision date.

*Benefit/Necessity:* The proposed amendment is necessary to update the Appendix revision date due to amendments to forms within the Appendix that makes the Appendix a new version. The updated revision date is based on anticipated approval date of the rulemaking file.

##### Amend Appendix – Table of Contents

*Specific Purpose:* The specific purpose of this amendment is to add the adopted Equipment Disposition Request form within the Table of Contents and amend form versioning dates.

*Benefit/Necessity:* The proposed amendment is necessary due to the adoption of the Equipment Disposition Request form and revisions made to specific forms that update their form version date.

Additionally, with the adoption and insertion of a new the form into the Appendix, page number references in the Table of Contents are updated.

##### Amend Appendix – Equipment Inventory

*Specific Purpose:* The specific purpose of this amendment is to make the Equipment Inventory form consistent with amendments to Section 4970.05.1(h) and to update the form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to align with Section 4970.05.1(h) that specifies “trailers” are required to be reported as part of a Grantees Equipment inventory. All Equipment and trailers still in use are required to be reported as part of a Grantees Equipment inventory in accordance with prior regulation amendment to Section 4970.05.1(h).

Additionally, the form version date is updated, in the form footer, due to form amendments making the form an updated version. The updated revision date is based on anticipated approval date of the rulemaking file.

Amend Appendix – Environmental Review Data Sheet:

*Specific Purpose:* The specific purpose of this amendment is to amend the form title; add language in order to explicitly identify standard measures within the project description that have been incorporated to avoid potential impacts to biological resources, cultural resources, or other resource evaluated in the ERDS; add language to provide grantees on reports and databases to be referred to when researching potential project impacts to natural resources, as well as to describe what analysis was completed as a part of the evaluation to determine potential project impacts; add language in order to explicitly identify if designated critical habitat for Threatened and/or Endangered species exists within or surrounding the project site; add language in order to describe what analysis was completed as a part of the evaluation to determine potential cumulative impacts; add language in order to describe what analysis was completed as a part of the evaluation to determine the level of potential effects; add language in order to describe what analysis was completed as a part of the evaluation to determine the potential for damage to scenic resources; add language in order to describe what analysis was completed as a part of the evaluation to determine the potential impacts to historical or cultural resources; add language in order to describe what analysis was completed as a part of the evaluation to determine the potential indirect significant impacts; add language in order to explicitly describe if the approval of the proposed project would change the existing baseline conditions and/or impact OHV facility operations; update the form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to be consistent with Appendix naming convention.

The proposed amendment is necessary to help ensure potential impacts to biological resources, cultural resources, or other resource are avoided.

The proposed amendment is necessary to increase documentation of the analysis completed when identifying potential project impacts to natural resources. This will help grant reviewers ensure that all potential project impacts were adequately reviewed and addressed.

The proposed amendment is necessary to ensure that the Applicant and grant reviewer are aware if designated critical habitat for Threatened and/or Endangered species exists within or surrounding the project site. Furthermore, this information can be used to

determine the proper level of California Environmental Quality Act (CEQA) for the proposed project.

The proposed amendment is necessary to increase documentation of the analysis completed when identifying potential cumulative project impacts. This will help grant reviewers ensure that all potential cumulative project impacts were adequately reviewed and addressed.

The proposed amendment is necessary to increase documentation of the analysis completed when identifying the level of potential effects. This will help grant reviewers ensure that the level of potential effects were adequately reviewed and addressed. Furthermore, this information can be used to determine the proper level of CEQA for the proposed project.

The proposed amendment is necessary to increase documentation of the analysis completed when identifying potential impacts to scenic resource. This will help grant reviewers ensure that the potential impacts to scenic resources were adequately reviewed and addressed. Furthermore, this information can be used to determine the proper level of CEQA for the proposed project.

The proposed amendment is necessary to increase documentation of the analysis completed when identifying potential impacts to historical or cultural resource. This will help grant reviewers ensure that the potential impacts to historical or cultural resources were adequately reviewed and addressed. Furthermore, this information can be used to determine the proper level of CEQA for the proposed project.

The proposed amendment is necessary to increase documentation of the analysis completed when identifying potential for indirect significant impacts. This will help grant reviewers ensure that the potential for indirect significant impacts were adequately reviewed and addressed. Furthermore, this information can be used to determine the proper level of CEQA for the proposed project.

The proposed amendment is necessary to increase documentation discussion concerning how the approval of the project would change baseline conditions and/or impacts OHV facility operations. Furthermore, this information can be used to determine the proper level of CEQA for the proposed project.

Additionally, the form version date is updated, in the form footer, due to form amendments making the form an updated version. The updated revision date is based on anticipated approval date of the rulemaking file.

Amend Appendix – Habitat Management Program-Part 1:

*Specific Purpose:* The specific purpose of this amendment is to amend the form title; ensure all areas affected by Project activities are addressed by the HMP; add language in order to ensure the Applicant can certify that the project will not contain any risk factors to special-status species and/or sensitive habitats, including the indirect impacts

associated with OHV Recreation directly facilitated by these activities; increase documentation of the analysis completed when identifying potential project impacts to special-status species and/or sensitive habitats; update the form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to be consistent with Appendix naming convention.

The proposed amendment is necessary to clarify identify when a HMP Part 2 needs to be completed for the Applicant.

The proposed amendment is necessary to ensure the applicant justify and consider indirect impacts when they certify if a project will or will not have an impact to special-status species and/or sensitive habitats.

The proposed amendment is necessary to require additional supportive documentation that reinforces the analysis when determining potential impacts to special-status species and/or sensitive habitats.

Additionally, the form version date is updated, in the form footer, due to form amendments making the form an updated version. The updated revision date is based on anticipated approval date of the rulemaking file.

Amend Appendix – Habitat Management Program-Part 2:

*Specific Purpose:* The specific purpose of this amendment is to amend the form title and clearly identify that the Section II ought to address indirect impacts due to OHV recreation directly facilitated by the project activities; ensure all areas affected by Project activities are addressed by the HMP; update the form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to be consistent with Appendix naming convention.

The proposed amendment is necessary to ensure all impacts, including indirect impacts, from the project activities are appropriately analyzed within the HMP Part 2.

Additionally, the form version date is updated, in the form footer, due to form amendments making the form an updated version. The updated revision date is based on anticipated approval date of the rulemaking file.

Amend Appendix – Soil Conservation Plan:

*Specific Purpose:* The specific purpose of this amendment is to amend the form title; clearly identify when a Soil Conservation Plan needs to be completed; increase documentation of the analysis completed when identifying potential project impacts to cause erosion or sedimentation; update the form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to be consistent with Appendix naming convention.

The proposed amendment is necessary to clearly identify when a Soil Conservation Plan needs to be completed for the Applicant.

The proposed amendment is necessary to increase documentation of the analysis completed to determine potential impacts to cause erosion or sedimentation.

Additionally, the form version date is updated, in the form footer, due to form amendments making the form an updated version. The updated revision date is based on anticipated approval date of the rulemaking file.

Amend Appendix – Project Agreement General Provisions - (United States Federal Agencies)

*Specific Purpose:* The specific purpose of this amendment is to update the title of existing the “Project Agreement General Provisions - (United States Federal Agencies)” to “Project Agreement General Provisions - (Federal Agencies other than U.S. Forest Service)” and to update the revision date.

*Benefit/Necessity:* The proposed amendment is necessary due to the addition of the Project Agreement General Provisions - (U. S. Forest Service Only) into the Appendix. The existing Project Agreement General Provisions - (United States Federal Agencies) no longer applies to U.S. Forest Service Agreements.

Additionally, the version date is updated, in the footer, due to amendments making the document an updated version. The updated revision date is based on anticipated approval date of the rulemaking file.

Amend Appendix – Project Agreement General Provisions - (U. S. Forest Service Only)

*Specific Purpose:* The specific purpose of this amendment is to add the Project Agreement General Provisions - (U. S. Forest Service Only) document to the Appendix.

*Benefit/Necessity:* The proposed amendment is necessary to due to the Division removing the Project Agreement General Provisions - (U. S. Forest Service Only) document in a previous rulemaking action. At the time, the Division consolidated two versions of the Project Agreement general provisions (for both the U.S. Forest Service and all other Federal agencies) in to one version applicable to all Federal agencies. The Division subsequently learned however that the consolidated general provisions (“Project Agreement General Provisions – [United States Federal Agencies]”) section “F. Indemnification” clause conflicts with certain laws governing U.S. Forest Service agreements. It is necessary then to separate the previously consolidated general provisions back into two versions, one version for the U.S. Forest Service and one version for all other Federal agencies.

The proposed Project Agreement General Provisions - (U. S. Forest Service Only) is essentially the same document, and the shares the same requirements, as the current Project Agreement General Provisions - (United States Federal Agencies) with the

exception that the indemnification clause (“F. Indemnification”) section has been removed, other sections in the provisions are renumbered due to the removed clause, reference to “Federal Agency” is amended to “Forest Service” throughout the document, and section A.6. is added to define the term “Forest Service.” The added section A.6. is consistent with section A.6. in the previous Project Agreement General Provisions - (U. S. Forest Service Only) document that was removed in the previous rulemaking action and does not change the meaning or intent of the section.

#### Amend Appendix – Evaluation Criteria-Acquisition Projects

*Specific Purpose:* The specific purpose of this amendment is to provide an allowance for Applicants hold virtual meetings, require Applicants to notify the Division of a virtual meeting, and to update the form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to provide Applicants, due to recent restrictions on public in-person meetings, an additional option to hold virtual meetings when selecting a response to the Evaluation Criteria question. The Division must be made aware of the meetings to be able to verify whether the meeting was held when evaluating the Application and scoring the Criteria question.

Additionally, the form version date is updated, in the form footer, due to form amendments making the form an updated version. The updated revision date is based on anticipated approval date of the rulemaking file.

#### Amend Appendix – Evaluation Criteria-Development Projects

*Specific Purpose:* The specific purpose of this amendment is to clarify who may be considered partnerships as well as update the form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to provide Applicants additional guidelines how partners are considered partnerships for self-scoring the Criteria question related to utilizing partnerships. The Division does not intend for partnerships, for purposes of self-scoring on the Criteria, to include other Grantees who are receiving Grant funds for the same Project area. Rather, partnerships are typically unpaid groups assisting in accomplishing the Project.

Additionally, the form version date is updated, in the form footer, due to form amendments making the form an updated version. The updated revision date is based on anticipated approval date of the rulemaking file.

#### Amend Appendix – Evaluation Criteria-Education and Safety Projects

*Specific Purpose:* The specific purpose of this amendment is to clarify who may be considered partnerships as well as update the form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to provide Applicants additional guidelines how partners are considered partnerships for self-scoring the Criteria question related to utilizing partnerships. The Division does not intend for partnerships, for purposes of self-scoring on the Criteria, to include other Grantees who

are receiving Grant funds for the same Project area. Rather, partnerships are typically unpaid groups assisting in accomplishing the Project.

Additionally, the form version date is updated, in the form footer, due to form amendments making the form an updated version. The updated revision date is based on anticipated approval date of the rulemaking file.

Amend Appendix – Evaluation Criteria-Ground Operations Projects

*Specific Purpose:* The specific purpose of this amendment is to clarify who may be considered partnerships as well as update the form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to provide Applicants additional guidelines how partners are considered partnerships for self-scoring the Criteria question related to utilizing partnerships. The Division does not intend for partnerships, for purposes of self-scoring on the Criteria, to include other Grantees who are receiving Grant funds for the same Project area. Rather, partnerships are typically unpaid groups assisting in accomplishing the Project.

Additionally, the form version date is updated, in the form footer, due to form amendments making the form an updated version. The updated revision date is based on anticipated approval date of the rulemaking file.

Amend Appendix – Evaluation Criteria-Planning Projects

*Specific Purpose:* The specific purpose of this amendment is to clarify who may be considered partnerships as well as update the form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to provide Applicants additional guidelines how partners are considered partnerships for self-scoring the Criteria question related to utilizing partnerships. The Division does not intend for partnerships, for purposes of self-scoring on the Criteria, to include other Grantees who are receiving Grant funds for the same Project area. Rather, partnerships are typically unpaid groups assisting in accomplishing the Project.

Additionally, the form version date is updated, in the form footer, due to form amendments making the form an updated version. The updated revision date is based on anticipated approval date of the rulemaking file.

Amend Appendix – Evaluation Criteria-Restoration Projects

*Specific Purpose:* The specific purpose of this amendment is to clarify who may be considered partnerships as well as update the form revision date.

*Benefit/Necessity:* The proposed amendment is necessary to provide Applicants additional guidelines how partners are considered partnerships for self-scoring the Criteria question related to utilizing partnerships. The Division does not intend for partnerships, for purposes of self-scoring on the Criteria, to include other Grantees who

are receiving Grant funds for the same Project area. Rather, partnerships are typically unpaid groups assisting in accomplishing the Project.

Additionally, the form version date is updated, in the form footer, due to form amendments making the form an updated version. The updated revision date is based on anticipated approval date of the rulemaking file.

#### Amend Appendix – Equipment Disposition Request

*Specific Purpose:* The specific purpose of this amendment is to add the Equipment Disposition Request form to the Appendix.

*Benefit/Necessity:* The proposed form amendment is necessary due to the adoption of the Equipment Disposition Request form in Section 4970.20.

The form provides that Grantees must now complete the Equipment Disposition Request form if they request to dispose of any Equipment. Existing regulation is not clear as to how a Grantee would submit a disposition request to the Division; by requiring Grantees to submit an Equipment Disposition Request form, the Division will be able to obtain an Equipment disposition request that is clear and consistent as to the Equipment and any other necessary details that would assist the Division in deciding whether to approve a disposition request.

#### SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed amendments do not impose any mandates on agencies or organizations. Participation in the Program is voluntary and does not mandate the use of specific technologies or equipment.

#### UNDERLYING DATA / DOCUMENTS RELIED UPON

There were no underlying data or documents relied upon.

#### ECONOMIC IMPACT ASSESSMENT / ANALYSIS

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

The OHMVR Program is voluntary and intended to supplement an Applicant's existing budget, not support it. The OHMVR Division finds that jobs, at worst would not be affected, but mostly likely foresee increase in job creation throughout the State because Grantees would possibly need to hire individuals to complete their Grant funded Projects. Further, the OHMVR Division finds that at worst, no new business will be created, no business eliminated, and no expansion of businesses currently doing business with the state of California due to Grant funds being infused into the local

community. OHMVR Program history shown that local small businesses typically benefit from Grants funds being used in their area because Grantees typically utilize local businesses when purchasing goods and services with Grant funds.

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

### CONSIDERATION OF ALTERNATIVES

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

### BUSINESS IMPACT

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

The Program is voluntary and provides supplementary funding to the operating budgets of Program participants. The Department has found that since the inception of this Program, there has not been an adverse economic impact on businesses. On the contrary, the Department has found that an impact on businesses is generated when OHV recreationists spend money in local communities close to areas they recreate in for recreational trip items such as gasoline, food, lodging and souvenirs. As a result, the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting business, including the ability to compete.

### DUPLICATION / CONFLICT WITH FEDEREAAL REGULATIONS

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