

**OFF-HIGHWAY MOTOR VEHICLE RECREATION (OHMVR)  
DIVISION MANUAL FOR GRANTS AND COOPERATIVE  
AGREEMENTS PROGRAM**

**REGULATIONS**

**CCR, Title 14, Division 3, Chapter 15.5, Sections 4970.49 et seq.**

## ADOPT (2006)

### Chapter 15.5

#### OFF-HIGHWAY MOTOR VEHICLE RECREATION GRANTS AND COOPERATIVE AGREEMENTS PROGRAM REGULATIONS

##### ARTICLE 1 - GENERAL PROVISIONS

###### 4970.49 APPLICATION OF CHAPTER

Chapter 15.5 applies only to grant and cooperative agreement applications received by the Off-Highway Motor Vehicle Recreation Division on or after January 1, 2006.

###### 4970.50. DEFINITIONS

The words used in this chapter have the following meanings:

- (a) “Act” means the Off-Highway Motor Vehicle Recreation Act of 2003 as amended, commencing at Public Resources Code (PRC) Section 5090.01, or any subsequent amended versions.
- (b) “Administrative Costs” means costs of functions or activities directly performed in support of the scope of work or activities on the project. Examples of administrative costs include, but are not limited to, costs of such activities as personnel, time keeping, accounting, fiscal management, record keeping and/or purchasing.
- (c) “Allocation” means a determination of funds to be made available for, or an expenditure limit established for, an organizational unit or function, a project or work activity or deliverable.
- (d) “All-Terrain Vehicle (ATV)” means any vehicle as defined by California Vehicle Code (CVC) Section 111.
- (e) “Application” means a compilation of required documents in conformance with these regulations to support a request for funding from the Off-Highway Motor Vehicle Recreation (OHMVR) Division’s Grants and Cooperative Agreements Program for proposed project(s).
- (f) “Application Instructions” means directions for completing an application for an OHV grant or cooperative agreement found in Chapter 1 of the Off-Highway Motor Vehicle Recreation Division Manual for Grants and Cooperative Agreements dated March 2006.
- (g) “Appropriate District” means one that has clear legal responsibility for open space, recreation, parks, and resource related activities that are land based.
- (h) “Appropriation” means a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose and usually for a specific period of time.
- (i) “Audit” means a comprehensive review in accordance with Generally Accepted Auditing Standards of all expenditures or other fiscal and/or programmatic elements of expired project agreements funded pursuant to PRC Section 5090.50 for compliance with law, program objectives, and fiscal and/or programmatic soundness of contract, grant and/or cooperative agreement.
- (j) “Buffer” refers to lands or physical barriers acquired or established contiguous to, or in the vicinity of, existing or proposed OHV recreational activities to protect plant and wildlife habitat, soils, view sheds, or reduce noise and other effects on real estate development in the surrounding area for the purpose of sustaining OHV recreation.
- (k) “CEQA” means the California Environmental Quality Act, Public Resources Code (PRC) Section 21000 et seq.; Title 14, California Code of Regulations (CCR), Division 6, Chapter 3, Article 20.
- (l) “Casual” means non-competitive OHV recreation.

- (m) “Certified” means a document that has been reviewed, approved, and signed by both the grantee and the Division.
- (n) “Commission” means the Off-Highway Motor Vehicle Recreation (OHMVR) Commission.
- (o) “Conservation” means activities, practices, and programs developed and/or implemented in connection with ongoing OHV recreation that sustain and preserve soils, plants, wildlife and their habitat, and natural and cultural resources as referenced in or required by PRC Sections 5090.10, 5090.35, 5090.50, and 5090.53.
- (p) “Construction” means the act of building or assembling using different parts, materials, or elements in an ordered manner including, but not limited to, physical barriers, trails, roads, facilities, hardening of stream crossings, fencing, sediment control structures, and facilities landscaping.
- (q) “Cooperative Agreement” means an agreement between the Division and a federal agency, or a federally recognized Native American tribe for the purposes authorized and defined in PRC 5090.50 and these regulations.
- (r) “Cultural Resources” are associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage; are associated with the lives of persons important in our past; embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of an important creative individual, or possess high artistic values; or have yielded, or may be likely to yield, information important in prehistory or history. Cultural resources also include Historical Resources. Historical Resources include, but are not limited to, any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California. A resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (PRC Section 5024.1: CCR, Title 14 4852).
- (s) “Deliverables” means the specific proposed tasks, activities to be performed, or accomplishments to be funded as defined within each project application and any resulting approved project agreement.
- (t) “Deputy Director” means the manager of the California Department of Parks and Recreation, OHMVR Division.
- (u) “Development Project” means the construction of new, and/or improvement of existing, facilities, roads, trails, or areas to improve existing or provide additional opportunity, experiences, or services for OHV recreation.
- (v) “Director” means Director of the California Department of Parks and Recreation.
- (w) “Division” means the Division of OHMVR of the California Department of Parks and Recreation.
- (x) “Division Website” means the internet page of the Department of Parks and Recreation, OHMVR Division at ([www.ohv.parks.ca.gov](http://www.ohv.parks.ca.gov)).
- (y) “Due Diligence” means to conduct or cause to be conducted an investigation of all aspects of property proposed to be acquired and/or developed using OHV funds, including but not limited to: availability of utilities, waste disposal facilities, suitability of the property/project for intended use including applicable permits and other governmental approvals, presence or absence of any hazardous wastes on or under the property/project, presence of improvements on the property, environmental compliance, access easements, and all critical facts and assumptions used in developing the proposed project that would assist in evaluating the success of the project in providing OHV recreational opportunities and to avoid and/or minimize potential risks which could impair the future sustainability of OHV recreation.

- (z) "Educational Institution" means a public or private preschool, elementary, or secondary school, college or university, or institution; the governing board of a school district; or any combination of school districts or counties recognized as the administrative agency for public elementary or secondary schools in accordance with Section 210.1 of the Education Code.
- (aa) "Environmental Document" means a document prepared in accordance with National Environmental Policy Act (NEPA), or California Environmental Quality Act (CEQA).
- (bb) "Federal Agency" means a unit of the federal government.
- (cc) "Federally Recognized Native American Tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village pursuant to Title 25, Code of Federal Regulations (CFR) Section 83.5(a).
- (dd) "Fiscal Audit" means a review of the grantee's relevant financial records by the Department of Parks and Recreation Audit Office staff or other Department designee.
- (ee) "Fund" means the Off-Highway Vehicle Trust Fund as created by subdivision (c) of Section 38225, CVC.
- (ff) "Grant" means an agreement between the Division and a city, county, appropriate district, educational institution, or nonprofit organization for the purposes as authorized and defined in PRC Section 5090.50 and these regulations.
- (gg) "Grantee" means any city, county, appropriate district, nonprofit organization, educational institution, federal agency, or federally recognized Native American tribe receiving OHV grant or cooperative agreement funds.
- (hh) "Law Enforcement Personnel" include officers or employees of, or who are under contract with, the grantee that have the authority and duty under applicable law to enforce statutes or ordinances, issue citations, or arrest persons for violations. For purposes of this section, "ordinance" includes an order, rule, or regulation enforceable under the authority of the grantee.
- (ii) "Maintenance" means the routine, ongoing work required to ensure roads, trails, areas, related facilities used for OHV recreation and conservation features (e.g., water bars, culverts, sediment basins, etc.) for the protection of natural and cultural resources that are impacted by OHV recreation activities, continue to function as intended.
- (jj) "Monitoring" means the periodic data collection and review to determine if the OHV funded project is in compliance with the statutory requirements and program or project objectives.
- (kk) "NEPA" means the National Environmental Policy Act pursuant to United States Code (U.S.C.) Title 42, Section 4371; 40 Code of Federal Regulations (CFR) part 1500.1 et seq.
- (ll) "Nonprofit" means an organization having tax-exempt status pursuant to Section 501(c) (3) of the Internal Revenue Code.
- (mm) "Off-Highway Motorcycle" means any vehicle as defined in CVC 400 or 436, when such motor vehicle is operated on land to which CVC 38001 has application.
- (nn) "Off-Highway Vehicle Operation" means the activity of driving or riding motorized vehicles on public lands and/or private property approved for OHV recreation, which is open and accessible to the public, and has been identified for recreational motor vehicle use.
- (oo) "OHV" means an off-highway motor vehicle as specified in CVC Section 38006 and/or street licensed motor vehicle while being used off-highway.
- (pp) "OHV Opportunities" means trails, roads, areas and/or other facilities on areas of land that allow legal OHV recreation.
- (qq) "Operation" means the staff, supervision, and equipment assigned to facilitate the proper functioning of an OHV recreation road, trail, area or lands and any related visitor or user facilities or services, including the protection of persons, life and property.

- (rr) “Performance Review” means ongoing review of an open project to determine progress toward the accomplishment of deliverables including, but not limited to, desk reviews of project activity reports, questionnaires and other methods of inquiry, and/or site visits.
- (ss) “Project” means the work to be accomplished with funding through an OHV grant or cooperative agreement.
- (tt) “Project Agreement” means a contract executed to formally implement a project through an approved grant or cooperative agreement.
- (uu) “Regional OHV Facility” means a facility, primarily for casual OHV recreation, providing a wide variety of OHV opportunities for a wide range of OHV interests, that is 500 or more acres, and with a population of 500,000 or more within a 150-mile radius or three-hour travel time, and with the potential to become financially self-sustaining in accordance with criteria adopted by the Commission pursuant to PRC Section 5090.51(b).
- (vv) “Repair” means to fix, mend, make new, or revitalize to sound condition after being damaged.
- (ww) “Reroute” means the closure, (if not retained for other non-motorized recreation), and restoration of an existing segment of a trail or road and replacement with a new alignment.
- (xx) “Restoration” means the return of land, plant communities, and plant covers to conditions comparable to those of surrounding lands, or at least those that existed prior to OHV recreation.
- (yy) “Roads” include: fire trails, logging roads, service roads regardless of surface composition, or other roughly graded trails and roads upon which vehicular travel by the public is permitted (CVC 38001).
- (zz) “Scientific Research” means study and exploration into questions posed by theories and hypotheses, and defined by measurable steps or operations (e.g., sample design, methodology, statistical inferences).
- (aaa) “Snowmobile” means any vehicle as defined in CVC 557.
- (bbb) “Soil Conservation Program” means a plan containing a process or processes to anticipate and prevent accelerated and unnatural erosion, and restore lands damaged by erosion to the extent possible. The Soil Conservation Program complies with the “Soil Conservation Guidelines/Standards for Off-Highway Vehicle Recreation Management (11/14/91)” until that document is replaced by the 2006 soil conservation standards.
- (ccc) “Viable Species Composition” means that species found in the project area have populations with the estimated numbers and distribution of reproductive individuals to enable their continued existence.
- (ddd) “Website” means the internet page of the applicant.
- (eee) “Wildlife Habitat Protection Program (WHPP)” means an animal and plant Habitat Management Program (HMP) designed to sustain a viable species composition for the project area, pursuant to PRC Sections 5090.35, 5090.50, and 5090.53.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 4442, 4442.5, 5020.1(j), 5024.1, 5090.04, 5090.05, 5090.06, 5090.07, 5090.10, 5090.11, 5090.32, 5090.35, 5090.50, 5090.51(b), 5090.53, and 5090.64(b)(1) and (2), and 21000 et seq., PRC; CVC Sections 111, 400, 436, 557, 38001, 38006, 38012, and 38225(c); USC, Title 42, Section 4371; USC, Title 43 Sections 1601 et seq.; 40 CFR part 1500.1 et seq.; 25 CFR Section 83.5(a); Education Code Section 210.1; U.S. Internal Revenue Code, Section 501(c)(3).

#### **4970.51. PROGRAM PURPOSE**

The purpose of the OHMVR Grants and Cooperative Agreements Program is to provide financial assistance to agencies and organizations to develop, maintain, expand, and manage high-quality OHV recreation areas, roads, and trails, and to responsibly maintain the wildlife, soils, and habitat of areas in

a manner that will sustain long-term OHV recreation in accordance with the legislative provisions and intent of the Act commencing at Public Resources Code (PRC) Section 5090.01.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.01 thru 5090.70, PRC.

#### **4970.52. COMMISSION'S ANNUAL PROGRAM REVIEW MEETING**

Prior to the start of each funding cycle, the Commission shall conduct one public meeting to collect: 1) public input concerning the OHV grants and cooperative agreements program, 2) recommendations for program improvements, and 3) public input for specific project needs for grants and cooperative agreements program areas.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.24(f), PRC.

#### **4970.53. GENERAL APPLICATION REQUIREMENTS**

- (a) The Off-Highway Motor Vehicle Recreation Division Manual for Grants and Cooperative Agreements (March 2006), herein after referred to as the OHMVR Division Manual, and all its contents and subsequent revisions submitted through the rulemaking process is hereby incorporated by reference.
- (b) Awarding a grant or cooperative agreement does not guarantee ongoing or future OHV funding in any project category.
- (c) General application requirements are as follows:
  - (1) Applications for funding shall not be less than \$5,000 for each project.
  - (2) For projects requiring more than one year to complete or for projects not exceeding \$15,000 per year, funding may be requested for expenditure over a three (3) year period. The applicant making such a request shall include an explanation of the reasons for the extended timeline for completing the project and expending the funds.
  - (3) Equipment requests for purchase or repair of single or multiple pieces of equipment or tools totaling \$15,000 (excluding tax) or less may be included in any project application category. If an applicant is requesting equipment as part of the project application, include an equipment inventory. Requests exceeding \$15,000 (excluding tax) must be applied for as a stand-alone equipment project.
  - (4) Each piece of equipment or tool with a purchase price (excluding tax) in excess of \$500 purchased with OHV Trust Funds shall be identified as a line item within each application project type in the OHV grant or cooperative agreement application, as applicable.
  - (5) Requests for administrative costs as indicated in the OHMVR Division Manual, Chapter 1; Application Instructions, (herein after referred to as "Application Instructions"), may not exceed 10% of the total project amount requested in the application.
  - (6) All applicants shall undertake a public review process of their application(s). The process shall include the following minimum steps:
    - (A) Public notice. Not later than thirty (30) calendar days prior to the Application Filing Date, applicants shall provide notice to the public of the opportunity to submit comments on the draft application. The notice shall be published at a minimum either: i) in a local newspaper, or ii) the applicant's newsletter or iii) website and mailed to those persons the agency or organization determines most likely to have an interest in or be affected by the project.

(B) Public review. Draft applications shall be made available for public review and comment not later than the date of publication of the public notice. At a minimum, applicants shall make available to the public for the purpose of this review, the application face sheet, project description, project costs and deliverables and past project accomplishments required by the application instructions.

(d) The application submission process shall consist of the following:

- (1) The Application Filing Date is as set forth in Chapter 1 in the Grants and Cooperative Agreements Funding Cycle.
- (2) Applications that are not in the possession of the Division by the Application Filing Date set by the Division for the funding cycle, shall be returned to the applicant without consideration.
- (3) Questions concerning the application process and the interpretation of these regulations shall be submitted in writing to the Division website, Questions and Answers section. Responses to these questions will be made in writing via the Division website within five (5) calendar days of submission of the questions. The last date for submitting questions to the Division will be fifteen (15) calendar days prior to the Application Filing Date. The Division shall provide its response to all applicants on the Division website not later than ten (10) calendar days before the Application Filing Date in order for the interpretation to be applicable. Applicants shall not rely on answers to questions unless placed on the Division website, Questions and Answers section, by the Division.
- (4) The Division may, but has no obligation to, waive or correct inconsequential defects in the application. "Inconsequential", for the purpose of this subsection (d)(4), shall mean a situation where correction of an application or waiver of a defect will not give the applicant an unfair advantage over other applicants or applications.
- (5) The Division may request additional information of an applicant in order to clarify information submitted in the applications.

(e) The applications shall contain the following:

- (1) Applications, whether for single or multiple project types, shall include an application face sheet and application summary sheet fully completed with all required information in addition to meeting all of the requirements contained in the Application Instructions. Subject only to the discretion of the Division as specified in subsection (d)(4) of this Section, any applications determined by the Division to not be in conformance with these requirements shall be returned to the applicant without consideration.
- (2) Applications shall include documentation of the public review process.
  - (A) Public comments. All public comments received by an applicant up to ten (10) calendar days prior to the Application Filing Date, shall be included in the final application. An applicant shall also include a brief statement of how the public's comments were incorporated into the development of the application or explain the reasons why not.
  - (B) Late public comments. The applicant shall not be required to include public comments received less than ten (10) calendar days prior to the Application Filing Date. The applicant shall forward all comments received less than ten (10) calendar days prior to the Application Filing Date to the Division along with the application, if possible, but not later than ten (10) calendar days following the Application Filing Date.
- (3) All city, county, and appropriate district, educational institution, and nonprofit organization grant applications, and any federally recognized Native American tribe cooperative agreement applications shall include a completed Governing Body

Resolution certified by the clerk of the governing body. The Division shall provide an example of a form in the Application Instructions which may be used if the applicant does not have one.

- (4) All applicants other than Federal regional or State offices shall complete a Project Activity Report (PAR) in accordance with the Application Instructions.
- (5) All applications shall include a map or maps as described in the Application Instructions.
- (6) All applications shall meet the environmental requirements contained in Section 4970.65, including an Environmental Review Data Sheet to assist the Division in determining the appropriate use of Categorical Exemptions as provided in the Application Instructions, and which complies with Section 4970.65(b).
- (7) Applications shall meet the requirements of Sections 4970.66 (WHPP/HMP) and 4970.67 (Soil Conservation Program) and related requirements contained in the Application Instructions.
- (8) An analysis of project needs and benefits that addresses the evaluation requirements and criteria contained in the OHMVR Division Manual, Chapter 2; Application Evaluation System.
- (9) If applicable, applications shall include identification of the match to be applied to the project in accordance with Section 4970.68.
- (10) Other information required to be included as specified in Article 2 under the application content requirements for the specific project type.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections: 5090.32, 5090.35, 5090.50, 5090.51, and 5090.53, PRC; Government Code Section 11343.

## **ARTICLE 2 - TYPES OF PROJECTS AND SPECIFIC APPLICATION AND CONTENT REQUIREMENTS**

### **4970.54. ACQUISITION PROJECTS**

- (a) Acquisition projects secure interests in land to: expand and/or sustain OHV recreation access and opportunities; provide buffers; and/or eliminate trespass.
- (b) Cities, counties, appropriate districts, federal agencies, and federally recognized Native American tribes are eligible to apply for acquisition projects. Educational institutions and nonprofit organizations are not eligible to apply for acquisition projects.
- (c) Examples of acquisition projects include, but are not limited to the following:
  - (1) Purchase of right-of-way or easement.
  - (2) Lease of twenty-five (25) years or more.
  - (3) Purchase of land in fee title.
  - (4) Purchase of an option.
  - (5) Other interests in real property, such as permits or licenses.
- (d) See Chapter 3 of the OHMVR Division Manual for a list of eligible costs attributable to acquisition projects.
- (e) Applications for acquisition projects shall include all the information required under Section 4970.53 plus the following:
  - (1) A general project description that identifies the total acreage involved, average cost per acre, easements, the number of parcels, project costs, and activities to be performed (“deliverables”).



- (2) A description and the location(s) of existing OHV recreation in and around the acquisition property.
- (3) Due diligence to determine if the property is usable for its intended purpose.
- (4) Project specific map(s).
- (5) An acquisition plan, which shows the steps and timelines for acquiring the project and a discussion of the applicant's ability to accomplish the project.
- (6) Assessor parcel maps.
- (f) All acquisitions shall, if applicable, comply with Chapter 16 (commencing with Section 7260), Division 7, Title 1, Government Code, "Relocation Assistance."

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.32 and 5090.50, PRC; Title 1, Division 7, Chapter 16, Section 7260 et seq., Government Code.

#### **4970.55. CONSERVATION PROJECTS**

- (a) Conservation projects are implemented in connection with ongoing OHV recreation and protect natural and cultural resources and develop and/or implement soil conservation standards and wildlife habitat protection programs as required by the Act, including monitoring those practices, activities, or projects to provide data for management decisions.
- (b) Cities, counties, appropriate districts, federal agencies, federally recognized Native American tribes, educational institutions, and nonprofit organizations are eligible to apply for conservation projects.
- (c) Examples of conservation projects include, but are not limited to the following:
  - (1) Erosion and/or sediment control.
  - (2) Vegetation protection.
  - (3) Habitat, cultural, and/or species protection and mitigation.
  - (4) Rerouting of roads or trails to comply with soil standards and wildlife habitat protection programs.
  - (5) WHPP/HMP development and/or implementation (PRC Section 5090.35, Section 4970.66 of these regulations).
  - (6) Signing.
  - (7) Storm water protection plans, sediment control structures, and stream crossing improvements.
  - (8) Monitoring of the effectiveness of prior and ongoing conservation projects.
  - (9) Wildlife and soil erosion surveys necessary for preparation of WHPP/HMPs or Soil Conservation Programs.
- (d) See Chapter 3 of the OHMVR Division Manual for a list of eligible costs attributable to conservation projects.
- (e) Applications for conservation projects shall include all the information required under Section 4970.53 plus the following:
  - (1) A general project description, project costs, and activities to be performed ("deliverables").
  - (2) Project specific map(s).
  - (3) When applicable, nonprofit organization and educational institution applicants shall have a written agreement with the property manager, land management agency or landowner to perform the project.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32, 5090.35, 5090.50, and 5090.53, PRC.

#### **4970.56. DEVELOPMENT PROJECTS**

- (a) Development projects provide OHV recreation opportunity, experience, or related visitor services in the form of new, improved, or upgraded facilities, roads, trails, or areas.
- (b) Cities, counties, appropriate districts, federal agencies, and federally recognized Native American tribes are eligible to apply for development projects. Educational institutions and nonprofit organizations are not eligible to apply for development projects.
- (c) Examples of development projects include, but are not limited to the following:
  - (1) Trail construction.
  - (2) Trailhead/staging area construction.
  - (3) Restroom construction.
  - (4) Access road and parking lot construction.
  - (5) Picnic and camping facilities construction.
  - (6) Construction projects to reduce use conflicts.
  - (7) Competition and spectator facilities.
  - (8) Other related improvements such as visitor centers, kiosks with a unit cost of \$5,000 or more, facility fencing, greenhouses, utilities installation (i.e., water, electrical, sewer), and storage buildings.
- (d) See Chapter 3 of the OHMVR Division Manual for a list of eligible costs attributable to development projects.
- (e) Public casual use of facilities shall not be less than 60% of the total use in areas funded with OHV grant funds.
- (f) Applications for development projects shall include all the information required under Section 4970.53 plus the following:
  - (1) A general project description, project costs, and activities to be performed (“deliverables”).
  - (2) At a minimum, conceptual drawings and site plans for the project.
  - (3) Land tenure certification to the Division as indicated in the Application Instructions.
  - (4) Project specific map(s) and, if available, trails map(s). Trails map(s) should show existing roads, trails, or areas available for OHV recreation. Trails map(s) should also show trails proposed to be made available in the future as part of this project or other existing plans.
- (g) Grantees are required to meet all access requirements under State or Federal law as applicable, including, without limitation, the Americans with Disabilities Act of 1990 (Public Law 101-336, July 26, 1990, 104 Stat 327).

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32 and 5090.50, PRC; Public Law 101-336, July 26, 1990, 104 Stat. 327.

#### **4970.57. EQUIPMENT PROJECTS**

- (a) Equipment projects for purchase or repair of single or multiple items totaling \$15,000 or less may be included as part of another project application category. Requests exceeding \$15,000 (excluding tax) must be applied for as a stand-alone equipment project.
- (b) Projects for equipment repair shall be due to normal wear and tear.
- (c) Cities, counties, appropriate districts, federal agencies, federally recognized Native American tribes, educational institutions, and nonprofit organizations are eligible to apply for equipment purchases.
- (d) Examples of equipment purchase or repair include, but are not limited to the following:
  - (1) Motorcycles.

- (2) All-terrain vehicles.
  - (3) Four-wheel drive vehicles.
  - (4) Snowmobiles.
  - (5) Trail dozers.
  - (6) Mini excavators.
  - (7) Sound testing equipment.
  - (8) Engine replacement.
  - (9) Track replacement and associated costs.
  - (10) Major mechanical overhaul if it is determined that repairs are more cost effective than the purchase of a new piece of equipment.
- (e) See Chapter 3 of the OHMVR Division Manual for a list of eligible costs attributable to equipment projects.
  - (f) Applications for equipment shall include all the information required under Section 4970.53 plus the following:
    - (1) A general project description, project costs, and activities to be performed (“deliverables”).
    - (2) A brief description of how the equipment will be used and maintained and where it will be stored.
    - (3) When applicable, nonprofit organization and educational institution applicants shall have a written agreement with the property manager, land management agency, or landowner to use the equipment on the land or documentation stating that no such agreement will be required.
    - (4) An equipment inventory list identifying all equipment previously purchased (over \$5,000) using OHV Trust Funds, and any items to be replaced or repaired.
  - (g) Equipment purchased with OHV Trust Funds shall be used primarily (60% or more of the time) on OHV projects.
  - (h) The applicant shall have written approval from the Division prior to purchase of tools or equipment exceeding \$500, which are not identified in a certified project agreement.
  - (i) Any single equipment purchase having a total cost equal to or greater than \$50,000, with at least half of the purchased costs paid from OHV Trust Funds, shall be registered in the Division’s name, used in the grantee’s OHV program for the normal life of the equipment, and then returned at the discretion of the Division for disposal or sale. Notification to the Division that an equipment item is eligible for surplus is the responsibility of the grantee. The Division shall respond to the grantee within sixty (60) calendar days of receipt of the notice of eligibility for the surplus and shall provide guidance to the grantee for the sale or disposition of the equipment item.
    - (1) For one-time purchases, applicants shall consult with the Division to determine the most cost effective method of acquiring equipment for the proposed project or activity; whether rent, lease, or purchase.
    - (2) The Division retains the right to require the grantee to return purchased equipment to the Division at the end of the contract or project for reuse in the program.
  - (j) Grantees shall keep tools and equipment purchased with OHV Trust Funds maintained and in safe working order.
  - (k) All equipment purchased with OHV Trust Funds must display an approved version of the OHMVR Division “OHV Trust Funds at Work” insignia. Grantees may obtain insignias free of charge from the Division.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.  
Reference cited: Sections 5090.32 and 5090.50, PRC.

#### **4970.58. FACILITIES OPERATION AND MAINTENANCE (FO&M) PROJECTS**

- (a) Facilities operation and maintenance projects are for program management and/or routine work directed to maintain existing facilities, other than roads, trails, or areas, and provide visitor assistance, health and safety attributable or related to OHV recreation being provided by the applicant.
- (b) Cities, counties, appropriate districts, federal agencies, and federally recognized Native American tribes are eligible to apply for facilities operation and maintenance projects. Educational institutions and nonprofit organizations are not eligible to apply for facilities operation and maintenance projects.
- (c) Examples of facilities operation and maintenance activities include, but are not limited to the following:
  - (1) Facility servicing, including, but not limited to painting, cleaning restrooms, and maintaining kiosks.
  - (2) Volunteer support and coordination.
  - (3) Visitor services (excluding law enforcement).
  - (4) Snow plowing of parking areas and access roads to these areas.
  - (5) Trash collection.
  - (6) Purchase of first aid equipment and supplies.
  - (7) Map/brochure design and printing.
  - (8) Physical barriers and other means of traffic control.
  - (9) Purchase of tools and equipment, totaling up to \$15,000 (excluding tax).
  - (10) Sign boards, information kiosks with a unit cost of up to \$5,000 (excluding tax), and regulatory and directional signs.
  - (11) Water and /or sewage treatment system maintenance and testing.
  - (12) OHV site management.
  - (13) OHV program management.
  - (14) Repaving existing parking lots or access roads to these areas.
  - (15) Repairs to trailheads, staging areas, or structures.
  - (16) Re-roofing.
  - (17) Electrical repairs.
- (d) See Chapter 3 of the OHMVR Division Manual for a list of eligible costs attributable to facilities operation and maintenance projects.
- (e) Applications for facilities operation and maintenance projects shall include all the information required under Section 4970.53 plus the following:
  - (1) A general project description, project costs, and activities to be performed (“deliverables”).
  - (2) Project specific map(s) showing the location of the facilities along with related OHV recreation roads, trails, areas, or other lands being served by the facilities.

NOTE: Authority cited: Sections 5001.5, and 5003, PRC.

Reference cited: Sections 5090.32 and 5090.50, PRC.

#### **4970.59. LAW ENFORCEMENT PROJECTS**

- (a) Law enforcement projects provide funding assistance to local and federal agencies for protection of life and property, including natural and cultural resources; enforcement of laws, public safety, OHV related search and rescue, personnel support, placement of barriers and other means of traffic control, and training.

- (b) Cities, counties, appropriate districts, federal agencies, and federally recognized Native American tribes are eligible to apply for law enforcement projects. Educational institutions and nonprofit organizations are not eligible to apply for law enforcement projects.
- (c) Examples of law enforcement projects include, but are not limited to the following:
  - (1) Personnel for OHV related law enforcement patrol and search and rescue.
  - (2) Training and equipment for OHV related law enforcement and search and rescue.
  - (3) Contracts for OHV related law enforcement patrol, including air support.
  - (4) Fuel and maintenance for vehicles used with law enforcement associated with OHV recreation.
  - (5) Placement of physical barriers and other means to control illegal access.
  - (6) Purchase and installation of signs related to OHV law enforcement.
  - (7) OHV law enforcement outreach, including personnel, educational materials, and maps.
- (d) See Chapter 3 of the OHMVR Division Manual for a list of eligible costs attributable to law enforcement projects.
- (e) Applications for law enforcement projects shall include all the information required under Section 4970.53 plus the following:
  - (1) A general project description, project costs, and activities to be performed (“deliverables”).
  - (2) Project specific map(s), which include and specifically identify and mark:
    - (A) All roads, trails, and areas to be patrolled.
    - (B) Areas of special concern.
    - (C) Areas with recurring law enforcement issues.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32, 5090.50, and 5090.64(b)(2), PRC; CVC Section 38000.

#### **4970.60. OFF-HIGHWAY VEHICLE (OHV) SAFETY AND/OR EDUCATION PROGRAM PROJECTS**

- (a) OHV safety and/or education program projects:
  - (1) Provide OHV safety activities, and/or
  - (2) Teach safe and environmentally responsible operation of OHVs.
- (b) Cities, counties, appropriate districts, federal agencies, federally recognized Native American tribes, educational institutions, and nonprofit organizations are eligible to apply for safety and/or education program projects.
- (c) OHV safety and/or education program projects include, but are not limited to the following:
  - (1) Safety orientation and training.
  - (2) Site rental and insurance.
  - (3) Program and school outreach, including, but not limited to:
    - (A) Noise restrictions.
    - (B) Signs, maps, and brochures design and production.
    - (C) Responsible riding.
    - (D) Public service announcements.
    - (E) ATV safety.
  - (4) Curriculum development.
  - (5) OHV safety or educational handbooks, including but not limited to vehicle operations, towing, and environmental education.
  - (6) Internet site development and other electronic media supporting safety and/or educational program projects.
  - (7) First aid stations.

- (8) OHV safety-related equipment loan program, including but not limited to helmets and chest protective gear.
- (9) OHV search and rescue.
- (10) Spark arrester inspections.
- (d) See Chapter 3 of the OHMVR Division Manual for a list of eligible costs attributable to OHV safety and/or education program projects.
- (e) Applications for OHV safety and/or education program projects shall include all the information required under Section 4970.53 plus the following:
  - (1) A general project description, project costs, and activities to be performed (“deliverables”).
  - (2) A general description of material to be developed for the project including training locations.
  - (3) If site specific, project specific map(s).
  - (4) When applicable, nonprofit organization and educational institution applicants shall submit a written agreement with the property manager, land management agency, or landowner to perform the project, or provide documentation from the property manager, land management agency, or land owner stating that no such agreement will be required.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.  
Reference cited: Sections 5090.32 and 5090.50, PRC.

#### **4970.61. PLANNING PROJECTS**

- (a) Planning projects are intended to determine the feasibility of an area and/or project, and design solutions for affected areas, and/or projects prior to the commitment of acquisition, development, or other funds. Planning projects may also be used to fund the preparation of environmental documentation.
- (b) Cities, counties, appropriate districts, federal agencies, and federally recognized Native American tribes are eligible to apply for planning projects. Educational institutions and nonprofit organizations are not eligible to apply for planning projects.
- (c) Examples of planning projects include, but are not limited to activities associated with preparation of the following:
  - (1) A plan or plans designating authorized roads, trails, areas for OHV recreation use, including, but not limited to:
    - (A) Documenting existing and projected uses and OHV recreation demand.
    - (B) Documenting the existence of soils, water, plants, animals, and/or cultural or other natural resources affected by OHV recreation and requiring protective measures in accordance with the Act or other law.
    - (C) Inventories and mapping of roads, trails, and areas.
  - (2) A plan to address toxic or hazardous waste within an area and adjacent property that may impact the site.
  - (3) A plan to address the potential effects of OHV recreation on:
    - (A) Adjacent lands.
    - (B) Residents.
    - (C) Potential conflict with other recreation.
  - (4) A plan to address OHV recreation activity as it affects air and water quality, including a strategy for resolution.
  - (5) Environmental documents, including CEQA or NEPA, for potential OHV projects prepared in accordance with the requirements of Section 4970.65 of these regulations.

- (6) The preparation of a Recreation Management Plan, OHV Plan, or the OHV portion of a General Plan.
- (7) Due diligence of potential acquisitions to determine the need to buffer the effects of OHV activities, and/or to provide future opportunity.
- (d) See Chapter 3 of the OHMVR Division Manual for a list of eligible costs attributable to planning projects.
- (e) Applications for planning projects shall include all the information required under Section 4970.53 plus the following:
  - (1) A general project description, project costs, activities to be performed and a list of all reports, (interim and/or final) or other documents to be produced (“deliverables”).
  - (2) Project specific map(s) and, if applicable, a trails map(s).
  - (3) Anticipated timeline for implementation of the project(s) based on the completed plan (if applicable).

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5024.1, 5090.32, 5090.35, 5090.50, and 5090.53, PRC.

#### **4970.62. RESTORATION PROJECTS**

- (a) Restoration projects return land, plant communities, and plant covers to conditions comparable to those of surrounding lands or at least those that existed prior to OHV recreation, upon closure to OHV recreation:
  - (1) Upon a determination that best maintenance and conservation practices available to the applicant are not sufficient to meet established soil standards and/or wildlife habitat protection program requirements, or
  - (2) Upon determination that a repair project is necessary to mend damage to property caused by illegal OHV recreation on property where such use is prohibited by federal, state, or local law, or
  - (3) Upon lands that have been closed by the administrative agency to recreational motorized use.
- (b) Cities, counties, appropriate districts, federal agencies, and federally recognized Native American tribes are eligible to apply for restoration projects. Educational institutions and nonprofit organizations are not eligible to apply for restoration projects.
- (c) Examples of restoration projects include, but are not limited to the following:
  - (1) Restoring and stabilizing land contours.
  - (2) Planting and/or reintroducing native plants, shrubs, trees, or groundcovers.
  - (3) Constructing physical barriers and other means of traffic control devices to prevent use of the area by off-highway motor vehicles in order to achieve restoration.
  - (4) Eradicating evidence of illegal OHV recreation and returning the land to the condition that existed prior to the illegal OHV recreation, to the extent practical, including the planting of plants, shrubs, trees, or groundcovers.
- (d) See Chapter 3 of the OHMVR Division Manual for a list of eligible costs attributable to restoration projects.
- (e) Applications for restoration projects shall include all the information required under Section 4970.53 plus the following:
  - (1) A general project description, project costs, activities to be performed (“deliverables”).
  - (2) An explanation of any legal recreational OHV activity being displaced and what maintenance and conservation efforts were taken and why they were not successful.
  - (3) Project specific map(s) and representative photographs of restoration sites.

- (4) An explanation of the law enforcement efforts and follow up activities to be performed in support of the restoration sites/projects.
- (5) Descriptions of the success criteria and monitoring that will be used to determine project success.
- (6) An anticipated timeline for implementation of project(s).

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32, 5090.50, and 5090.64(a), PRC.

#### **4970.63. SCIENTIFIC RESEARCH PROJECTS**

- (a) Scientific research projects implement scientific research to evaluate, estimate, analyze, and address the possible impact on, or of, OHV recreation and develop responsive management recommendations.
- (b) Cities, counties, appropriate districts, federal agencies, federally recognized Native American tribes, educational institutions, and nonprofit organizations are all eligible to apply for scientific research projects.
- (c) Scientific research projects on OHV recreation may include, but are not limited to those that address the following objectives:
  - (1) Determine the best management practices, including maintenance and conservation practices, available or designed to provide for sustainable long-term OHV recreational use of roads, trails, areas, or lands.
  - (2) Determine current and future unmet needs for roads, trails, areas, and related facilities to meet the need for sustainable long-term OHV recreation use.
  - (3) Document potential effects of OHV recreation on natural and cultural resources.
  - (4) Document potential effects of OHV recreation on other recreation uses.
  - (5) Document potential effects of OHV recreation on adjacent lands.
  - (6) Document potential impact on relationships between OHV recreation and local residents.
  - (7) Identify and/or further technological advances to reduce noise, air, and water pollution from OHVs.
  - (8) Document lands subject to OHV recreation use through geologic survey and slope maps or topographic maps.
  - (9) Document toxic or hazardous waste within an area and adjacent property that may impact the site.
- (d) See Chapter 3 of the OHMVR Division Manual for a list of eligible costs attributable to scientific research projects.
- (e) Applications for scientific research projects shall include all the information required under Section 4970.53 plus the following:
  - (1) A general project description, project costs, and activities to be performed (“deliverables”).
  - (2) Project specific map(s) and, if applicable, trails map(s).
  - (3) Research project design listing a description of the goals, objectives, and methodologies.
  - (4) A timeline for completion of the scientific research project.
  - (5) Documentation of peer review of the research plan. The peer review shall be conducted by at least three qualified experts from the scientific discipline or related fields.
  - (6) The curriculum vitae of the primary researcher(s).



- (7) Nonprofit organization and educational institution applicants shall provide the approval of the property manager, land management agency, or landowner to perform the scientific research or documentation that no such agreement will be required.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5024.1, 5090.32, and 5090.50, PRC.

#### **4970.64. TRAIL MAINTENANCE PROJECTS**

- (a) These projects consist of two types: trail maintenance and trail reroute necessitated by safety and/or destruction by natural disaster.
- (b) Cities, counties, appropriate districts, federal agencies, and federally recognized Native American tribes are eligible to apply for trail maintenance projects. Educational institutions and nonprofit organizations are not eligible to apply for trail maintenance projects
- (c) Trail maintenance is routine work on roads, trails, or areas, including, but not limited to the following:
- (1) Brushing.
  - (2) Trail signing.
  - (3) Fallen tree removal.
  - (4) Tread work related to safety or ease of passage.
  - (5) Snow or trail grooming (e.g. rock rakes, tractor work).
- (d) Trail reroute work includes closing the existing trail or trail segment, including restoration activities and replacement of the closed trail segment with superior alignment.
- (e) See Chapter 3 of the OHMVR Division Manual for a list of eligible costs attributable to trail maintenance projects.
- (f) Applications for trail maintenance projects shall include all the information required under Section 4970.53 plus the following:
- (1) A general project description, project costs, and activities to be performed (“deliverables”).
  - (2) Project specific map(s) and trails map(s).
  - (3) A trail maintenance plan.

NOTE: Authority cited: Sections 5001.5, and 5003, PRC.

Reference cited: Sections 5090.32 and 5090.50, PRC.

### **ARTICLE 3 – ENVIRONMENTAL AND MATCH REQUIREMENTS**

#### **4970.65. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REQUIREMENTS**

- (a) The Division is required to comply with CEQA (PRC Section 21000 et seq.) in order to approve all grants and cooperative agreements under the OHMVR grants and cooperative agreements program.
- (b) FOR CITY, COUNTY, APPROPRIATE DISTRICT, EDUCATIONAL INSTITUTION, AND NONPROFIT ORGANIZATION APPLICANTS ONLY
- (1) All city, county, appropriate district, educational institution and nonprofit organization applicants shall provide the required documentation for the Division to determine that CEQA compliance has been met. All such applicants applying for a restoration grant or relying on a Categorical Exemption for CEQA compliance shall also provide responses to questions required by Section VI of the Application Instructions. CEQA compliance shall be determined by one of the following:

- (A) A Notice of Exemption (NOE) finding that the project is exempt from CEQA that has been filed for the project consistent with CEQA Guidelines Section 15062, or
  - (B) An Initial Study/Negative Declaration (IS/ND) or an Initial Study/Mitigated Negative Declaration (IS/MND) for activities that are not categorically exempt, but fit within the definition of activities that may be covered by a ND under CEQA, together with a copy of the Notice of Determination filed for the project (NOD), or
  - (C) An Environmental Impact Report (EIR) if the proposed activity poses a potentially significant impact as defined in an IS/ND checklist, or meets any of the tests for mandatory findings of significance under CEQA (PRC Section 21083; CEQA Guidelines Section 15065), together with a copy of the Notice of Determination (NOD) filed for the project, or
  - (D) Other documentation indicating that the requirements of CEQA have been satisfied in the discretion of the applicant or the reasons the applicant believes the project is categorically exempt or not subject to the CEQA requirements.
- (2) Notwithstanding subdivision (b)(1), where the applicant is not a lead agency and CEQA compliance has not otherwise been met, the applicant shall provide responses to questions required by Section VI of the Application Instructions and shall also provide adequate information to the Division to make a sufficient project review to determine the appropriate level of CEQA compliance and any additional environmental documentation required.
- (A) Within forty–five (45) calendar days of determining the application has complied with the Application Instructions, the Division will determine what additional documentation or information is required for the Division to complete the requirements for CEQA, with an assessment of the amount of further CEQA analysis and compliance that may be required. The Division cannot promise to complete the added CEQA work needed if the time and resources required exceed the time and resources available to complete the application selection process. If the Division determines that it cannot complete the necessary additional CEQA work, it reserves the right to inform the applicant in writing and return the application and supporting materials.
  - (B) If the Division determines that additional information is required for the grant application to comply with CEQA and that such work may be completed with existing resources and within the timeframe for the application process, it will request such additional documentation from the applicant be returned within ten (10) calendar days of the written request.
    - (1) Applicants who do not return the requested additional information within the ten-day time limit will have their applications returned without further processing.
    - (2) For those applications that are accepted for further CEQA compliance, the Division will use its best efforts to cause the CEQA compliance work to be completed in sufficient time for final Commission allocation of funds and approval of the activities to be funded (“deliverables”) for the project(s). However, the Division cannot guarantee the project will be certified as CEQA compliant. Also, the Division reserves the right to cease CEQA compliance work if it determines the project may not be funded in light of the project evaluation and scoring process and submission of the project to the Commission grant subcommittee for

preliminary review and funding allocations. Within forty-five (45) calendar days of receipt of the applications, the Division shall review the application for environmental compliance.

(c) Within forty-five (45) calendar days of receipt of the applications, the Division shall review the application for environmental compliance.

(1) Any application not addressing (b) above shall be returned to the applicant without further processing.

(2) If (b) above is addressed and the Division needs to clarify information provided, the Division shall submit in writing a request for such information from the applicant within the 45-day review period. The Division shall request that the applicant provide the additional information in writing to the Division within ten (10) calendar days of receipt of the request.

(3) Applicants that do not return the requested additional information within the ten (10) calendar day limit shall have their applications returned without further processing.

(d) FOR FEDERAL AGENCIES OR FEDERALLY RECOGNIZED NATIVE AMERICAN TRIBE APPLICANTS ONLY

(1) All federal agency and federally recognized Native American tribe applicants shall submit completed project-related NEPA compliance documentation with their applications together with the responses to questions required by Section VI of the Application Instructions, to allow the Division to make a sufficient project review to determine the appropriate level of CEQA compliance and any additional environmental documentation required.

(2) Within forty-five (45) calendar days of determining an application has complied with the Application Instructions, the Division will determine what additional documentation or information is required for the Division to complete the requirements for CEQA, with an assessment of the amount of further CEQA analysis and compliance that may be required. The Division cannot promise to complete the added CEQA work needed if the time and resources required exceed the time and resources available to complete the application selection process. If the Division determines that it cannot complete the necessary additional CEQA work, it reserves the right to inform the applicant in writing and return the application and supporting materials.

(A) If the Division determines that additional information is required for the cooperative agreement applications to comply with CEQA and that such work may be completed with existing resources and within the timeframe for the application process, it will request such additional documentation from the applicant be returned within ten (10) calendar days of the written request.

(B) Applicants who do not return the requested additional information within the ten-day time limit will have their applications returned without further processing.

(C) For those applications that are accepted for further CEQA compliance, the Division will use its best efforts to cause the CEQA compliance work to be completed in sufficient time for final Commission allocation of funds and approval of the activities to be funded (“deliverables”) for the project(s). However, the Division cannot guarantee the project will be certified as CEQA compliant. Also, the Division reserves the right to cease CEQA compliance work if it determines the project may not be funded in light of the project evaluation and scoring process and submission of the project to the Commission grant subcommittee for preliminary review and funding allocations.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32 and 5090.50(g), 15000 et seq, and 21000 et seq, PRC; USC Title 42, Section 4371; 40 CFR part 1500.1 et seq.

**4970.66. WILDLIFE HABITAT PROTECTION PROGRAM (WHPP) / HABITAT MANAGEMENT PROGRAM (HMP)**

- (a) A Wildlife Habitat Protection Program (WHPP) is an animal and plant Habitat Management Program (HMP) designed to sustain a viable species composition for the project area, pursuant to PRC Sections 5090.35 (b) and 5090.50.
- (b) All federal agency and federally recognized Native American tribe applications for funding, with the exception of law enforcement shall submit a WHPP/HMP designed to sustain a viable species composition for the project area.
- (c) All city, county, and appropriate district applicants for acquisition and development projects shall develop and submit with their application, pursuant to PRC Section 5090.53, a WHPP/HMP designed to sustain a viable species composition for the project area.
- (d) A WHPP/HMP shall follow the Application Instructions, and include the following components as applicable:
  - (1) Species or habitats of concern related to OHV recreation.
  - (2) Risk factors associated with OHV recreation.
  - (3) Management objectives and actions, including success criteria.
  - (4) Monitoring.
  - (5) Management review and response.
- (f) Within forty-five (45) calendar days of the grant Application Filing Date, the Division shall review all applications to ensure that all required components of the WHPP/HMP are addressed.
  - (1) Any application required to include a WHPP/HMP per (b) or (c) above and not addressing all required WHPP/HMP components as described in Section VII of the Application Instructions, shall be returned to the applicant without further processing.
  - (2) If all required WHPP/HMP components are addressed but the Division needs to clarify information provided and has determined that such clarification may be completed within the timeframe for the application process, it shall request such additional documentation from the applicant be returned within ten (10) calendar days of the written request.
  - (3) Applicants who do not return the requested additional information within the ten-day time limit shall have their applications returned without further processing.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.32, 5090.35, 5090.50, and 5090.53, PRC.

**4970.67. SOIL CONSERVATION PROGRAM**

- (a) All federal agency and federally recognized Native American tribe applications for funding, with the exception of sole applications for law enforcement pursuant to PRC Section 5090.50(i), shall submit evidence showing that a soil conservation program for the project area has been met.
- (b) All city, county, and appropriate district applications for acquisition and development projects shall submit evidence showing that a soil conservation program, pursuant to PRC Section 5090.53(b), for the project area has been met.
- (c) The soil conservation program shall comply with PRC 5090.35, 5090.50, and 5090.53, the Application Instructions and the Soil Conservation Guidelines/Standards for Off-Highway

Vehicle Recreation Management (11/14/91) until replaced by the 2006 soil conservation standards.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.32, 5090.35, 5090.50, and 5090.53, PRC.

#### **4970.68. MATCH REQUIREMENTS**

- (a) Except as provided in 4970.68 (c), cities, counties, and appropriate districts, nonprofit organizations, and educational institutions shall provide matching funds or the equivalent value of services, material, or property used, in an amount of not less than 25 percent of the total expense of the off-highway motor vehicle facility to be funded by the grant.
- (b) All federal agencies and federally recognized Native American tribes are exempt from the matching funds requirement in accordance with PRC Section 5090.51(a).
- (c) There shall be no matching fund requirement for grant applications that request funding for planning, acquisition, development, or construction of a regional OHV facility as defined in Section 4970.50(uu).
- (d) Cities, counties, and appropriate districts must provide a match as follows:
  - (1) For acquisition projects, in non-regional facilities only.
  - (2) For conservation projects, in all facilities with the exception of construction activities in regional facilities.
  - (3) For development projects, in non-regional facilities only.
  - (4) For equipment projects, in all facilities.
  - (5) For facilities operation and maintenance projects, in all facilities with the exception of construction activities in regional facilities.
  - (6) For law enforcement projects, in all facilities.
  - (7) For OHV safety and/or education program projects, in all facilities.
  - (8) For planning projects, in non-regional facilities only.
  - (9) For restoration projects, in all facilities with the exception of construction activities in regional facilities.
  - (10) For scientific research projects, in all facilities.
  - (11) For trail maintenance projects in all facilities with the exception of construction activities in regional facilities.
- (e) Nonprofit organizations and educational institutions must provide a match as follows:
  - (1) For conservation projects, in all facilities with the exception of construction activities in regional facilities.
  - (2) For equipment projects, in all facilities.
  - (3) For OHV safety and/or education program projects, in all facilities.
  - (4) For scientific research projects, in all facilities.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.51, PRC.

## **ARTICLE 4 - APPLICATION EVALUATION AND ALLOCATION OF OHV FUNDS**

### **4970.69. APPLICATION EVALUATION SYSTEM**

- (a) OHMVR grants and cooperative agreements shall be evaluated, funded, and awarded on a competitive basis as provided for in these regulations. An evaluation system will be used to evaluate each type of project within an application.
- (b) The application evaluation system to be used by the Division for each single or multiple project application will consist of evaluation criteria, scoring, ranking and funding determinations as indicated in the OHMVR Division Manual, Chapter 2.
- (c) Division staff shall ensure that all grant and cooperative agreement applications forwarded to the Commission shall comply with the Application Instructions and the following sections:
  - (1) Acquisition projects, Section 4970.54.
  - (2) Conservation projects, Section 4970.55.
  - (3) Development projects, Section 4970.56.
  - (4) Equipment projects, Section 4970.57.
  - (5) Facilities operation and maintenance (FO&M) projects, Section 4970.58.
  - (6) Law enforcement projects, Section 4970.59.
  - (7) OHV safety and/or education program projects, Section 4970.60.
  - (8) Planning projects, Section 4970.61.
  - (9) Restoration projects, Section 4970.62.
  - (10) Scientific research projects, Section 4970.63.
  - (11) Trail maintenance projects, Section 4970.64.
- (d) Grants and cooperative agreement applications that are complete as submitted will be evaluated and funding determinations made according to the provisions of the OHMVR Division Manual Chapter 2, Application Evaluation System. Applications determined to be incomplete shall be returned to the applicant without being evaluated and will not be forwarded to the Commission for consideration.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.24 and 5090.32, PRC.

### **4970.70. COMMISSION ALLOCATION OF FUNDS AND APPROVAL OF GRANTS AND COOPERATIVE AGREEMENTS PROGRAM APPLICATIONS**

- (a) Applications shall be considered once annually as long as OHV Trust Funds are available.
- (b) Applications that have undergone the application evaluation system shall be considered complete.
- (c) In accordance with the provisions of the OHMVR Division Manual, Chapter 2, the Commission Chair may designate a Grants and Cooperative Agreements Program Subcommittee (“Subcommittee”) to hold public meetings for preliminary consideration of the grant or cooperative agreement applications that have been evaluated, scored, ranked, and have received funding determinations by the Division.
- (d) The Commission shall allocate grants and cooperative agreement program funds and approve the activities to be performed (“deliverables”) of the grants or cooperative agreement applications and/or project(s) in accordance with these regulations and after hearing public and applicant testimony, Division input, and considering any other written comments or information submitted to the Commission for consideration during its deliberations. The Commission may accept the recommendations of the Subcommittee, if any, or make further revisions it deems appropriate in light of these regulations, the information in the applications, and any other public input or testimony relating to scoring criteria received during the

Commission's public meetings. The Division shall prepare and execute project agreements to implement the approved funding allocations and project deliverables.

- (e) The Division shall send to the Resources Agency and to the applicants a copy of the Commission's funding allocations. Other organizations and interested parties may receive a copy of the Commission's funding allocations upon written request to the Division or view the allocations on the Division website.

Note: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32 and 5090.61, PRC.

## **ARTICLE 5 -AUDITS AND PERFORMANCE REVIEWS**

### **4970.71. AUDITS**

- (a) The grantee shall maintain financial accounts, documents, and records in accordance with generally accepted accounting methods for all projects and shall make them available to the Department's auditor.
- (b) The Department shall have the right to inspect and/or make copies of any books, records, or reports of the grantee pertaining to all projects.
- (c) The grantee shall retain all financial accounts, documents, and records for three (3) years from the expiration date of the project agreement, or three (3) years from the start of an audit engagement, whichever comes first, and until an audit started during the three (3) years has been completed and a report is published.
- (d) Upon completion of the Department audit, the grant recipient shall be provided a copy of the final audit report that shall contain the results of the audit.
- (e) If the audit results identify exceptions resulting in refunds due to the State, the grantee shall have sixty (60) calendar days to refund the overpayment to the State.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.32, PRC.

### **4970.72. PERFORMANCE REVIEWS**

- (a) The Division may conduct performance reviews of the grantee's project(s) taking into consideration past and current performance. These performance reviews may include, but are not limited to, review of an open project to determine progress toward the accomplishment of deliverables. Such review may include, but is not limited to, desk reviews of project activity reports, questionnaires and other standards of inquiry, and/or site visits.
- (b) When the Division staff conduct a site visit, they shall develop a report containing any comments and recommendations with regard to the performance of the grantee's project. A copy of the report shall be provided to the grantee.
- (c) All comments and recommendations provided by Division staff while on a site visit and received by the applicant sixty (60) calendar days prior to an Application Filing Date shall be addressed by the grantee in the project application.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.32, PRC.