

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

## ADDENDUM TO INITIAL STATEMENT OF REASONS

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

**Sections Affected:** Amend the California Code of Regulations, Title 14, Division 3, Chapter 15, Article 1 (CCR), Section 4970.06.3 and the 2020 Soil Conservation Standard and Guidelines (incorporated by reference) pertaining to the Off-Highway Motor Vehicle Recreation Division (OHMVR Division) Grants and Cooperative Agreements Program (Program).

This Addendum to the Initial Statement of Reasons is intended to supplement the information and necessity rationale for the originally proposed regulations that were omitted, incorrectly addressed, or needed additional explanation in the Initial Statement of Reasons.

### BACKGROUND AND PROBLEM STATEMENT

Public Resources Code (PRC) Section 5090.01 et seq., also known as the Off-Highway Motor Vehicle Recreation Act of 2003, governs the OHMVR Division's Grants and Cooperative Agreements and ensures appropriate resource management and maintenance in areas of off-highway vehicle use.

The Program is administered by the OHMVR Division within the Department. The Program allows the State to assist eligible agencies and organizations to develop, maintain, expand, and manage high-quality Off-Highway Vehicle (OHV) Recreation areas, roads, trails, and other Facilities, while responsibly maintaining the wildlife, soils, and habitat in a manner that will sustain long-term OHV Recreation. The 2008 Soil Conservation Standard and Guidelines established the Soil Standard per PRC 5090.35 (b)(1) and provided general guidance that can be used by grantees to help demonstrate compliance with the Standard.

The guidelines apply to OHV-related trail and road maintenance projects, OHV-related development projects on federal and local government lands that receive funding from the OHV Program, and California's State Vehicular Recreation Areas.

Senate Bill 249 (Allen, 2017) was passed by the California Legislature and signed into law by the Governor in 2017. Included in this bill were several changes to the PRC that govern the OHMVR Division. Specifically, Section 5090.35(b)(1) directs the Division to, "...review and if deemed necessary, update the 2008 Soil Conservation Standard and Guidelines to establish a generic and measurable soil conservation standard..." by December 31, 2020.

Per PRC Section 5090.35(b)(1), the OHMVR Division began its review of the 2008 Guidelines by consulting with various state and federal agencies to develop specific updates. It was found that the 2008 Guidelines could benefit from a structural reorganization, update to the document language, and a more thoroughly developed guidelines section to make the document more useful to land managers without creating additional requirements.

Updates were drafted and made available for stakeholder and public review and, after incorporating these comments, the draft 2020 Guidelines were finalized.

The 2020 Guidelines is a document that defines and describes the standard to which OHV facilities are to be managed with respect to soil loss per PRC 5090.35 (b)(1). The 2020 Guidelines is specifically designed as a reference for both State Vehicular Recreation Area (SVRA) managers and grant recipients that receive funding from the OHMVR Division Grants and Cooperating Agreements program for projects with ground disturbing activities.

The 2020 Guidelines is a two-part document: The Soil Standard defined within the document, and the Guidelines. The Soil Standard reviews and iterates the regulatory components of the PRC and CCR, whereas the Guidelines are for use by the OHV facility manager and present guidance on how to comply with the Soil Standard, and presents suggestions, reference materials, and methods on how develop a Soil Conservation Plan that is utilized to demonstrate compliance with the Soil Standard. Statute and regulation pertaining to soil conservation have been reproduced within this document so that the 2020 Guidelines can serve as a reference for the reader. For example, selected subsections of 14 CCR 4970.06.3 are cited within the 2020 Guidelines to reference the content and intent of a Soil Conservation Plan as specified in the CCR.

The document as a whole is intended to define the Soil Standard and serve as a reference to ensure compliance with the Soil Standard. The Guidelines portion of the document present guidance that can be used by grantees but is not required to be used.

#### SPECIFIC PURPOSE, ANTICIPATED BENEFIT, AND NECESSITY

The purpose of the proposed action is to update reference in regulation to the new 2020 Guidelines version and make the 2020 Guidelines more useful to land managers without creating additional requirements.

Substantive changes between the 2008 and 2020 Guidelines were minimal, with the standards section of the document generally unchanged. Further, the standard to which grantees are held is unchanged from the 2008 Soil Standard. The most substantial changes were made within the guidelines section of the 2020 Guidelines, and focused primarily on introducing new technologies, enhancing organizational clarity, and

describing specific requirements of Soil Conservation Plans that are consistent with existing regulation (see 14 CCR 4970.06.3(e)(2)).

Due to the significant reorganization of the 2008 Guidelines, and to eliminate confusion between the amendments to it and the 2020 Guidelines, it was necessary to repeal the 2008 Guidelines and adopt the 2020 Guidelines.

The 2020 Guidelines is not intended to be an entirely new document of new standards and guidelines. The 2020 Guidelines is intended as an update to the 2008 Guidelines where the same intent and meaning in the 2008 Guidelines are carried over and reflected in the 2020 Guidelines. Updates made from the 2008 Guidelines to the 2020 Guidelines will better organize and explain standards and guidelines, provide improved tools for compliance with the standards and guidelines, and provide a clearer framework to ensure appropriate resource management and maintenance in areas of off-highway vehicle use.

Specific updates to the regulation and 2020 Guidelines are outlined below:

#### Amend CCR Section 4970.06.3

*Specific Purpose:* The specific purpose of this amendment is to update the 2008 Guidelines document name, make other clarifying and consistency changes, and update the language to its current version.

*Benefit/Necessity:* The proposed is necessary to update the “2008 Soil Conservation Standard and Guidelines” to “2020 Soil Conservation Standard and Guidelines” due to repeal and adoption of the new document version, clarify the definition of Soil Conservation Standard is defined in the 2020 Guidelines document, make reference to the document consistent throughout the section language, align reference to the “monitoring plan” to be consistent with the 2020 Guidelines section 2.5.1, and reflect the regulatory language to its current version due to recent amendments to the section in a separate rulemaking action.

#### 2020 Soil Conservation Standard and Guidelines

##### Adopt 1.1 Review and Update

*Specific Purpose:* The specific purpose of this amendment is to renumber section 1.0 of the 2008 Guidelines, introduce why the 2008 Guidelines went through a revision process, and identify the PRC authority. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

Additionally, this section introduces the intent of the 2008 Guidelines and clarifies that after public and agency review, the 2008 Guidelines provided an effective framework for soil resource conservation for OHV management, but that some updates were identified. The section details the process for updating the document, which agencies were involved in the review, and that the public was able to comment.

*Benefit/Necessity:* The proposed is necessary to reflect the updated organization of the 2020 Guidelines and explain why updates to the 2008 Guidelines were necessary and provide details of the review process the 2020 Soil Conservation Standard and Guidelines went through. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 1.2 2020 Soil Conservation Standard

*Specific Purpose:* The specific purpose of this amendment is to update and renumber language used in section 1.1 of the 2008 Guidelines and update the section language to reflect the new 2020 Soil Conservation Standard as applicable. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to reflect the updated organization of the 2020 Guidelines and to define the standard to which OHV facilities will be managed as it relates to soil loss, erosion, and sedimentation per PRC 5090.35(b)(1).

#### Adopt 1.3 Applicable Statutes and Regulations

*Specific Purpose:* The specific purpose of this section is to identify subsections 1.3.1 and 1.3.2 that cite sections of the PRC, CCR, and other applicable laws and regulations that pertain to soil conservation.

*Benefit/Necessity:* The proposed is necessary as it adds to the organization of the document and to aid reader's understanding of the applicability and intent of the specified PRC, CCR, and other applicable laws and regulations.

#### Adopt 1.3.1 Public Resources Code

*Specific Purpose:* The specific purpose of this amendment is to present the most current version of PRC to reflect amendments to the PRC made from the adoption of Senate Bill 249 (Allen 2017).

*Benefit/Necessity:* The proposed is necessary to update the 2020 Guidelines with the most current version of PRC so that the reader understands applicable statute and what has changed from the 2008 Guidelines regarding soil conservation.

#### Adopt 1.3.2 Other Applicable Laws and Regulations

*Specific Purpose:* The specific purpose of this amendment is to update and renumber language used in section 2.2 of the 2008 Guidelines and clarify that there are other applicable laws not listed in the document that still must be followed as they relate to projects and land management. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to clarify that the document does not preclude the land manager from following all local, state, and federal laws that may pertain to off-highway vehicle use. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 1.4 Definitions of Terms for the 2020 Standard

*Specific Purpose:* The specific purpose of this amendment is to update and renumber language used in section 1.3.3 of the 2008 Guidelines and add definitions for “Ground Disturbing Activity”, “Management Unit”, “Project”, and “Project Area”. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to provide the most current definitions used in regulation and to remain consistent with Department terms.

The term “Ground Disturbing Activity” is a necessary addition as the term was defined and adopted into regulation in a separate rulemaking package after the adoption of the 2008 Guidelines and before the updated 2020 Soil Guidelines. Adding this term maintains consistency between this document and 14 CCR 4970.01.

The term “Management Unit” was added to reflect the reorganization of the Department and alignment of the Division with the Department as spelled out in Senate Bill 249. The term “Management Unit” does not affect regulation governing the Grants and Cooperating Agreements program and is relevant only to SVRAs.

The term “Project” is a necessary addition as the term was defined and adopted into regulation in a separate rule making package after the adoption of the 2008 Soil Guidelines and before the updated 2020 Guidelines. Adding this term maintains consistency between this document and 14 CCR 4970.01.

The term “Project Area” is a necessary addition as the term was defined and adopted into regulation in a separate rule making package after the adoption of the 2008 Soil Guidelines. Adding this term maintains consistency between this document and 14 CCR 4970.01.

#### Adopt 2.0 2020 Soil Conservation Guidelines

*Specific Purpose:* The specific purpose of this amendment is to update language and renumber section 2.1 of the 2008 Guidelines and remove reference to the 2008 Guidelines. Language has been altered slightly to be succinct and to better describe the purpose of the 2020 Guidelines. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to detail the foundation of the 2020 Guidelines and explain that the land manager has the option to use the examples provided in the 2020 Guidelines or develop their own, so long as the components of the 2020 Guidelines are addressed. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.1 Background

*Specific Purpose:* The specific purpose of this amendment is to relocate specific language in section 2.0 of the 2008 Guidelines into section 2.1 of the 2020 Guidelines, which clarifies the parties involved in the development of the 2020 Guidelines. The

language from section 2.0 was edited to reflect amendments to PRC 5090.35(b)(1). The parties involved with the review of the 2020 Guidelines were highlighted to demonstrate compliance with PRC 5090.35(b)(1). Other language was not included from section 2.0 of the 2008 Guidelines in an effort to be concise and improve clarity.

*Benefit/Necessity:* This section is necessary to reflect the updated organization of the 2020 Guidelines, and to specify that the Guidelines were developed with input from land management agencies per recommendations in Senate Bill 249 (Allen, 2017). The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.2 Objectives of the Guidelines

*Specific Purpose:* The specific purpose of this amendment is to define the objectives, intent, and scope of the 2020 Guidelines and to define the criteria for entities that must adhere to the Soil Standard through the development of a Soil Conservation Plan. The proposed section was added to provide clarity to the reader about the overarching purpose of the 2020 Guidelines and to clarify where the Standard applies.

*Benefit/Necessity:* This section is necessary to reflect the updated organization of the document, to clarify the overall objective of the Guidelines, the intent of the Guidelines, and to reiterate that entities that receive OHV Trust Fund money shall develop a Soil Conservation Plan that demonstrates compliance with the Soil Standard pursuant to PRC 5090.53.

#### Adopt 2.3 Defining Successful Compliance with the 2020 Standard

*Specific Purpose:* The specific purpose of this amendment is to provide definitions of terms used in the Standard, to aid in interpretation and understanding of the Standard, and to provide additional informational language to help readers better understand the concept of sustainability as used in the Standard.

*Benefit/Necessity:* The proposed is necessary to identify successful compliance with the Standard. The section also defines the intent of the Standard and details components of the Standard for determining compliance with the Standard. The proposed is further necessary in that defining the terms used in the Standard reduces the ambiguity and aids successful compliance with the Standard.

#### Adopt 2.4 Where to Apply the Standard

*Specific Purpose:* The specific purpose of this amendment is to review existing statute and regulation that govern the instances where the Soil Conservation Standard applies and when a Soil Conservation Plan is needed. Per PRC 5090.35(b)(2), SVRAs are to continually demonstrate compliance with the Soil Standard, and non-compliant areas are to be closed and repaired.

The proposed defines the specific instances where the Soil Standard applies. This amendment reviews the requirements in the PRC that SVRAs are required to demonstrate compliance with the Standard, and the Soil Conservation Plan is the

method to demonstrate compliance. The proposed further reviews the requirements in the PRC that grantees receiving grant funding for Development and Ground Operations Projects with Ground Disturbing Activities are required to submit a Soil Conservation Plan that covers the Project Area.

*Benefit/Necessity:* The proposed amendment is necessary as a Soil Conservation Plan is the document used to demonstrate compliance with PRC 5090.35(b)(2), 5090.53(a), (b), and (c) and to document compliance with the Soil Standard and is consistent with existing regulations 14 CCR 4970.06.3(c) and 4970.10.1(c)(7). Further, the proposed is necessary to clarify the instances where the Standard must be met.

#### Adopt 2.5 Approaches to Evaluating Compliance with the 2020 Standard

*Specific Purpose:* The specific purpose of this amendment is to describe the three scales that the Standard is applied and clarifies that the 2020 Standard is applied at both SVRAs and at grant recipient project areas.

*Benefit/Necessity:* The proposed is necessary to improve organizational clarity and to explain that there are three scales: the project area for the OHV Grants and Cooperative Agreement Program, within Management Units of State Vehicular Recreation Areas, and for the entire State Vehicular Recreation Area to apply the guidelines Standards. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.1 Project, Project Area, Soil Conservation Plan

*Specific Purpose:* The specific purpose of this amendment is to outline and summarize the components of a Soil Conservation Plan, list the relevant sections of the 2020 Guidelines where additional information can be found on each component, to provide the applicable timelines for due dates in table format, and provide 14 CCR 4970.06.3(d) and (e) as a reference for the reader.

*Benefit/Necessity:* The proposed is necessary to provide a simplified and clear timeline in table format for the required components of a Soil Conservation Plan which include a Maintenance Plan, Monitoring Plan, and a Compliance Report and Action Plan for grantees and State Vehicular Recreation Areas. The proposed provides additional guidance by referencing regulations that govern the intent of the Soil Conservation Plan consistent with 14 CCR 4970.06.3(d) and (e). Edits to the Update Cycle column were made to ensure that timelines for Grantees are consistent with 14 CCR 4979.06.3(d). These regulations, pertaining to soil conservation, are being reproduced within this section to detail the contents and intent of the Soil Conservation Plan and serve as a convenient reference for the reader.

SVRAs will review their Soil Conservation Plans every five years. The intent of the Soil Conservation Plan at SVRAs is that it functions as a living document that helps guide soil conservation efforts year-over-year, and as such, the review of the 2008 Guidelines found that five years is a realistic timeline to review the contents of a given SVRA Soil Conservation Plan to ensure the content is relevant and effective. Within five years, the

baseline conditions of a given SVRA may have changed to a point where an existing Soil Conservation Plan would need to be updated to remain effective and accurate.

#### Adopt 2.5.2 Use of Assessments and Monitoring

*Specific Purpose:* The specific purpose of this amendment is to discuss assessments and monitoring within the context of the Soil Conservation Plan and provide an overview of the use of field surveys, visual inspection, analysis of erosion potential, and OHV Condition Evaluation. The section discusses techniques and types of data that are needed to guide assessments at large OHV facilities.

*Benefit/Necessity:* The proposed is necessary to clarify the rationale requiring assessments and continual monitoring as a means to ensure compliance with the Standard. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.2.1 Assessment of Erosion Potential

*Specific Purpose:* The specific purpose of this amendment is to provide details about assessing OHV facilities for erosion potential. Information was added in the 2020 Guidelines to address the inability of large-scale erosion assessments to detect erosion from individual trails. The examples of the assessment methods in 2.3.5 of the 2008 Guidelines were removed in the 2020 Guidelines as the assessment methods in the 2020 Guidelines were updated in subsequent sections.

*Benefit/Necessity:* The proposed is necessary to provide the concept of erosion potential assessments, as assessments are required in a Soil Conservation Plan. Subsections following this section further explain additional considerations and options for performing assessments. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.2.1.1 Physiographic Data Used in Assessment of Erosion Potential

*Specific Purpose:* The specific purpose of this amendment is to provide various data types and data sources used to perform landscape erosion assessments.

*Benefit/Necessity:* The proposed is necessary to provide types of data to be considered, or that can be used, when performing an assessment of erosion potential and to provide sources where the data can be found. These sources can be used to perform erosion potential assessments, which is a required part of a Soil Conservation Plan. However, the data and content provided in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.2.1.2 Exploration of Desktop Data

*Specific Purpose:* The specific purpose of this amendment is to provide information on the use of Geographic Information Systems to view the data types noted in section 2.5.2.1.1 while performing erosion potential assessments.

*Benefit/Necessity:* The proposed is necessary to provide an additional resource that can be used when performing an assessment of erosion potential. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.2.1.3 Watercourse Classification – Sensitive Aquatic Resources

*Specific Purpose:* The specific purpose of this amendment is to update and renumber language used in section 2.3.4 of the 2008 Guidelines and describe the methodology for classifying various types of watercourses. The 2020 Guidelines uses the 2020 Forest Practice Rule, whereas the 2008 Guidelines referenced the 2006 Forest Practice Rule. The discussion of ‘blue-line’ drainage in the ‘Type 1 Watercourse’ bullet point was removed in the 2020 Guidelines to keep the description concise. The change between ‘Type’ and ‘Class’ reflects the updated Forest Practice Rule. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to specify the various types of watercourse classifications that may be used while assessing OHV-related erosion impacts on sensitive aquatic resources potentially impacted by OHV use. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.2.1.4 Analysis of Watercourse Crossings

*Specific Purpose:* The specific purpose of this amendment is to update and renumber language used in sections 2.3.4 and 2.3.5 of the 2008 Guidelines and provide considerations and methods that can be used to assess watercourse crossings. The information provided in the bulleted list in the 2008 Guidelines was edited to be in paragraph form to make the section more concise. Content from the sections 2.3.4 and 2.3.5 were combined in the 2020 Guidelines for the convenience of the reader. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to provide examples on how to analyze a watercourse crossing and provide detailed information where data may be obtained as part of a watercourse analysis. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.2.1.5 Modeling Erosion Potential

*Specific Purpose:* The specific purpose of this amendment is to provide guidance about the availability of computer-based erosion prediction models that can be used in Soil Conservation Plan development. The paragraph was condensed from what was described in section 2.3.5 of the 2008 Guidelines to ensure the document was concise. Models presented in section 2.3.5 of the 2008 Guidelines were moved to Appendix 2 in the 2020 Guidelines to improve the overall organization of the document.

*Benefit/Necessity:* The proposed is necessary to make clarifications to the document language and reflect the updated organization of the 2020 Guidelines. The intent and

meaning of the section is unchanged from the 2008 Guidelines. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.2.2 Field Surveys and Visual Inspections

*Specific Purpose:* The specific purpose of this amendment is to provide commentary on the importance and relevance of routine field surveys and visual inspections of OHV facilities.

*Benefit/Necessity:* The proposed is necessary to serve as an additional resource for the assessment and monitoring of OHV facilities. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.3 Maintenance Planning

*Specific Purpose:* The specific purpose of this amendment is to renumber section 2.4 from the 2008 Guidelines and retitle the section to broaden the focus to beyond only roads and trails. Additionally, a sentence was removed during the update that referred to heavy equipment use. In the 2020 Guidelines, emphasis was placed on appropriate selection of equipment for the job. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to reflect the updated organization of the 2020 Guidelines. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.3.1 Maintenance Planning and Implementation

*Specific Purpose:* The specific purpose of this amendment is to update and renumber language used in section 2.4.1 of the 2008 Guidelines. The bulleted list in section 2.4.1 of the 2008 Guidelines was broken into two categories in the 2020 Guidelines: Considerations in the development and implementation of a Maintenance Plan, and Considerations for general maintenance activities. The review recognized that the bulleted list in the 2008 Guidelines could be broken up into larger categories to provide better clarity to the reader. Minor, non-substantive changes to the wording in the bulleted lists were made to be more succinct. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to make clarifications to the document language and reflect updated organizational changes in the 2020 Guidelines. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.3.2 Documentation of Maintenance Activities

*Specific Purpose:* The specific purpose of this amendment is to update and renumber language used in section 2.4.2 of the 2008 Guidelines. Language was updated to include and summarize the basic information that Appendix 4 captures in the 2020

Guidelines and that the use of Appendix 3 and Appendix 4 are optional. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to make clarifications to the document language and reflect updated organizational changes in the 2020 Guidelines. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.4 Monitoring Techniques

*Specific Purpose:* The specific purpose of this amendment is to outline and summarize the importance performing monitoring activities before and after maintenance occurs or at the beginning and end of a riding season.

*Benefit/Necessity:* The proposed is necessary to clarify the need for monitoring programs and the applicable PRC requirements. A monitoring plan is required by 14 CCR 4970.06.3, and this section provides clarity for the reader on the overall approach and to when monitoring should occur. Monitoring before and after maintenance occurs or at the beginning and end of a season provides the opportunity to assess the effectiveness of maintenance actions. Monitoring in this manner also follows the annual grant cycle. Grantees request money for a project to fix a problem, they perform an assessment of the project area, perform the work, and reassess the project area to gauge the effectiveness of the project. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.4.1 Trail Condition Evaluation

*Specific Purpose:* The specific purpose of this amendment is to discuss Appendix 3, the Trail Evaluation Form, as a method that can be used to perform OHV road and trail assessments. Much of the language is carried over from section 2.3.6 of the 2008 Guidelines, however edits have been made to improve clarity and to emphasize that the information presented is guidance. Language was removed in the section introduction paragraph regarding guidance to not modify Appendix 3. Other information from the 2008 Guidelines was removed which discussed the primary purpose of Appendix 3. The primary purpose of Appendix 3 is now captured in the section introduction paragraph in the 2020 Guidelines.

*Benefit/Necessity:* The proposed is necessary because assessments of existing road and trail conditions are a required component of the Soil Conservation Plan per 14 CCR 4970.06.3(e)(2). Further, the proposed is necessary to clarify the use of Appendix 3 is not required and is presented only as an option that can be used if no other assessment methods are available to a grantee/SVRA. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.4.2 Soil Conservation Plan – Monitoring Section

*Specific Purpose:* The specific purpose of this amendment is to reiterate the requirement of a monitoring plan within a Soil Conservation Plan per 14 CCR

4970.06.3(e)(4). This section further discusses monitoring strategies that can be considered for specific environments. This section updates language used in section 2.5.3 of the 2008 Guidelines to provide clarity to the reader. Information was added addressing special event monitoring which included pre- and post-event monitoring. Additionally, a section on air quality monitoring considerations was added.

*Benefit/Necessity:* The proposed is necessary to make clarifications to the document language and reflect updated organizational changes to the 2020 Guidelines. Updated language additionally clarifies Soil Conservation Plan monitoring requirements consistent with 14 CCR 4970.06.3(e)(4). The section on air quality was added, as it was not well addressed in the 2008 Guidelines. The bullet point for pre- and post- special event monitoring was added to provide an additional monitoring strategy to consider when monitoring special events.

#### Adopt 2.5.4.3 Developing a Monitoring Plan

*Specific Purpose:* The specific purpose of this amendment is to update language used in section 2.5.1 of the 2008 Guidelines and to renumber section 2.5.1 of the 2008 Guidelines. Language in the first paragraph of this section was edited from the 2008 Guidelines to better emphasize how an effective Monitoring Plan detects changes to trail and facility conditions and includes key considerations. The first bullet point in the list was edited to add greater emphasis on monitoring objectives. The second bullet point eliminates the word 'should' when referring to the features to be monitored and the monitoring parameters. The third bullet point was added to improve clarity by calling out specific types of monitoring that can be implemented. Assessment and Trend monitoring were combined into one bullet point because the descriptions are similar in scope and are often implemented together. Monitoring program design was removed because it was repetitive. Proper data collection techniques bullet was split into 'Monitoring Data' and 'Instruction for Appropriate Management of Collected Data' to provide guidance on both facets separately. A bullet point was added on Photo Point Monitoring because it is a common method used for monitoring. Specific guidance was included for performing photo point monitoring.

*Benefit/Necessity:* The proposed is necessary to make clarifications to the document language and reflect updated organizational changes to the 2020 Guidelines to provide guidance on all aspects of the Monitoring Plan, which is a required component of a Soil Conservation Plan by 14 CCR 4970.06.3(e)(4). Guidance was edited to be more succinct or otherwise provide more direct guidance on how to develop a Monitoring Plan. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.5.5 The Compliance Report and Action Plan Portions of a Soil Conservation Plan

*Specific Purpose:* The specific purpose of this amendment is to update and renumber language used in section 2.5.4 of the 2008 Guidelines. The section title was renamed to include the Action Plan, as the Action Plan is required as part of the Compliance Report.

The amendment details the purpose of the Compliance Report and Action Plan and how to demonstrate compliance with the 2020 Soil Conservation Plan..

*Benefit/Necessity:* The proposed is necessary as the Compliance Report and Action Plan are required components of a Soil Conservation Plan per 14 CCR 4970.06.3(h). This section explains the contents of the Compliance Report and Action Plan. This information was added to provide expanded guidance from that contained in the 2008 Guidelines. This information was not thoroughly covered in the 2008 Guidelines. Regulation is being reproduced within this section to serve as reference to the reader. Additionally, the language adds detailed information and clarifies requirements for the Compliance Report and Action Plan consistent with 14 CCR 4970.06.3(h).

#### Adopt 2.6.1 Previous Land Use and Hazard Consideration

*Specific Purpose:* The specific purpose of this amendment is to update and renumber language used in section 2.3.2 of the 2008 Guidelines that provides best practices for evaluating land use concerns. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to make clarifications to the document language, reflect updated organizational changes in the 2020 Guidelines, and clarify that land use information is provided as guidance as a best available practice for the land manager to consider while developing a Soil Conservation Plan. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.6.2 OHV Area Visitor Information

*Specific Purpose:* The specific purpose of this amendment is to update and renumber language used in section 2.3.3 of the 2008 Guidelines. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to make clarifications to the document language and reflect updated organizational changes in the 2020 Guidelines. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.6.3 Use of Best Available Science within Soil Conservation Plans

*Specific Purpose:* The specific purpose of this amendment is to introduce best available science concepts.

*Benefit/Necessity:* The proposed is necessary to clarify language and address changes made to PRC Section 5090.39, through Senate Bill 249 (Allen, 2017), that requires any soil conservation standard, wildlife habitat protection plan, or monitoring program must incorporate best available science. This requirement is for SVRAs only and does not pertain to the Grants and Cooperating Agreements program.

#### Adopt 2.6.3.1 Updating the Soil Standards and Guidelines with Best Available Science

*Specific Purpose:* The specific purpose of this amendment is to describe how best available science was incorporated into the development of the 2020 Guidelines.

*Benefit/Necessity:* The proposed is necessary to explain that the development and revision of the 2020 Soil Conservation Standard and Guidelines used best available science pursuant to PRC Section 5090.39.

#### Adopt 2.6.4 Critical Existing Resources

*Specific Purpose:* The specific purpose of this amendment is to list various resources available to OHV area managers that may be used to develop a Soil Conservation Plan.

*Benefit/Necessity:* The proposed is necessary to describe to OHV area managers extensive resources available to use when creating a Soil Conservation Plan. The resources provide extensive details for OHV best management practices and studies on impacts and how to manage those impacts. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.7 Specific Guidance for Project Design and Construction

*Specific Purpose:* The specific purpose of this amendment is to introduce the section content.

*Benefit/Necessity:* The proposed is necessary to summarize the content of the section. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

##### Adopt 2.7.1 Project Design Considerations

*Specific Purpose:* The specific purpose of this amendment is to update and renumber language used in section 2.6.1 of the 2008 Guidelines and to provide general guidance for OHV projects. The first paragraph of the section from the 2008 Guidelines was removed as it was repetitive and minor changes were made to the bulleted items to improve clarity. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to make clarifications to the document language and reflect updated organizational changes in the 2020 Guidelines. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

##### Adopt 2.7.2 Designing for Specific (Variable) Environments

*Specific Purpose:* The specific purpose of this amendment is to update and renumber language used in section 2.6.3 of the 2008 Guidelines. A discussion on watercourse and lake protection zones was added to the 2020 Guidelines to provide additional guidance for managing water resources when planning new OHV routes or managing existing routes. This guidance was not discussed in the 2008 Guidelines. The meaning

and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to make clarifications to the document language and reflect updated organizational changes in the 2020 Guidelines. Further, the proposed is necessary to summarize guidance for protecting water resources from potential erosion generated by OHV activity. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.7.3 Project Design Features

*Specific Purpose:* The specific purpose of this amendment is to update and renumber language used in section 2.6.2 of the 2008 Guidelines. Under the bullet point 'Rolling Profile' the third sub-bullet point from the 2008 Guidelines was removed because it was redundant with the first bullet. Under the bullet point 'Rolling Dips' the first and second bullet points from the 2008 Guidelines were combined as they were similar in content. Images that were in the 2008 Guidelines were deleted as they are available in the OHV BMP Manual for Sediment and Erosion Control. Under the bullet point 'Waterbreaks' the first and second sub-bullet points were combined as one in the 2020 Guidelines as the content was similar. Under the bullet point 'Drain Dips' the first and second sub-bullet points were combined, and the wording was slightly revised to improve clarity. The bullet point 'Sediment Basins/Ponds' was added to provide best management practices to designing and managing sediment basins. This content was not in the 2008 Guidelines and was included to provide comprehensive guidance on a wide range of OHV related projects which can include sediment basin design. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to make clarifications to the document language and reflect updated organizational changes in the 2020 Guidelines. Content was either slightly reworded to improve clarity, reduce wordiness, or otherwise be more concise. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt 2.7.4 Construction Practices

*Specific Purpose:* The specific purpose of this amendment is to update and renumber language used in section 2.6.4 of the 2008 Guidelines. The guidance presented in this section has been edited from the 2008 Guidelines to be presented as best management practices to be implemented to ensure a project is sustainable and minimally impactful. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to make clarifications to the document language and reflect updated organizational changes in the 2020 Guidelines. Further, edits to this section were made to improve consistency with the overall intent of the 2020 Guidelines where the intent in the 2008 Guidelines may have been unclear what are necessary best management practices to meet the Soil Standard. The content in

this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt Reference List

*Specific Purpose:* The specific purpose of this amendment is to update the list of references used in section 2.7 of the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to update the document and reflect updated references used in development of the 2020 Guidelines and assist with finding specific resources for additional information. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt Appendix 1 – Definitions

*Specific Purpose:* The specific purpose of this amendment is to update definitions used in Appendix 1 of the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to clarify and define certain words, phrases, and acronyms used throughout the document. Definitions were added to reflect previous changes in 14 CCR 4970.01 and to ensure consistency between this document and existing regulation.

#### Adopt Appendix 2 – Soil Loss Modeling Tools

*Specific Purpose:* The specific purpose of this amendment is to detail and describe soil loss modeling tools.

*Benefit/Necessity:* The proposed is necessary to provide additional resources that can be used in a predictive manner for larger scale projects and to calculate and predict erosion from a project site. The content in this section is informational and does not mandate any further action beyond that of 14 CCR 4970.06.3.

#### Adopt Appendix 3 – Trail Evaluation Form

*Specific Purpose:* The specific purpose of this amendment is to update and renumber Appendix 2 of the 2008 Guidelines and retitle the appendix 'Trail Evaluation Form'. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to reflect updated organizational changes in the 2020 Guidelines. Appendix 3 is optional for use by grantees and is not required. The appendix title was changed to clarify and draw attention to Appendix 3 being a form that can be used by readers of the 2020 Guidelines. Grantees can create their own assessment methodologies so long as it is consistent with 14 CCR 4970.06.3 (d) and 4970.06.3 (e).

#### Adopt Appendix 4 – Maintenance Checklist Form

*Specific Purpose:* The specific purpose of this amendment is to update and renumber Appendix 3 of the 2008 Guidelines and retitle the appendix 'Maintenance Checklist'

Form'. The meaning and intent of the language in the section is otherwise unchanged from the 2008 Guidelines.

*Benefit/Necessity:* The proposed is necessary to reflect updated organizational changes in the 2020 Guidelines. Use of this form to capture maintenance is optional. The appendix title was changed to clarify that the form is intended to capture maintenance, rather than to evaluate the trail. The updated title better reflects the purpose of the form.

#### UNDERLYING DATA / DOCUMENTS RELIED UPON

OHMVR Division technical staff, in consultation with various federal land managers per PRC 5090.35, reviewed the 2008 Guidelines in response to direction provided in Senate Bill 249 (Allen, 2017). The review found updates were necessary to the guidelines; staff received further input from State and Federal agencies that resulted in the development of a draft 2020 Guidelines.

The draft guidelines were further developed with additional consultation from additional Federal and State agencies per PRC 5090.35, and once the final draft was complete, the final draft 2020 Guidelines were published for public review and comment. The final draft was then adopted by the OHMVR Division for review subject to this rulemaking action.