

TITLE 14. NATURAL RESOURCES
GRANTS AND COOPERATIVE AGREEMENTS PROGRAM REGULATIONS

INITIAL STATEMENT OF REASONS

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

Sections Affected: Amend the California Code of Regulations, Title 14, Division 3, Chapter 15, Article 1 (CCR), Section 4970.01(w), 4970.03, 4970.06.1(c), 4970.06.1(d), 4970.06.2, 4970.10.4(d), Appendix Environmental Review Data Sheet Form, Habitat Management Program Part 1 Form, Habitat Management Program Part 2 Form, Soil Conservation Plan Form

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.

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

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

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

SPECIFIC PURPOSE, ANTICIPATED BENEFIT, AND NECESSITY

The following proposed amendments to both the Grants and Cooperative Agreements regulations and Regulations Appendix focus on the environmental requirements of the program. Proposed changes are intended to improve the clarity of the environmental requirements, revise inconsistent language, and form a stronger relationship between the requirements in the Public Resources Code and the Grants Program regulations.

Amend CCR Section 4970.01(w) Definitions

Specific Purpose: The specific purpose of the proposed amendment is to amend the definition of Ground Disturbing Activity. There is a grammatical error in that the word 'component' is singular and ought to be plural and read as 'components'.

Benefit/Necessity: The proposed is necessary to ensure that the program regulations are free from grammatical errors that could cause confusion or misinterpretation of the regulations. The proposed amendment does not affect the interpretation of the definition, and the change is purely to correct a grammatical error.

Amend CCR Section 4970.03(a)(3)

Specific Purpose: The specific purpose for the proposed amendment is to change from title case the words forest, regional, office, and patrol.

Benefit/Necessity: The proposed is necessary as forest, regional, office, and patrol are not defined in the program regulations and should not be in title case. This amendment improves the clarity of the regulation and prevents confusion. The proposed change does not add or change any requirements, nor would the changes alter the interpretation of the regulation.

Amend CCR Section 4970.03(a)(4)

Specific Purpose: The specific purpose for the proposed amendment is to change from title case the word 'field'.

Benefit/Necessity: The proposed is necessary as 'field' is not defined in the program regulations and should not be in title case. This amendment improves the clarity of the regulation and prevents confusion. The proposed change does not add or change any requirements, nor would the change alter the interpretation of the regulation.

Amend CCR Section 4970.03(a)(5)

Specific Purpose: The specific purpose for the proposed amendment is to change from title case the words field, regional, state, and office.

Benefit/Necessity: The proposed is necessary as the program regulations do not define field, regional, state, and office and, as such, should not be in title case. This amendment improves the clarity of the regulation and prevents confusion. The proposed change does not add or change any requirements, nor would the changes alter the interpretation of the regulation.

Amend CCR Section 4970.03(a)(9)

Specific Purpose: The specific purpose for the proposed amendment is to change from title case the words commission, conservancy, and board.

Benefit/Necessity: The proposed is necessary as the program regulations do not define commission, conservancy, and board and, as such, should not be in title case. This amendment improves the clarity of the regulation and prevents confusion. The proposed change does not add or change any requirements, nor would the changes alter the interpretation of the regulation.

Amend CCR Section 4970.06.1(c)

Specific Purpose: The specific purpose for the proposed amendment is to change from title case the words state and agency.

Benefit/Necessity: The proposed is necessary as the program regulations do not define state and agency and, as such, should not be in title case. This amendment improves the clarity of the regulation and prevents confusion. The proposed change does not add or alter any requirements, nor would the changes affect the interpretation of the regulation.

Amend CCR Section 4970.06.1(c)(2)(A)

Specific Purpose: The specific purpose for the proposed amendment is to change the Applicant response time from 10 to 20 days when the OHMVR Division requests additional CEQA-related information related to the Applicant's Project.

Benefit/Necessity: The proposed is necessary as Applicants, especially Nonprofits, often find the 10-day requirement for a response overly arduous and they are unable to make that timeline. The change to 20 days reflects typical practice, as Applicants often request additional time to meet OHMVR Division requests.

Amend CCR Section 4970.06.1(c)(2)(B)

Specific Purpose: The specific purpose for the proposed amendment is to change the Applicant response time from 10 to 20 days when the OHMVR Division requests additional CEQA-related information related to the Applicant's Project.

Benefit/Necessity: The proposed is necessary as Applicants, especially Nonprofits, can find the 10-day requirement for a response overly arduous. The change to 20 days reflects typical practice, as Applicants often need and request additional time to complete the request for information.

Amend CCR Section 4970.06.1(c)(3)(A)(2)

Specific Purpose: The specific purpose for the proposed amendment is to change the Applicant response time from 10 to 20 days when the OHMVR Division requests additional CEQA-related information related to the Applicant's Project.

Benefit/Necessity: The proposed is necessary as Applicants, especially Nonprofits, can find the 10-day requirement for a response overly arduous. The change to 20 days reflects typical practice, as Applicants often request additional time to complete the request for information.

Amend CCR Section 4970.06.1(c)(3)(A)(3)

Specific Purpose: The specific purpose for the proposed amendment is to change the Applicant response time from 10 to 20 days when the OHMVR Division requests additional CEQA-related information related to the Applicant's Project.

Benefit/Necessity: The proposed is necessary as Applicants, especially Nonprofits, can find the 10-day requirement for a response overly arduous. The change to 20 days reflects typical practice, as Applicants often request additional time to complete the request for information.

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

Specific Purpose: The specific purpose for the proposed amendment is to ensure federal Applicants submit the appropriate level of NEPA compliance for the proposed Project. This amendment includes an additional document type that may be used to satisfy this regulation.

Benefit/Necessity: The proposed is necessary to allow flexibility with the NEPA compliance requirement. The current language is overly rigid and prevents other NEPA-related documents from meeting the requirement of this regulation. As a state department, the OHMVR Division does not have the authority to dictate the level of NEPA compliance needed for a project to a federal agency, and as such, we cannot specify the level of NEPA compliance needed. This amendment still requires the federal agency to demonstrate NEPA compliance without being overly explicit on what the OHMVR Division requires as proof of NEPA compliance.

Amend CCR Section 4970.06.1(d)(2)(B)

Specific Purpose: The specific purpose for the proposed amendment is to change the Applicant response time from 10 to 20 days when the OHMVR Division requests additional CEQA-related information related to the Applicant's Project.

Benefit/Necessity: The proposed is necessary as Applicants, especially Nonprofits, can find the 10-day requirement for a response overly arduous. The change to 20 days reflects typical practice, as Applicants often request additional time to complete the request for information.

Amend CCR Section 4970.06.1(d)(2)(C)

Specific Purpose: The specific purpose for the proposed amendment is to change the Applicant response time from 10 to 20 days when the OHMVR Division requests additional CEQA-related information related to the Applicant's Project.

Benefit/Necessity: The proposed is necessary as Applicants, especially Nonprofits, can find the 10-day requirement for a response overly arduous. The change to 20 days reflects typical practice, as Applicants often request additional time to complete the request for information.

Amend CCR Section 4970.06.2(c)(1)

Specific Purpose: The specific purpose for the proposed amendment is to change the Applicant response time from 10 to 20 days when the OHMVR Division requests additional clarification and/or documentation for Habitat Management Programs submitted by Applicants.

Benefit/Necessity: The proposed is necessary as Applicants, especially Nonprofits writing their own HMP, can find the 10-day requirement for a response overly arduous. The change to 20 days reflects typical practice, as Applicants often request additional time to complete the request for information.

Amend CCR Section 4970.06.2(c)(2)

Specific Purpose: The specific purpose for the proposed amendment is to change the Applicant response time from 10 to 20 days when the OHMVR Division requests additional clarification and/or documentation for Habitat Management Programs submitted by Applicants.

Benefit/Necessity: The proposed is necessary as Applicants, especially Nonprofits writing their own HMP, can find the 10-day requirement for a response overly arduous. The change to 20 days reflects typical practice, as Applicants often request additional time to complete the request for information.

Amend CCR Section 4970.06.3(g)(1)

Specific Purpose: The specific purpose for the proposed amendment is to change the Applicant response time from 10 to 20 days when the OHMVR Division requests additional clarification and/or documentation for Soil Conservation Plans submitted by Applicants.

Benefit/Necessity: The proposed is necessary as Applicants, especially Nonprofits writing their own Soil Conservation Plan, can find the 10-day requirement for a response overly arduous. The change to 20 days reflects typical practice, as Applicants often request additional time to complete the request for information.

Amend CCR Section 4970.06.2(g)(2)

Specific Purpose: The specific purpose for the proposed amendment is to change the Applicant response time from 10 to 20 days when the OHMVR Division requests additional clarification and/or documentation for Soil Conservation Plans submitted by Applicants.

Benefit/Necessity: The proposed is necessary as Applicants, especially Nonprofits writing their own Soil Conservation Plan, can find the 10-day requirement for a response overly arduous. The change to 20 days reflects typical practice, as Applicants often request additional time to complete the request for information.

Amend CCR Section 4970.10.4(d)(1)

Specific Purpose: The specific purpose for the proposed amendment is to correct a typographical error. Currently, the regulation uses the term 'manger', however, the regulation should read 'Manager'.

Benefit/Necessity: The proposed is necessary to improve clarity of the regulation and ensure it is consistent with defined terms in section CCR 4970.01. The proposed edit does not change the interpretation of the regulation and the proposed ensures the language is accurate.

Amend Regulations Appendix ERDS Form Item 4

Specific Purpose: The specific purpose of the proposed amendment is to remove the duplicative term 'description' in the text of Item 4.

Benefit/Necessity: The proposed amendment is beneficial in that it improves clarity in the question. Standard measures must be described within the Project description and incorporated into the Project. The duplicative 'description' confuses the intent of Item 4. This proposed change does not alter the requirement of Item 4, but instead improves the clarity and accuracy of the text.

Amend Regulations Appendix ERDS Form Item 6

Specific Purpose: The specific purpose of the proposed amendment is to change the reference to 'Project site' to 'Project Area' and to add language to prompt Applicants to list designated critical habitat(s) if they exist in the Project Area. Further, the proposed amendment would remove an erroneous bracket before the question mark.

Benefit/Necessity: The proposed amendment is necessary to ensure consistency between ERDS Item 6 with terms defined in Section 4970.01. The use of Project site is inconsistent with the Grants Program terms. The term Project Area is the correct term to use as defined by CCR 4970.01 This change does not alter the intent or impose any additional requirements

Additionally, it is necessary to add language that prompts Applicants to list designated critical habitats in and around their Project Areas to ensure that OHMVR Division review staff know what critical habitats exist for which species to accurately assess for any

exceptions that may apply to the use of CEQA categorical exemptions. Asking the Applicant to provide this information eliminates a step in the review process and improves efficiency of the Grants Program. Currently, OHMVR Division staff are required to clarify with Applicants which critical habitats exist within the Project Area. This change would improve program efficiency.

Amend Regulations Appendix ERDS Form Item 7

Specific Purpose: The specific purpose of the proposed amendment is to add language that clarifies where federal Applicants can look to find specific information to assist with answering ERDS Item 7. The term 'if applicable' is proposed as not all Applicants are federal Applicants, so this helps clarify for those that are. The proposed amendment additionally broadens the suggested documents to review to help answer ERDS Item 7.

Benefit/Necessity: The proposed amendment is beneficial as it adds clarifying language that assists Applicants in answering Item 7. The additions do not change or otherwise alter the requirement in any way.

Amend Regulation Appendix Habitat Management Program Part 1 Form

Specific Purpose: The specific purpose of the proposed amendment is to revise and combine Habitat Management Program Part 1 with Soil Conservation Plan Part 1 to make one new form. Currently, to determine if Applicants need both a Habitat Management Program and a Soil Conservation Plan, Applicants answer whether their Project proposes Ground Disturbing Activities in separate locations: HMP Part 1 is asked in the General Application, and SCP Part 1 is asked in the Project-specific Applications (i.e. Ground Operations). This proposed change would eliminate this duplication and ask Applicants once in the General Application if their Project has Ground Disturbing Activities. combine both questions into one form, as opposed to having them in two separate locations.

Additionally, this proposed change would combine both the HMP and SCP Part 1 Forms. Within this change, specific language would be edited to provide for continuity of the new form. Given the addition of the Ground Disturbing Activities question to this form, language would be moved around and clarified. Other changes include a revision to the HMP requirement question. The language 'including the OHV Recreation directly facilitated by...' would be removed and replaced with 'including the OHV Recreation occurring in the Project Area'. The same language would also be removed from the SCP requirement question and would be replaced with "including the OHV Facilities in the Project Area'.

Additionally, the SCP requirement section would be shortened to reduce the text included in the certification statement. Currently the statement asks, "Can the Applicant certify that none of the proposed Projects with Ground Disturbing Activities including the OHV Recreation directly facilitated by these activities, have potential to cause erosion or sedimentation which significantly affects resource values beyond the Facilities, or

generate soil loss that exceeds restorability”. This proposed amendment would change the sentence to read as follows: “Can the Applicant certify that none of the proposed Projects with Ground Disturbing Activities including the OHV Facilities in the Project Area have the potential to cause erosion or sedimentation?”

Benefit/Necessity: The proposed changes improve clarity and reduce confusion amongst Applicants in several areas. Currently, Applicants are asked in multiple locations if their Project includes Ground Disturbing Activities. This allows the opportunity for Applicants to answer this question differently (for example, answering ‘yes’ and then ‘no’ later), leading to inconsistencies, confusion, and potential noncompliance. This revised form addresses that issue by ensuring Applicants are only asked one time if any of their Projects involve Ground Disturbing Activities.

The change from ‘including OHV Recreation directly facilitated by,’ to ‘OHV Recreation occurring in the Project Area’ is needed to better align the HMP with the statutory requirements of it. The HMP does not account for facilitated recreation but rather must reflect Risk Factors to special-status species and their habitats from OHV Recreation and Project Activities. That change in language does not alter the HMP requirement, nor does it add any additional requirements. The change better reflects the statutory intent of the HMP.

The same language that states ‘the OHV Recreation directly facilitated by’ would also be removed from the SCP portion of the form and would instead be replaced by ‘including the OHV Facilities in the Project Area’. This change better aligns the SCP question with the Soil Conservation Standard and with statute. The Soil Conservation Standard does not require Applicants to assess erosion generated by, or facilitated by, OHV Recreation, but instead emphasizes the need for sustainable OHV roads, trails, and Facilities. As such, the proposed change is needed to align with the Soil Standard and to correct an inconsistency in the current language. As currently written, this statement is an incorrect expansion of the Soil Conservation Standard.

The statement asking Applicants to determine the need for a SCP would be shortened to remove ‘...which significant affects resource values beyond the Facilities, or generate soil loss that exceeds restorability’. This change is necessary as it improves the alignment between the SCP requirement and the statute that calls for Grantees proposing Projects with Ground Disturbing Activities to generate a SCP (PRC 5090.53). The current language allows for too much flexibility in the Soil Conservation Plan requirement which causes conflict with the Public Resources Code Soil Conservation Plan requirement. This change better aligns the certification statement with statute, but does not change the requirement or add any additional requirements.

These changes in creating this new form in totality do not add or remove any requirements. The changes are proposed to ensure a close alignment of the Program’s environmental requirements with the statutes that require them. Further, the changes

are needed to improve the flow of the Application process, reduce confusion, and ensure full compliance with statute and regulation.

Amend Regulations Appendix Habitat Management Program Part 2 Applicant Type/Name Section

Specific Purpose: The purpose of the proposed amendment is to add a question beneath the first question and before the second question that asks Applicants to respond if the HMP being submitted is used by another Applicant to fulfil their HMP compliance and to add a line for the respondent to name the Applicant using the HMP.

Benefit/Necessity: The proposed amendment is necessary to ensure and have all parties acknowledge instances when a land manager (agency) partners with a nonprofit and the nonprofit will use the land managers HMP. This question pairs with the first question in this section and ensures OHMVR Division review teams are fully aware of all Project Areas that have a HMP and this change will further indicate for all parties who is responsible for HMP compliance.

Amend Regulations Appendix Habitat Management Program Part 2 Section 1 Summary of HMP Changes

Specific Purpose: The specific purpose of this proposed amendment is to remove the second sentence regarding OHMVR Division retaining hardcopy maps, remove 'encouraged' from the end of the last sentence, and replace with required. This proposed amendment will require Applicants to submit electronic copies of maps.

Benefit/Necessity: The proposed amendment is necessary as it removes antiquated language and accurately reflects current practice. Section 3 Map(s) of Project Area with Species and/or Habitat Addressed by the HMP number 4 currently requires maps in electronic format. This proposed change does not add or change any existing requirements and is for consistency only.

Amend Regulations Appendix Habitat Management Program Part 2 Section 2 List of Special-Status Species

Specific Purpose: The specific purpose of the proposed amendment is to amend the list of special-status species that are required to be addressed by the HMP in Table 2. This amendment would remove United State Forest Service Management Indicator Species "MIS" (FSMIS) and Bureau of Land Management "MIS" (BLMMIS). Additionally, the proposed amendment would reduce the California Rare Plant Rank from lists 1A – 4 to 1A – 2.

Benefit/necessity: The proposed amendment is necessary as Bureau of Land Management and the Forest Service no longer use Management Indicator Species as a designation for a special-status species and accordingly should not be required to be addressed by the HMP. Additionally, reducing the California Rare Plant Rank lists from 1A – 4 to 1A – 2 focuses specifically on the most imperiled rare plants found in the

California Native Plant Society's Rare Plant Ranks. Rank 3 includes plants that require additional information and Rank 4 includes plants of limited distribution. The remaining ranks (1A, 1B, 2A, and 2B) are all focused on rare and/or endangered plant species, which is more directly related to the HMP's statutorily required mandate of ensuring a Viable Species Composition.

Amend Regulations Appendix Habitat Management Program Part 2 Section 2 Addressed by HMP?

Specific Purpose: The specific purpose of the proposed amendment is to remove the phrase 'the use directly facilitated by those activities' and replace it with the phrase 'the OHV Recreation occurring in the Project Area'. This proposed amendment would also remove the sentence that starts with 'For example,...' and replaces it with 'See the bottom of Table 2 for examples of reasons to exclude species from the HMP.'

Benefit/Necessity: The proposed amendment to remove 'the use directly facilitated by those activities' and replace it with 'OHV Recreation occurring in the Project Area' is necessary to improve clarity about the purpose of the HMP which is to ensure a Viable Species Composition is maintained in the Project Area. The HMP assesses risk factors to special-status species and habitats due to Project activities and OHV Recreation within the Project Area. This change reflects the intent of the HMP, improves clarity around what is required, and reduces confusion around the 'directly facilitated' phrase.

Additionally, removing the last sentence that starts with 'For example,...' is necessary as the example inaccurately portrays that routine maintenance activities do not have risk factors to special-status species or habitats. More appropriate examples of examples to exclude a species from the HMP can be found in Table 2, and as such, directing the Applicants to those examples improves the overall clarity of the HMP.

Amend Regulations Appendix Habitat Management Program Part 2 Table 2

Specific Purpose: The specific purpose of the proposed amendment is to remove USFS Management Indicator Species and BLM Management Indicator Species from the Listing Status Key of Table 2. Additionally, the proposed amendment removes California Rare Plant Rank 3 and 4 and retains Ranks 1 – 2.

Benefit/Necessity: The proposed amendment is necessary to ensure consistency between changes proposed in the instructions in Section 2 for Table 2. Further, BLM and USFS no longer use the Management Indicator Species designations. This change aligns the Grants Program regulations to reflect current practice of the federal agencies that participate in the Grants Program.

Amend Regulation Appendix Habitat Management Program Part 2 Table 2 Superscript 3 Examples of reasons to exclude species from the HMP include:

Specific Purpose: The specific purpose of the proposed amendment is to edit and update the examples listed in Table 2 for when species can be excluded from the HMP.

The first bullet point would be edited to remove ‘...any OHV Recreation area’ and replace it with ‘...the Project Area’.

The second bullet point would be edited to add the phrase ‘...in or near the Project Area’.

The third bullet point would be amended to read as follows: “neither Project activities nor OHV Recreation in the Project Area overlap in time with species occurrence (or sensitivity such as nesting)”.

The fourth bullet point would be amended to capitalize the term Risk Factors to reflect the proposed addition of the term to CCR 4970.01. The fourth bullet would read “Risk Factors – there are not known Risk Factors for the species”.

The fifth bullet point would be amended to specify that species can be excluded from the HMP if there have been no records of the species in 30 years.

Benefit/Necessity: The proposed amendments to the Table 2 superscript 3 list brings clarity to the existing examples by providing more specific language. Additionally, the proposed amendment is necessary so that the examples of when species can be excluded from the HMP reflects current regulation and practice. The proposed changes do not add any additional requirements, and instead, only serve as clarification.

Amend Regulation Appendix Habitat Management Program Part 2 Section III Instructions

Specific Purpose: The specific purpose of the proposed amendment is to remove a sentence that allows Applicants submitting an HMP to not provide maps provided the omission is justified adequately.

Benefit/Necessity: The proposed amendment is necessary because all Applicants that submit HMPs must submit maps. The existing language adds ambiguity and can be misleading. The proposed change does not add or change any existing requirements but instead aims to reinforce that maps are required to be submitted with the HMP.

Amend Regulation Appendix Habitat Management Program Part 2 Sections IV Title

Specific Purpose: The specific purpose of the proposed amendment is to remove the word ‘sensitive’ from the title of the section.

Benefit/Necessity: The proposed amendment is necessary as the word ‘sensitive’ is an expansion of the HMP requirements that goes beyond the intent of the HMP, which focuses solely on special-status species and the habitats that they rely on, but not sensitive habitats. This determination is supported by the Table 2 list of species required to be considered for inclusion in the HMP. The HMP does not address sensitive habitats, but instead addresses special-status species and their habitats. This change reduces confusion on the species and habitats that must be included in the

HMP. The proposed amendment does not add or otherwise change what Applicants are required to include in their HMP.

Amend Regulation Appendix Habitat Management Program Part 2 Section IV Table 3

Specific Purpose: The specific purpose of the proposed amendment is to remove the word 'sensitive' from the title of Table 3 in the instructions for Section IV.

Benefit/Necessity: The proposed amendment is necessary as the word 'sensitive' is an expansion of the HMP requirements that goes beyond the intent of the HMP, which focuses solely on special-status species and the habitats that they rely on, but not sensitive habitats. This determination is supported by the Table 2 list of species required to be considered for inclusion in the HMP. The HMP does not address sensitive habitats, but instead addresses special-status species and their habitats. This change reduces confusion on the species and habitats that must be included in the HMP. The proposed amendment does not add or otherwise change what Applicants are required to include in their HMP.

Amend Regulation Appendix Habitat Management Program Part 2 Section IV Known Information

Specific Purpose: *Specific Purpose:* The specific purpose of the proposed amendment is to remove the word 'sensitive' from the description of the table column Known Information.

Benefit/Necessity: The proposed amendment is necessary as the word 'sensitive' is an expansion of the HMP requirements that goes beyond the intent of the HMP, which focuses solely on special-status species and the habitats that they rely on, but not sensitive habitats. This determination is supported by the Table 2 list of species required to be considered for inclusion in the HMP. The HMP does not address sensitive habitats, but instead addresses special-status species and their habitats. This change reduces confusion on the species and habitats that must be included in the HMP. The proposed amendment does not add or otherwise change what Applicants are required to include in their HMP.

Amend Regulation Appendix Habitat Management Program Part 2 Section IV Concerns/Risks/Uncertainties

Specific Purpose: The specific purpose of the proposed amendment is to add the phrase 'Project activities', remove the term 'management', and replace it with 'Recreation'.

Benefit/Necessity: The proposed amendment is necessary as the addition of 'Project activities' ensures that the intent of the HMP, which is to account for Risk Factors to special status species and their habitats from Project activities and OHV Recreation, is referred to in the same manner consistently throughout the HMP form instructions. As

currently written, the instructions relay that only OHV management, also an inconsistency, is the factor that presents Risk Factors that must be accounted for in the HMP. However, the HMP must address both Risk Factors from Project activities and OHV Recreation. The proposed amendment aims to ensure consistency and improve the clarity of instructions.

Amend Regulation Appendix Habitat Management Program Part 2 Table 3 Title

Specific Purpose: The specific purpose of the proposed amendment is to remove the term 'Sensitive' from the title of Table 3.

Benefit/Necessity: The proposed amendment is necessary as the word 'sensitive' is an expansion of the HMP requirements that goes beyond the intent of the HMP, which focuses solely on special-status species and the habitats that they rely on, but not sensitive habitats. This determination is supported by the Table 2 list of species required to be considered for inclusion in the HMP. The HMP does not address sensitive habitats, but instead addresses special-status species and their habitats. This change reduces confusion on the species and habitats that must be included in the HMP. The proposed amendment does not add or otherwise change what Applicants are required to include in their HMP.

Amend Regulation Appendix Habitat Management Program Part 2 Tables 4a and 4b: Applicable Monitoring Instructions

Specific Purpose: The specific purpose of the proposed amendment is to add the language: "Special-status species surveys and monitoring described in the HMP shall be performed by, or under the supervision of, a Qualified Biological Monitor."

Benefit/Necessity: The proposed amendment is necessary to ensure that Applicants and Grantees know that the wildlife monitoring and surveys described in the HMP must be performed by or supervised by an individual with the biological knowledge/expertise of the species/habitats. Special-status species are often rare, difficult to identify, may require specific monitoring techniques, or may require permits to handle and as such, it is critical that Applicants/Grantees performing the monitoring have the biological expertise to carry out the monitoring described in the HMP. This is especially critical given the role of the HMP is to ensure a Viable Species Composition is maintained. This requirement will improve the scientific rigor of the HMP and thereby accomplish the mandate to maintain a Viable Species Composition.

The proposed amendment also incorporates the proposed definition for Qualified Biological Monitor.

Amend Regulation Appendix Habitat Management Program Part 2 Tables 4a: Summary of HMP Monitoring Program Instructions

Specific Purpose: The specific purpose of the proposed amendment is to remove the last sentence of the Management Action Effectiveness Monitoring Methodology

instructions. Specifically, 'Include specific triggers for management change' would be removed since Triggers for Management Change is its own column, thus making the last sentence redundant and confusing.

Benefit/Necessity: The proposed amendment is beneficial as the last sentence is redundant and this change improves clarity of the instructions for this column. The proposed amendment does not impose or change any requirements.

Amend Regulation Appendix Habitat Management Program Part 2 Table4b Validation Monitoring (if applicable) Instructions

Specific Purpose: The specific purpose of the proposed amendment is to make title case the defined term 'Project Area'.

Benefit/Necessity: The proposed amendment is necessary as the term 'Project Area' is a defined term per CCR 4970.01, and as such must be in title case for consistency.

Amend Regulation Appendix Habitat Management Program Part 2 Section V column instructions

Specific/Purpose: The specific purpose of the proposed amendment is to add text for a propose new column that would require Grantees to list the year monitoring took place in Table6. This is a new requirement. The amendment would also add a column to Table 6 between Monitoring Accomplishments and Results.

Benefit/Necessity: The proposed amendment is necessary so that OHMVR Division review teams can verify that Grantees are performing the monitoring described for the appropriate year. Often, dated monitoring result are left in Table 6 causing confusion for both Grantees and OHMVR Division staff. Adding the Year column and instructions would improve clarity for both Grantees and staff. This proposed change would also improve the validity and accuracy of the HMP.

Amend Regulation Appendix Soil Conservation Plan Part 1

Specific Purpose: The specific purpose of the proposed amendment is to remove this language from its current locations and combine in with the HMP Part 1 language per the proposed amendment above. As such, Soil Conservation Plan section will be deleted and rewritten. The Soil Conservation Plan requirement will not change as a result of this proposed amendment. The Soil Conservation Plan would still be required by all Applicants proposing Projects with Ground Disturbing Activities.

Benefit/Necessity: The proposed amendment is beneficial in that it improves clarity and reduces redundancy of the Grants Program's environmental requirements. This change helps streamline Applications and ensures all environmental requirements are answered in the General Application. The proposed amendment does not change or add additional requirements. This change is solely a procedural change.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

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

UNDERLYING DATA / DOCUMENTS RELIED UPON

ECONOMIC IMPACT ASSESSMENT / ANALYSIS

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

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

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

CONSIDERATION OF ALTERNATIVES

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

BUSINESS IMPACT

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

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

DUPLICATION / CONFLICT WITH FEDERAL REGULATIONS

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