

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

**NOTICE OF PROPOSED RULEMAKING**

**NOTICE IS HEREBY GIVEN** the California Department of Parks and Recreation (Department) proposes to amend the regulations and documents incorporated by reference described below after considering all comments, objections, and recommendations regarding the proposed action.

**PROPOSED REGULATORY ACTION**

The Department proposes to amend the regulations in the California Code of Regulations, Title 14, Division 3, Chapter 15, Article 1 (CCR), Section 4970.06.3, repeal the 2008 Soil Conservation Standard and Guidelines (2008 Guidelines), and adopt the 2020 Soil Conservation Standard and Guidelines (2020 Guidelines) pertaining to the Off-Highway Motor Vehicle Recreation Division (OHMVR Division) Grants and Cooperative Agreements Program (Program).

**PUBLIC HEARING**

No public hearing on the proposed regulations is scheduled; however, if any interested person requests, no later than 15 days prior to the close of the written comment period, that a hearing be held on these regulations, the Department will schedule a hearing. A hearing may be requested by making such a request in writing addressed to the individuals listed under "Contact Person" in this Notice.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relative to the proposed rulemaking to the Department. The written comment period ends on August 9, 2021. The Department will consider only written comments received at the Department's office by that time. Written comments may be mailed to the following address:

California Department of Parks and Recreation  
Off-Highway Motor Vehicle Recreation Division  
Attn: Jon O'Brien, Environmental Program Manager  
1725 23<sup>rd</sup> Street, Suite 200  
Sacramento, California 95816-7100

Written comments delivered by email or facsimile will also be accepted by the Department. Written comments may be submitted by email to [OHV.Grants@parks.ca.gov](mailto:OHV.Grants@parks.ca.gov) or via facsimile at (916) 324-1610. Electronic mail or facsimile transmission must be completed by the deadline given above.

## AUTHORITY AND REFERENCE

*Authority Citation:* The proposed amendments are authorized by Public Resources Code (PRC) Sections 5001.5 and 5003.

*Reference Citation:* The particular code sections implemented, interpreted, or made specific by these proposed amendments are PRC Sections 5090.02, 5090.32, 5090.35, 5090.50(d)(4) and 5090.53.

## INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

### *Summary of Existing Laws and Regulations*

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 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 Guidelines are intended to guide and reinforce responsible resource management in support of these principles.

Further, Senate Bill 249 (Allen, 2017) amended sections of the PRC relating to the 2008 Guidelines. Among those amendments, PRC Section 5090.35(b)(1) was amended to require the Division to review and, if needed, update the 2008 Guidelines.

### *Effect of the Proposed Rulemaking*

#### Amend CCR Section 4970.06.3

The proposed updates the 2008 Guidelines version date and makes other clarifying and consistency changes.

#### Repeal the 2008 Soil Conservation Standard and Guidelines

The proposed repeals the 2008 Guidelines, incorporated by reference, due to the proposed adoption of the 2020 Guidelines.

#### Adopt the 2020 Soil Conservation Standard and Guidelines

The proposed updates the 2008 Guidelines language by repealing the 2008 Guidelines and adopting the 2020 Guidelines, incorporated by reference. Updates were made throughout the document to clarify document language, improve organizational continuity, and provide expanded guidance and additional resources.

### *Comparable Federal Regulations*

The proposed amendments do not duplicate or conflict with federal regulations or statutes.

### *Policy Statement Overview and Anticipated Benefits of the Proposed Rulemaking*

The overall objective of the proposed action is to update and improve the Program's regulatory language, documents incorporated by reference, and ensure responsible resource management.

Per guidance provided in Senate Bill 249 (Allen, 2017) Section 5090.35(b)(1), the Division, in consultation with Federal and State regulatory and land management agencies shall, "...review, and if deemed necessary, update the 2008 Soil Conservation Standard and Guidelines to establish a generic and measurable soil conservation standard. The division shall subsequently review and update the standard when deemed necessary by the department."

Upon staff and agency review, 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. These changes are intended to make the document more useful to land managers without creating additional requirements. The 2020 Guidelines provide updated tools, considerations, and a clearer framework to ensure appropriate resource management and maintenance in areas of off-highway vehicle use.

### *Determination of Inconsistency/Incompatibility with Existing Regulations*

After conducting an evaluation for any regulations related to this area, the Department has found that there are no other regulations concerning appropriate resource management in areas of off-highway vehicle use. Therefore, the Department has determined that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

### FORMS INCORPORATED BY REFERENCE

The following form is incorporated by reference in the proposed regulations:

- 2020 Soil Conservation Standard and Guidelines

### MANDATED BY FEDERAL LAW OR REGULATIONS

None.

### OTHER STATUTORY REQUIREMENTS

None.

## DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

*Mandate on Local Agencies and School Districts:* None.

*Cost to any Local Agency or School District:* None.

*Cost or Savings to any State Agency:* None.

*Other Non-Discretionary Cost or Savings Imposed of Local Agencies:* None.

*Cost or Savings in Federal Funding to the State:* None.

*Significant Effects on Housing Costs:* None.

*Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California businesses to Compete with businesses in other states:* None.

## RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Department finds that the proposed regulations will not eliminate jobs but will most likely see an increase in the creation of jobs. Additionally, the Department finds that no new businesses will be created, and no businesses will be eliminated. The proposed regulation will not affect the expansion of existing businesses.

This regulatory action benefits the health and welfare of California residents by supporting funding that assists Land Managers and partners to provide recreational opportunities within the State. The action also benefits the State's environment by improving the ability of Land Managers and partners to receive funding that supports resource protection activities related to OHV Recreation.

The proposed regulations will not affect worker safety.

## COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The Division is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

## BUSINESS REPORTING

None.

## SMALL BUSINESS DETERMINATION

The Department has determined there are no cost impacts on small businesses. The 2008 Guidelines is a tool used by Land Managers and partners to assist in their application for Grant funds and is not intended to impact small businesses directly.

### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Department must determine that no reasonable alternative it considered or has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the public comment period.

### CONTACT PERSON(S)

*Inquiries concerning the proposed action may be directed to:*

Jon O'Brien, Environmental Program Manager  
California Department of Parks and Recreation  
Off-Highway Motor Vehicle Recreation Division  
1725 23<sup>rd</sup> Street, Suite 200  
Sacramento, CA 95816  
(916) 324-1572  
Jon.OBrien@parks.ca.gov.

*The back-up contact person regarding the proposed action is:*

Ethan Mathes, Compliance Officer  
California Department of Parks and Recreation  
Off-Highway Motor Vehicle Recreation Division  
1725 23<sup>rd</sup> Street, Suite 200  
Sacramento, CA 95816  
(916) 323-0157  
ethan.mathes@parks.ca.gov.

### AVAILABILITY OF STATEMENT OF REASONS, TEXT OF REASONS, TEXT OF PROPOSED REGULATION, AND RULEMAKING FILE

The Department will make the entire rulemaking available for inspection and copying throughout the rulemaking process at its office located at California Department of Parks and Recreation, Off-Highway Motor Vehicle Recreation Division, 1725 23<sup>rd</sup> Street, Suite 200, Sacramento, CA 95816.

As of the date this Notice of Proposed Rulemaking is published in the Notice Register, the rulemaking file consists of this Notice of Proposed Rulemaking, the express terms of the regulation, the Initial Statement of Reasons, any information upon which the proposed rulemaking is based, and an economic impact assessment contained in the Initial Statement of Reasons. Copies may be obtained by contacting the above contact person at the above address.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After any public hearings and consideration of all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice of Proposed Rulemaking. If the Department makes substantive modifications, which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion, copies of the Final Statement of Reasons may be obtained by contacting Jon O'Brien, Environmental Program Manager at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout is available through the Division Website at [www.ohv.parks.ca.gov](http://www.ohv.parks.ca.gov), under the Grants link.