

TITLE 14. DEPARTMENT OF PARKS AND RECREATION

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Department of Parks and Recreation proposes to amend the regulations described below after considering all comments, objections and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Department proposes to amend the regulations contained in the California Code of Regulations, Title 14, Division 3, Chapter 15, Articles 1 through 8, Sections 4970.00 through 4970.32 pertaining to the Off-Highway Motor Vehicle Recreation Grant and Cooperative Agreement Program in accordance with the legislative changes in AB 2274, effective January 1, 2003.

PUBLIC HEARING

The Department will hold a public hearing starting at 3 p.m., on Thursday, September 4, 2003, in the Terrace Room of the Clarion Hotel/Mansion Inn, 700 16th Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code section 11125.1, any information presented to the Department during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the department and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relative to the proposed regulatory action to the Department. The written comment period ends at 5:00 P.M., on September 1, 2003. The Department will consider only written comments received at the Department office by that time (in addition to those comments received at the public hearing). The Department requests, but does not require, that persons who submit written comments to the Department reference the title of the rulemaking proposal in their comments to facilitate review. All written comments shall be submitted to the following address:

Department of Parks and Recreation
Off-Highway Motor Vehicle Recreation Division
Attn: Barry Jones, Manager
Grants and Winter Recreation
P.O. Box 942896

Sacramento, California 94296-0001

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Department of Parks and Recreation
Off-Highway Motor Vehicle Recreation Division
1725 23rd Street, Suite 200
Sacramento, California 95816

Written comments may also be sent to the Department via facsimile at the following phone number:

(916) 324-1610

Written comments may also be delivered via e-mail to the following address:

bjone@parks.ca.gov

The back-up contact person regarding the proposed action/text is Lisa McClung, Associate Park and Recreation Specialist, at (916) 445-2721, or e-mail lmcl@parks.ca.gov.

AUTHORITY AND REFERENCE

AUTHORITY: Public Resources Code (PRC) Sections 5090.02(5), 5090.32(d) and 5090.50(g)

REFERENCE: Public Resources Code (PRC) Sections 5090.23, 5090.24, 5090.32, 5090.35, 5090.50, and 5090.64

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Off-Highway Motor Vehicle Act of 1988 (Public Resources Code Sections 5090.01 et seq.), which established a program that provides for opportunities for off-highway motor vehicle recreation at specified areas throughout the State, has been amended by the legislature to prescribe changes to the procedures for grant application, funding, and monitoring. The amendment is cited in the enabling legislation (AB 2274) as the Off-Highway Motor Vehicle Recreation Act of 2003, hereinafter referred to as "the Act".

The Act requires annual performance audits on all grants to improve program accountability. The Act also authorizes the issuance of grants to educational institutions and nonprofit organizations for certain projects that are designed to sustain a managed off-highway motor vehicle recreation program. The Act further establishes an independent grant category for Off-Highway Vehicle (OHV)-related law enforcement programs.

California Code of Regulations (CCR) Title 14, Division 3, Chapter 15, Sections 4970.00 through 4970.32 are being proposed to be amended to clarify and to make specific the provisions of the Act and to provide appropriate

changes to the guidelines and standards for the Off-Highway Motor Vehicle Recreation (OHMVR) Program as follows:

CCR Section 4970.00 provides definitions that clarify terms or are applicable and/or unique to the OHMVR Program. Thirteen definitions are being added to this section to clarify new terms in the Act. Eleven definitions are being amended also to clarify and/or incorporate language provided in the Act. Five definitions are being deleted since they have been superseded by new terminology in the Act; or they are redundant to other terms in the Act; or they do not require clarification.

CCR Section 4970.01 sets forth the reason for the OHMVR Grant and Cooperative Agreement Program. It identifies the types of entities that may participate in the program and what is to be accomplished with funds received from the program. It is being amended to clarify the reason for the OHMVR Program and the entities that are eligible to participate in the program as provided in the Act.

CCR Section 4970.02 identifies the purpose of a planning project and the components that are required. It is being amended to identify specific types of studies that may possibly be funded by a grant or cooperative agreement.

CCR Section 4970.03 identifies types and eligible costs associated with acquisition projects. It is being amended to incorporate language that further clarifies the intent of the Act and to simplify the fund disbursement procedure.

CCR Section 4970.04 identifies the types of development projects that may be eligible for funding as an OHMVR grant or cooperative agreement. It is being amended to include the identification of major maintenance projects that may be eligible for funding.

CCR Section 4970.05 identifies the different general components of an operation and maintenance project and the specific types of activities that may be considered in such a project. The changes are intended to clarify the definition of a minor maintenance project.

CCR Section 4970.06 identifies the purpose of a resource management project. The changes are intended to clarify amended language in the Act as it applies to resource management projects.

CCR Section 4970.07 identifies the purpose of safety and/or education program projects. It is being amended to clarify amended language in the Act.

CCR Section 4970.08 identifies equipment purchase projects and the types of equipment and/or tools that are eligible for purchase. The changes are intended to clarify the type of insignia that must be displayed on all equipment purchases with OHMVR funds.

CCR Section 4970.09 is a new section that has been added to identify and to describe the types of activities that must be included in a law enforcement project as provided in the Act.

CCR Section 4970.10 is being amended to expand the eligibility to apply for certain types of grants or cooperative agreements to other agencies and organizations as provided in the Act. It is also being amended to include some additional application requirements and to clarify that there is a match

requirement for certain agencies and organizations for some of the projects that are eligible for funding.

CCR Section 4970.11 is being significantly amended to specify in detail the application content requirements as well as the resource and enforcement requirements for each type of project.

CCR Section 4970.12 identifies the Project Accomplishment Report. It is being amended to include an additional requirement for local agencies with grant funded OHV facilities.

CCR Section 4970.13 provides that OHMVR grant and cooperative agreement applications must be consistent with applicable planning documents. The changes are intended to clarify the language.

CCR Section 4970.14 is being amended to specify which types of applications require environmental documentation.

CCR Section 4970.15 identifies the requirements of grantees when signing a Project Agreement and receiving OHMVR funds. The changes are intended to clarify grantee requirements and to specify additional requirements.

CCR Section 4970.17 is being amended to eliminate the requirement that the OHMVR Division recommend to the OHMVR Commission the priority of each application that has been evaluated.

CCR Section 4970.18 identifies the OHMVR Commission's role in allocating funds. It is being amended to eliminate the requirement that the Commission allocate funds according to a priority list.

CCR Section 4970.19 discusses how funds allocated for OHMVR grant and cooperative agreement projects are distributed to grantees. It is being amended to clarify and specify grantee requirements in submitting payments.

CCR Section 4970.23 identifies how property acquired or developed by local agencies with OHMVR funds shall be used. The changes are intended to clarify language regarding the use of revenue generated from OHMVR program purchased property.

CCR Section 4970.25 is being amended to clarify the language regarding amendments to project agreements.

CCR Section 4970.27 identifies the role of the OHMVR Commission in the OHMVR Grant and Cooperative Agreement Program. The changes are intended to incorporate new language in the Act that delineates the OHMVR Commission's and the OHMVR Division's responsibilities in the applications review process.

CCR Section 4970.29 is being amended to identify the procedures for the annual performance review process as provided in the Act including applicable timeframes, specific elements to be evaluated, and the contents of the final report.

CCR Section 4970.31 identifies the origin of the Conservation and Enforcement Services Account. It is being amended to replace the term "peace officers" with the term "law enforcement personnel" as provided in the Act.

CCR Section 4970.32 discusses the selection process of applications for funding. It is being amended to further clarify the evaluation criteria to be used.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on representative private persons or businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

(1) create or eliminate jobs within California;

(2) create new businesses or eliminate existing businesses within California; or

(3) affect the expansion of businesses currently doing business within California

Significant effect on housing costs: None

Affect on small businesses: The Department has determined that there are no cost impacts on small businesses because this is a grant program for local agencies, nonprofit organizations, and educational institutions.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative it considered or that 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.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the expressed terms of the proposed action. A copy of the statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The rulemaking file, and all information on which the proposal is based, is located at the Off-Highway Motor Vehicle Recreation Division, 1725 23rd Street, Suite 200, Sacramento, California, 94296-

0001, and may be obtained upon request. Additionally, the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained from the Department's website located at www.ohvweb.parks.ca.gov, at the Grants and Regulations link.

Following the comment period, the Department will adopt the proposed regulations substantially as set forth above without further notice. If the regulation adopted by the Department differs from but is sufficiently related to the action proposed, it will be available to the public for at least 15 days prior to the date of the adoption. Any interest party may obtain a copy of said regulations prior to the date of the adoption by contacting the agency officer named herein.

A Final Statement of Reasons, when available, can be obtained from the agency contact person or Internet at www.ohvweb.parks.ca.gov, at the Grants and Regulations link.