

TITLE 14. DEPARTMENT OF PARKS AND RECREATION

NOTICE OF PROPOSED RULEMAKING

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

PROPOSED REGULATORY ACTION

The Department proposes to revise California Code of Regulations (CCR), Title 14, Division 3, Chapter 6, Section 4609 pertaining to safe vehicle operation at the Oceano Dunes State Vehicular Recreation Area (Oceano Dunes SVRA).

PUBLIC HEARINGS

The Department will hold one public hearing on the proposed rulemaking. The hearing will be held:

Date: August 17, 2009

Time: 5:00 p.m.

Location: Ramona Garden Park Center
993 Ramona Ave.
Grover Beach, California 93433

At the hearing, any interested person, or his or her authorized representative, may present oral or written statements, arguments, or contentions relevant to the proposed action described in the Informative Digest. The Department may impose reasonable limits on oral presentations. The Department requests, but does not require, that peoples who make oral comments at the hearing also submit written copies of their testimony at the conclusion of their remarks. Additionally, pursuant to Government Code section 11125.1, any information presented to the Department during the open hearing in connection with the 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 comments other than those presented at the public hearings may be submitted to the Department as described below.

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 at 7:00 p.m., on August 17, 2009. The Department will consider only written comments received at the Department's office by that time (in addition to those comments received at the public hearing). All written comments shall be submitted to the following address:

Department of Parks and Recreation
Off-Highway Motor Vehicle Recreation Division
Attn: John Pelonio, Public Safety Superintendent
1725 23rd Street, Suite 200
Sacramento, California 95816-7100

Written comments that are not more than 10 pages will be accepted by the Department via facsimile at (916) 324-1610. A fax transmission must be completed by the deadline given above.

Written comments may also be delivered electronically to John Pelonio at jpelonio@parks.ca.gov by the deadline given above.

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

Loren Rex, Visitor Services Superintendent, 916-324-3740 or email lrax@parks.ca.gov.

AUTHORITY AND REFERENCE

Authority Citation: The proposed regulations are authorized by Public Resources Code (PRC) § 5003 and 5001.5.

Reference Citation: The particular code sections implemented, interpreted, or made specific by these proposed new regulations are Public Resources Code (PRC) § 5003, 5008, 5090.32, and 5090.35.

INFORMATIVE DIGEST

Background and History

PRC 5003 allows the Department to enact regulations "...for the government and administration of the property under its jurisdiction."

PRC 5008 requires the Department to "...protect the state park system and the state vehicular recreation area and trail system from damage and preserve the peace therein."

PRC 5090.32(b) gives the Off-Highway Motor Vehicle Recreation (OHMVR) Division the responsibility for management of the State Vehicular Recreation Areas.

PRC 5090.32(c) gives the OHMVR Division the responsibility to provide for law enforcement and appropriate public safety activities.

PRC 5090.35(a) states “The protection of public safety, the appropriate utilization of lands, and the conservation of land resources are of the highest priority in the management of the State Vehicular Recreation Areas...”

CCR Title 14 Division 3 contains the regulations that apply to units of the State Park System.

The proposed revisions would address vehicle operation at Oceano Dunes SVRA by prohibiting specified vehicle operation behaviors which may lead to accidents or injuries. They would also make minor changes without regulatory effect to eliminate unnecessary language and simplify the regulations.

Effect of Proposed Rulemaking

The proposed revisions to CCR, Title 14, Division 3, Chapter 6, Section 4609, would make the following changes specific to Oceano Dunes SVRA:

- Require a whip and flag for all vehicles in the dunes area, whether the vehicle is registered for highway or off-highway use. Previously, a whip and flag were only required for off-highway registered vehicles, but not highway registered vehicles.
- Prohibit operation of vehicles “...at a speed or in any other manner that is not safe or prudent having regard for weather, visibility, traffic conditions, presence of pedestrians, and the nature of the terrain on which the vehicle is being operated, and in no case at a speed or in a manner which endangers the safety of persons or property.”
- Prohibit operation of a vehicle in a manner which endangers the health or safety of any passenger or occupant under the age of eighteen.
- Allow any person under the age of eighteen to operate a vehicle in a situation where his or her health or safety may be in danger as a result of the operation of the vehicle.
- Additional non-substantive changes are made to correct the unit name, simplify regulations and remove redundant language.

POLICY STATEMENT OVERVIEW

The objective of the proposed regulations is to improve safety in the Oceano Dunes SVRA by reducing collisions and unsafe operation of vehicles.

COMPARABLE FEDERAL REGULATION OR STATUTE

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

LOCAL MANDATE DETERMINATION

The Department has determined these proposed regulations do not impose a mandate on local agencies or school districts. The proposed regulations only apply within the Oceano Dunes SVRA.

DISCLOSURES/ESTIMATE OF ECONOMIC AND FISCAL IMPACT

Fiscal Impact on Local Agencies or School Districts: These regulations do not impose any cost on a local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4, nor do they impose any nondiscretionary cost or saving on local agencies.

Fiscal Impact on State Government: These regulations do not impose any cost or savings to the State or any cost or savings in federal funding to the State.

Economic Impact on Business: The Department has made an initial determination these regulations do not have a significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

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.

Assessment of Effect on Jobs and Businesses: 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.

Impact on Housing: These regulations would not have a significant effect on housing costs.

Determination Regarding Effect on Small Businesses: The Department has determined there are no cost impacts on small businesses because the proposed regulations only apply to Oceano Dunes SVRA.

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.

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. Copies may be obtained by contacting John Pelonio at the e-mail address listed previously. The rulemaking file, which contains all information on which the proposal is based, is located at the OHMVR Division, 1725 23rd Street, Suite 200, Sacramento, California, 95816-7100, and may be obtained upon request. Additionally, the Initial Statement of Reasons and the text of the proposed regulations may be obtained from the Department's website located at www.ohv.parks.ca.gov at the Proposed Regulations link.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding a public hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. 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 its completion, a Final Statement of Reasons may be obtained by contacting John Pelonio at the aforementioned address and will be made available through the Division website at www.ohv.parks.ca.gov, at the Proposed Regulations link.