INITIAL STATEMENT OF REASONS

SECTION 4860. "RECREATIONAL TRAILS PROGRAM"

SPECIFIC PURPOSE OF THE REGULATION.

The purpose of the proposed regulation is to implement, interpret, and make specific Public Resources Code Section 5072.8 and to incorporate recent changes in statute. Specifically, it will establish eligibility, application, grant selection and grant administration requirements for the Recreational Trails Program (RTP).

NECESSITY

The RTP was established in 1991 with the passage of the National Recreational Trails Fund Act Part B of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). ISTEA provided federal funds to the 50 states, the District of Columbia and Puerto Rico generally for the acquisition and development of motorized and non motorized recreational trails. The funds were allocated to the states by a formula developed by the federal government. ISTEA was amended by the National Highway System Designation Act of 1995 and the Transportation Equity Act for the 21st Century of 1998. ISTEA has since been repealed but the RTP has been continued by the passage of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

Public Resources Code (PRC) Section 5072.8 was enacted by the Statutes of 1992, Chapter 964 to enable California to participate in the RTP. This statute established a State fund in which the funds received from the federal government could be deposited. It also defined eligible applicants, eligible projects, and how the funds were to be divided between motorized and non motorized recreational trail projects. Public Resources Code Section 5072.8 was recently amended by the Statutes of 2006, Chapter 574 which added federal government agencies as another eligible applicant.

Even though PRC Section 5072.8 was chaptered in 1992, regulations that implement, interpret, and make specific PRC Section 5072.8 were never submitted to the rule making process. Program direction and administration was initially provided by a procedural guide developed by the California Department of Parks and Recreation (Department) titled Procedural Guide for the National Recreational Trails Fund Act Program under the Steve Symms National Recreational Trails Fund Act of 1991 Public Law 102-240 (August 1993). The Department replaced this guide in 1999 with a procedural guide titled Procedural Guide Recreational Trails Program under the Transportation Equity Act for the 21st Century. To update that guide and to incorporate changes resulting from the enactment of SAFETEA-LU, the Department published the Procedural Guide for the Recreational Trails Program Under the federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA_LU) (June 1, 2006) and then

published the Procedural Guide for the federal Recreational Trails Program Final Draft January 25, 2007 to incorporate change to PRC 5072.8 adding federal agencies as eligible applicants.

The June 1, 2006 procedural guide underwent an extensive and noticed public review and comment process including a public hearing. In addition, technical workshops were conducted for the January 25, 2007 procedural guide although neither has been submitted through the rule making process.

Because of the need to establish regulations to implement, interpret, and make specific PRC Section 5072.8 and to incorporate recent changes in statute, the Department developed the Procedural Guide for the federal Recreational Trails Program Final Draft June 4, 2007. The proposed regulation will incorporate this procedural guide by reference.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Department went through an extensive and noticed public review and comment process during the development of the June 1, 2006 RTP procedural guide (referenced above). This process included six stake holder meetings (focus groups) held statewide, a 30 day public comment period, a public hearing, and a 15 day follow up public comment period. The June 1, 2006 and January 25, 2007 RTP procedural guide provide the basis for the development of the Procedural Guide for the federal Recreational Trails Program Final Draft June 4, 2007 that is the subject of this regulation. The comments received during the public review and comment process for the June 1, 2006 RTP procedural guide are contained in a binder titled Recreational Trails Program 2006 Procedural Guide Development Process and Documents. Other documents that were utilized during the development of the Procedural Guide for the federal Recreational Trails Program Final Draft June 4, 2007 include (1) Procedural Guide for the federal Recreational Trails Program Final Draft January 25, 2007, (2) the Procedural Guide Recreational Trails Program under the Transportation Equity Act for the 21st Century (March 1999), (3) training material from the Federal Highway Administration (FHWA) concerning the Transportation Planning Process, (4) a draft copy of the Recreational Trails Program (RTP) CEQA/NEPA Determination Form from the FHWA, (5) a draft copy of the Recreational Trails Program (RTP) Project Application CEQA/NEPA Determination Form Instructions from the FHWA, (6) a copy of the Preliminary Environmental Study (PES) Form from the FHWA, (7) a copy of the Recreational Trails Program Project Application Preliminary Environmental Study (PES) Form Instructions from the FHWA, (8) a copy of a FHWA webpage titled “Program Summary – Recreational Trails Program - FHWA”, (9) a copy of a FHWA webpage titled “Program Legislation – Recreational Trails Program – FHWA”, (10) a copy of a FHWA webpage titled “Program Guidance, Part 1 – Recreational Trails Program – FHWA”, (11) a copy of a FHWA webpage titled “SAFETEA-LU – Fact Sheets – Recreational Trails Program”, and (12) the Draft Recreational Trails Program Guidance Draft for Review, October 14, 2006 from the FHWA.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATVES.

No other alternatives were presented to or considered by the Department. Regulations must be established in order to implement PRC Section 5072.8.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Department has not identified any alternatives that would lessen any impact on small business. The adoption of the proposed regulation will not impact small business. The proposed regulation merely incorporates a procedural manual for an existing grant program. Only California governmental organizations and non profit organizations with management responsibilities over public lands in the state of California are eligible to compete for grants under this program. Government Code Section 11342.610(b)(6) excludes non profit organizations from the definition of a small business.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICNT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The adoption of the proposed regulation will not have a significant adverse economic impact on business. The proposed regulation merely incorporates a procedural manual for an existing grant program. Only California governmental organizations and non profit organizations with management responsibilities over public lands in the state of California are eligible to compete for grants under this program. Government Code Section 11342.610(b)(6) excludes non profit organizations from the definition of a small business.

AVOIDENCE OF UNNECESSARY DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS CONTAINED IN THE CODE OF FEDERAL REGULATIONS ADDRESSING THE SAME ISSUE.

There are no federal regulations that specifically address the RTP. The Department confirmed this with the FHWA, the parent federal agency for the RTP.