

**TITLE 14. NATURAL RESOURCES**  
**DIVISION 3. CALIFORNIA DEPARTMENT OF PARKS AND RECREATION**  
**CHAPTER 11.8. HABITAT CONSERVATION FUND**

[Notice published November 5, 2010]

NOTICE OF PROPOSED RULEMAKING

The California Department of Parks and Recreation (Department) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department has scheduled a public hearing on this proposed action from 9:00 am to 11:00 am, on December 21, 2010 at Old Fair Oaks Library, located at 4150 Temescal Street, Fair Oaks, California 95628. The Old Fair Oaks Library is wheelchair accessible. 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 written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at **5:00 pm on December 20, 2010**. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Ms. Cristelle Taillon  
Office of Grants and Local Services  
California Department of Parks and Recreation  
P.O. Box 942896  
Sacramento, CA 94296-0001  
Email: [ctailon@parks.ca.gov](mailto:ctailon@parks.ca.gov)  
Fax: (916) 653-6511  
Phone: (916) 654-8686

## AUTHORITY AND REFERENCE

Commencing with Fish and Game Code (FGC) §2780, the Department is authorized to oversee and manage grants to eligible entities for the purposes stated within its provisions.

**AUTHORITY:**  
FGC §2780

**REFERENCES:**  
California Fish and Game Code, Sections 2720 through 2729, and Sections 2780, 2781, and 2785-2799.6

California Government Code Sections 7550 through 7550.6

California Public Resources Code, Sections 5900 through 5903, Section 5910, Section 5917 and 5919, Section 5929, Section 31011, Section 33216, and Division 23, commencing with Section 33000

Tobacco Tax and Health Protection Act of 1988

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Habitat Conservation Fund (HCF) was established through the California Wildlife Protection Act of 1990 (Act). The Act provides state funds to assist the State in protecting, restoring, and enhancing wildlife habitat and fisheries that are vital to maintain California's quality of life. The impacts of the increase in the State's human population results in an urgent need to fund projects that protect rapidly disappearing wildlife habitats that support California's unique and varied wildlife resources.

In response to this need, the people of California voted to enact the Act, Chapter 9, FGC §2780 through 2799.6, which largely defines the HCF Program. Other legislation that impacts the program includes FGC §2720 -2729, Government Code §7550 – 7550.6 and Section 13340, and Public Resources Code (PRC) §5900 through 5903, Section 5096.310, Section 21000, and Section 33216, and the Tobacco Tax and Health Protection Act of 1988.

The underlying concepts for the program are derived, in part, from the applicable sections of Proposition 117 as in enacted in the following FGC Sections:

FGC §2786 (a) through (f): "...the money in the Habitat Conservation Fund, which is hereby created, shall be used for the following purposes:

- a) The acquisition of habitat, including native oak woodlands, necessary to protect deer and mountain lions.
- b) The acquisition of habitat to protect rare, endangered, threatened, or fully protected species.
- c) The acquisition of habitat to further implement the Habitat conservation Program pursuant to Article 2 (commencing with Section 2721) excepting Section 2722 and subdivision (a) of Section 2723, and §2724 and 2729.
- d) The acquisition, enhancement, or restoration of wetlands.
- e) The acquisition, restoration, or enhancement of aquatic habitat for spawning and rearing of anadromous salmonids and trout resources.
- f) The acquisition, restoration, or enhancement of riparian habitat “

FGC §2787 (a)(3) through (f)FGC “Two million dollars for 50 percent matching grants to local agencies...for the acquisition of wildlife corridors and urban trails, nature interpretation program, and other programs which bring urban residents into park and wildlife areas..”

The funds are allocated to the Department of Parks and Recreation annually each fiscal year until July 1, 2020, unless a later enacted statute, which becomes effective on or before July 1, 2020, deletes or extends that date.

Policies and procedures for the HCF Program were developed to comply with the above-mentioned State regulations. Over time, the Department has developed Procedural Guides to update and provide more guidance for the administration of the program. The procedural guides have never been submitted to the Office of Administrative Law process for review and approval.

#### INCORPORATION BY REFERENCE

The Department proposes to incorporate the following by reference the eight (8) HCF Application and Grant Administration Guides (hereinafter referred to as “Guides”):

1. Habitat Conservation Fund Administrative Guide Revised Draft March 31, 2010
2. Habitat Conservation Fund Deer and Mountain Lion Habitat Application Guide Revised Draft March 31, 2010
3. Habitat Conservation Fund Rare, Endangered, Threatened, or Fully Protected Species Habitat Guide Revised Draft March 31, 2010
4. Habitat Conservation Fund Trails Guide Revised Draft March 31, 2010
5. Habitat Conservation Fund Wildlife Area Activities Guide Revised Draft March 31, 2010
6. Habitat Conservation Fund Wetlands Guide Revised Draft March 31, 2010
7. Habitat Conservation Fund Riparian Habitat Guide Revised Draft March 31, 2010
8. Habitat Conservation Fund Anadromous Salmonids and Trout Habitat Guide Revised Draft March 31, 2010

The Department proposes to implement, interpret, and make specific the requirements listed in the afore-mentioned California Fish and Game Codes.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Economic Impact Statement: The adoption of the proposed regulation will not affect individuals, businesses and/or employees, small businesses, jobs or occupations, or California competitiveness. The proposed regulation merely incorporates the Guides for an existing HCF grant program. Only California governmental organizations with management responsibilities over public lands in the state of California are eligible to compete for grants under the HCF Program.

Estimated Costs:

##### 1. Impacts on Jobs/Businesses/Private Persons

The adoption of the proposed regulation will not impact businesses or individuals. Only governmental organizations with management responsibilities over public lands are eligible to compete for grants under the HCF.

Pursuant to Gov. Code sec. 11346.5(a)(10), the Department has determined that the proposed action will not affect the creation/elimination of California jobs and the creation of new, or elimination/expansion of California businesses.

Pursuant to Gov. Code sec. 11346.5(a)(9), 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.”

Pursuant to Gov. Code sec. 11346.5(a)(8), the Department makes the initial determination that this proposed action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Pursuant to title 1, CCR, section 4, these proposed regulations will not affect small business because only governmental organizations with management responsibilities over public lands are eligible to compete for grants under the HCF.

## 2. Impacts on multiple industries

The adoption of the proposed regulation will not impact multiple industries. Only governmental organizations with management responsibilities over public lands are eligible to compete for grants under the HCF.

## 3. Reporting requirements

The adoption of the proposed regulation will not impose a business reporting requirement on the business community. Only California governmental organizations with management responsibilities over public lands in the state of California are eligible to compete for grants under the HCF.

## 4. Housing costs

The adoption of the proposed regulation will not impact housing costs.

## 5. Comparable Federal regulations

There are no comparable Federal regulations that affect the HCF.

Fiscal Impact Statement: The proposed regulation does not create a mandate nor does it create mandated costs on local government, local agencies, or school districts. The proposed regulation incorporates by reference the Guides an existing, discretionary grant program. Participation in the HCF Program by local government and local agencies is strictly voluntary.

Fiscal Effect on State Government: The proposed regulation incorporates by reference the Guides for an existing grant program. The publication of this regulation will not create additional costs or savings to any State agency.

Fiscal Effect on Federal Funding to the State: The proposed regulation will not create any costs or savings in federal funding to the state.

There are no other non-discretionary cost or savings imposed upon local agencies.

There are no costs to any local agency or school district requiring reimbursement pursuant to Gov. Code sec. 17500 et seq.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code §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.

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

#### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Ms. Cristelle Taillon  
Office of Grants and Local Services  
California Department of Parks and Recreation  
1416 Ninth Street, Room 918  
P.O. Box 942896  
Sacramento, CA 94296-0001  
Email: [ctailon@parks.ca.gov](mailto:ctailon@parks.ca.gov)  
Fax: (916) 653-6511  
Phone: (916) 654-8686

The backup contact person for these inquiries is:  
Deborah Viney  
Office of Grants and Local Services  
Department of Parks and Recreation  
1416 9<sup>th</sup> Street, Room 918  
Sacramento, CA 95814-5510  
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Please direct requests for copies of the proposed text (the “express terms”) of the regulation, the Initial Statement of Reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Cristelle Taillon at the above address.

## AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Department will have the entire rule making file available for inspection and copying throughout the rule making process at its office at the above address. As of the date the notice is published in the Notice Register, the rulemaking file consists of (1) this notice, (2) the proposed text of the regulation (the Guides), (3) the Initial Statement of Reasons, (4) California Code §7550, (5) FGC §2720 -2729, (6) FGC §2780 -2799, (7) Public Resources Codes §2100 – 21006, §5910 - 5929, §5900 – 5903, and §33000 – 33010.

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulation substantially as described in this notice. If the Department makes 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. Please send requests for copies of any modified regulations to the attention of Cristelle Taillon at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

## AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Cristelle Taillon at the above address.

## AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the Guides can be accessed through the Department's website at [www.parks.ca.gov/](http://www.parks.ca.gov/) and by following the links to *Grants and Bonds* and then to *Annual and Specified Programs* then to the *HCF Program*.