

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION
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AMENDMENTS TO REPLACE REPEALED SECTION 4325, TITLE 14, CHAPTER 1
CALIFORNIA CODE OF REGULATIONS
REGARDING REGULATING OFF-TRAIL USE IN NATURAL PRESERVES,
CULTURAL PRESERVES, STATE CULTURAL RESERVES, OR STATE NATURAL
RESERVES WITHIN THE CALIFORNIA STATE PARK SYSTEM.

INITIAL STATEMENT OF REASONS

INTRODUCTION

The California Department of Parks and Recreation (DPR) derives its authority for managing lands within the California State Park System from Public Resources Code, Section 5003. Section 5003 states:

The department shall administer, protect, develop, and interpret the property under its jurisdiction for the use and enjoyment of the public. Except as provided in Section 18930 of the Health and Safety Code, the department may establish rules and regulations not inconsistent with law for the government and administration of the property under its jurisdiction. The department may expend all moneys of the department, from whatever source derived, for the care, protection, supervision, extension, and improvement or development of the property under its jurisdiction.

Existing California Code of Regulations Sections 4360 and 4360(a) regulate trail use in units of the State Park System, but do not regulate off-trail use. The proposed amendment to the CCR would prohibit off-trail use within units classified as Natural Preserves, Cultural Preserves, State Cultural Reserves, and State Natural Reserves. These units are set aside because they have sensitive cultural or natural resources requiring protection. The proposed amendment would not affect use on trails, boardwalks or designated routes of travel. Such routes of travel will be designated by signs or maps or a combination of both as needed.

Currently, the only way the Department can regulate off-trail use is by an order of the District Superintendent. These orders are not permanent and must be renewed annually. They also do not have as strong a legal standing as regulations in the CCR.

Purpose and Benefits

The purpose of these proposed regulations is to provide language in the CCR to restrict public use only to designated trail use types and designated trails in units classified as Natural Preserves, Cultural Preserves, State Cultural Reserves, and State Natural Preserves. Such routes of travel will be designated by signs or maps or a combination of both as needed to provide clear direction to the public.

The intention for park units classified as State Natural Reserves is that they be managed to maintain a high degree of integrity of the unit's native ecological associations, unique fauna or flora, geological features, and scenic qualities. Subunits classified as Natural Preserves are areas within a park unit that support significant plant and animal species or communities and the ecosystems upon which they depend. These subunits are managed to allow for the natural dynamics and ecological processes to occur wherever possible to conserve these resources.

State Cultural Reserves consist of areas selected and managed for the purposes of preserving and protecting the integrity of historic or prehistoric structures, villages, or settlements, archaeological features, ruins, artifacts, inscriptions made by humans, burial grounds, landscapes, hunting or gathering sites, or similar evidence of past human lives or cultures. Subunits classified as Cultural Preserves consist of areas of outstanding cultural interest established within the boundaries of state park system units for the purpose of protecting such features as sites, buildings, or zones that represent significant places or events in the flow of human experience in California. Areas set aside as Cultural Preserves shall be large enough to provide for the effective protection of the prime cultural resources from potentially damaging influences, and to permit the effective management and interpretation of the resources. Within Cultural Preserves, complete integrity of the cultural resources shall be sought.

There are approximately 16 State Natural Reserves, 61 Natural Preserves, 23 Cultural Preserves, and no State Cultural Reserves in the state parks system.

Having regulations in the California Code of Regulations to prohibit off-trail use will allow the Department to provide protection to the sensitive resources in these units while continuing to provide limited and appropriate public access to the areas

Proposed Amendment to replace repealed CCR Section 4325, Title 14, Chapter 1

Section 4325 Off trail restrictions-Preserves and Reserves

- (a) No person shall leave designated trails, board walks or other designated routes of travel in Natural Preserves, Cultural Preserves, State Cultural Reserves, or

State Natural Reserves within the California State Park System, unless approved by the Department.

(b) Section (a) shall not restrict Department employees or their agents for the purpose of management, such as research, enforcement, rescue, or educational programs.

The purpose of proposed Section 4325 (a) is to protect sensitive cultural and natural resources from damage, which can occur when the public travels off a trail, board walk and other designated route of travel in units of the CA State Park System classified as a reserve or preserve. These units contain the most sensitive resources within the CA State Park System. When the public has unlimited access to these areas, resource damage will occur. This regulation is necessary to protect sensitive cultural and natural resources from this damage. Currently, the only way the Department can prevent access to and provide protection of these resources is through an annual order of the District Superintendent. These orders are temporary and must be issued annually. Adoption of this regulation will permanently and more effectively prohibit off trail travel. Continued use of the annual District Superintendent order is both less effective and less efficient. The adoption of these regulations is the most reasonable approach to solve the problem of resource damage caused by off-trail use in these areas.

The purpose of Section 4325 (b) is to allow Department employees to have access to manage the areas to be regulated by Section 4325 (a). Such management activities may include research, enforcement, rescue or educational programs. This regulation is necessary to allow the Department to continue to take the management actions necessary to protect the sensitive resources in units classified as a reserve or preserve and provide public education on the value of and need to protect these resources. Without Section 4325 (b) the Department and its agents would be unable to undertake necessary management activities upon the adoption of Section 4325 (a). This approach is the most reasonable for continued management of these areas.

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

Preserves and Reserves are classified by the California State Park Commission as part of the General Plan process for each unit. Resource studies, staff analysis and public input are all included in the General Plan process. No specific studies were completed for this proposed amendment process as the need for protection of the sensitive resources has been established as part of the unit classification process.

ECONOMIC IMPACT ASSESSMENT ANALYSIS.

The proposed amended regulations will only affect actions within reserves and preserves in the California State Park System and will have no economic impact on businesses or private individuals, or other governmental organizations. There will be

minimal costs for signage to inform the public of the designated trails and closed areas. There are on-going costs for signage regardless of whether these regulations are enacted.

Changes to regulations regarding trail use in reserves and preserves will result in only minor changes in costs to the State Park System, and will not have any costs or savings to any business, individual or governmental organization. The only costs will be for signing regarding the regulations, will be minimal and will come out of normal budgeted funds. These regulations do not change the cost of doing work in reserves and preserves, but merely make for best practices in managing the preserves and reserves for protection of resources and public enjoyment and education.

Results of the economic impact assessment/analysis:

- a) **The creation or elimination of jobs within California**-No jobs will be created or eliminated.
- b) **The creation of new businesses or the elimination of existing businesses within the State of California**-No businesses will be created or eliminated within the State of California
- c) **The expansion of businesses currently doing business within the State of California**-There will be no expansion of businesses currently doing business within the State of California
- d) **The benefits of the regulations to the health and welfare of California residents, worker safety, and the State's environment**- The proposed amendments to CCR Section 4325 will clarify and make permanent off-trail use restrictions within reserves and preserves while providing continuing appropriate public access.

Cost impacts on representative private person or businesses: None. The DPR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS.

Since the CCR amendments affect only rules for managing lands within the California State Park System and actions by its employees within those units, there will be no impacts on business.

REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTION THOSE ALTERNATIVES.

Proposed Amendment provide that no person shall leave designated trails, board walks or other designated routes of travel in Natural Preserves, Cultural Preserves, State Cultural Reserves, or State Natural Reserves within the California State Park

System except that DPR employees or their agents may enter the area for the purpose of research, enforcement, rescue, or educational programs.

Alternative 1-This alternative proposes to implement the CCR amendments as proposed in this document.

Analysis: This alternative gives clear direction allowing DPR to regulate public access and off-trail use in reserves and preserves. Currently such use is regulated by Superintendent Orders which by their nature are temporary. This alternative gives the public, DPR and other public agencies clear and on-going direction on allowable public access.

Alternative 2-No action with CCR staying the same as they currently are.

Analysis: This alternative would continue the current temporary process of regulating use by a series of Superintendent Orders. This requires regular reissuing of such orders and lending to the possibility of expiring orders which could provide for confusing legal authority to manage inappropriate use. For this reason it is not being recommended.

Alternative 3: This alternative would allow for the public to travel through the preserves and reserves as they desire.

Analysis: This alternative would cause harm to sensitive natural and cultural resources in violation of law and policy. For this reason, this alternative is not being considered.

NO SIGNIFICANT ADVERSE IMPACT ON BUSINESS: These regulations will not have a significant economic impact on business since the regulations only impact decisions on the types use allowed on in the reserves and preserves in the California State Park System. As such they will not affect business in any way.

EFFORTS TO AVOID UNNECESSARY DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS CONTAINED IN THE CODE OF FEDERAL REGULATIONS ADDRESSING THE SAME ISSUES.

The proposed regulations are designed to not conflict with federal law by protecting sensitive cultural and natural resources in concert with federal law and regulations.

REGULATIONS MANDATED BY FEDERAL LAW: These regulations will put in place permanent protective regulations allowing the Department to comply with the Federal Endangered Species Act by protecting the sensitive species and cultural resources in accordance with federal listings for protection of such resources.