

California Code of Regulations  
Amended Draft Regulations  
2-17-2014

Dear Interested Party:

The California Department of Parks and Recreation (DPR) has initiated a second public comment period for draft California Code of Regulations regarding trail use, structures, and tool use in select units of the State Park System. These proposed regulations were included in Notice of Proposed Rulemaking published on June 28, 2013. Amendments have been made to the draft regulations based on comments received. The amended draft regulations are attached and also available on the DPR website at [www.parks.ca.gov/trails](http://www.parks.ca.gov/trails).

In summary amendments were made to Section 4351.1 to clarify that that the language regarding mechanical transport was not meant to govern the use of bicycles in preserves and that those regulations are contained in Section 4360.1. A change was also made to Section 4351.1 to make the regulations consistent with Federal Aviation Administration guidance. Two words were reinserted into text that had inadvertently been deleted in the draft. Clarification was added that signage and fencing are not considered to be permanent structures. A change was made to allow the Director to assign a designee to act on his or her behalf. An amendment was made to Section 4360 clarifying that speed limits will only be enforced if established.

Any interest person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to DPR by email to [Alexandra.Stehl@parks.ca.gov](mailto:Alexandra.Stehl@parks.ca.gov). Comments may also be submitted by facsimile (FAX) at (916)324-0301 or by mail to:

Alexandra Stehl, Statewide Trails Program Manager  
California Department of Parks and Recreation  
P.O. Box 942896  
Sacramento, CA 94296

The comment period closes at 5:00 p.m. on April 4, 2014. DPR will consider only comments received at DPR offices by that time

Inquiries may be made to Ms. Stehl at [Alexandra.Stehl@parks.ca.gov](mailto:Alexandra.Stehl@parks.ca.gov) or by (916) 324-0322.

Proposed Text-revised 2/8/14

Single underlines are additions to existing regulations as shown in the draft circulated June 28, 2013. Single strike throughs are deletions from existing regulations as shown in the draft circulated on June 28, 2013. Double underlines are additions made prior to this second review period. Double strike throughs are deletions made prior to this second public review period. There are no other changes

4351, 4351.1- Minimum Tool Use

Title 14. Natural Resources

Division 3. Department of Parks and Recreation

Chapter 2. Vehicles, Boats, Aircraft, Horses, and Operator Propelled Devices

§ 4351. ~~Natural Preserve.~~

~~No person shall drive, operate, leave, place, land, taxi, takeoff or stop a motor vehicle, motorboat or aircraft within the boundaries of a natural preserve.~~

§ 4351.4- Restricted Entry and Minimum Tool Use-State Wilderness, Cultural Preserves, and Natural Preserves.

(a) Except where it is necessary in an emergency ~~involving the health and safety of persons within the wilderness area, cultural preserve, or natural preserve,~~ or the safe and legal landing and takeoff from proximate airports, there shall be no use of motorized vehicles, motorized equipment, or motorboats, no landing or hovering of aircraft, no flying of aircraft lower than 2,000 feet above the ground in wilderness or lower than 500 feet above the ground in cultural preserves or natural preserves, no other form of mechanical transport (not withstanding Section 4360.1), and no permanent structure or installation within any state wilderness, cultural preserve, or natural preserve, and except to the extent the Director of the Department of Parks and Recreation, or his/her designee makes the following findings in writing ("Findings"):

(1) the use of motorized vehicles, motorized equipment, or motorboats, the landing or hovering of aircraft, or flying of aircraft lower *than* 2,000 feet above the ground in wilderness or lower than 500 feet above the ground in cultural preserves or natural preserves, the use of any other form of mechanical transport (not withstanding Section 4360.1), or the placement of a temporary or permanent structure or installation must ~~must be temporary and meet a~~ minimum management requirement. A minimum management requirement is defined ~~in AB 2945~~ as the minimum wilderness management actions that are necessary to administer ~~administer a wilderness~~ the area for the purposes of this Chapter as defined in PRC Sections 5093.36, 5019.71 and 5019.74.

(2) the approach proposed to perform the minimum management requirement will make use of the "minimum tool" to best preserve the wilderness, cultural or natural

values under the given circumstances. The “minimum tool” is defined as “the least intrusive tool, equipment, device, regulation, action, or practice that will achieve the minimum management requirements.”

(3) the result of the work will be a condition as near as natural as possible and shall leave no permanent trace or permanent installation or structure except those necessary to protect the cultural and natural resources (not withstanding Section 4360.1). Temporary structures including but not limited to signage and fencing are not considered permanent structures.

(b) Upon making the Findings required in section 4351.2 (a), the Director or designee, may authorize officers, employees or agents of the Department of Parks and Recreation to occupy and use a particular state wilderness, cultural preserve, or natural preserve within the California State Park System on a case-by-case basis to conduct a minimum management requirement.

(c) Prior to the Director or designee, making the Findings, Department of Parks and Recreation staff shall make a recommendation to the Director or designee, on the proposed Findings. The recommendation shall provide sufficient background, analysis, data and research to allow the Director or designee, to fairly and objectively evaluate the material considerations for the Findings. The staff recommendation shall include:

(1) an analysis of whether a wilderness, cultural resource or natural resource management need exists;

(2) a description of the proposed minimum management requirement and the minimum tools to be used, including when, where and the time frame for the proposed action;

(3) the alternative approaches considered, including a discussion of the pros and cons of the alternatives; and

(4) any measures that minimize the effects of the proposed activities.

(d) The process set forth in California Code of Regulations section 4351.2 shall be used only to evaluate and arrive at a project description and a proposed action and shall not replace or supplant any required analysis under the California Environmental Quality Act (CEQA) and Public Resources Code Section 5024.

Note: Authority cited: Sections 5003 and 5093.36, Public Resources Code.  
Reference: Section 5093.36, 5019.71, 5019.74, 5024, and 5024.5 Public Resources Code; Section 21403 Public Utility Code.

4360, 4360.1- Trail Use

§ 4360. ~~Bicycles, Operator Propelled Devices.~~ Trail use.

~~Unless designated by the Department, all trails are open to pedestrians and closed to all other uses. No person shall operate an operator or gravity propelled device in any unit, or portion thereof, when the Department has issued an order prohibiting such activity. The Department may establish speed limits for designated trail use for units or portions thereof in which these devices are used. If established, these s~~Speed limits will be posted.

4360.1. Trails in Reserves and Preserves as defined in PRC Sections 5019.65, 5019.71 and 5019.74 may be designated for bicycle or equestrian use when the District Superintendent has determined after appropriate review and analysis that such use is important for public access to the area or to make important connections to other trails and where it has been determined that impacts to the special resources for which the area was established will be less than significant.

Note: Authority cited: Section 5003, Public Resources Code. Reference: Sections 5008, 5019.65, 5019.71, 5019.74, 5024 and 5024.5 Public Resources Code.