

AMENDED IN ASSEMBLY SEPTEMBER 8, 2017

AMENDED IN ASSEMBLY SEPTEMBER 5, 2017

AMENDED IN ASSEMBLY JULY 13, 2017

AMENDED IN ASSEMBLY JUNE 26, 2017

AMENDED IN SENATE MAY 26, 2017

SENATE BILL

No. 249

Introduced by Senator Allen

February 7, 2017

An act to amend Sections 5090.10, 5090.11, ~~5090.15~~, 5090.24, 5090.30, 5090.31, 5090.32, 5090.34, 5090.35, 5090.43, 5090.50, and 5090.61 of, *to amend and repeal Section 5090.15 of*, to add Sections 5090.13, 5090.14, 5090.14.1, and 5090.39 to, and to repeal Section 5090.70 of, the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 249, as amended, Allen. Off-highway motor vehicle recreation.

The Off-Highway Motor Vehicle Recreation Act of 2003 creates *the Off-Highway Motor Vehicle Recreation Commission and the Division of Off-Highway Motor Vehicle Recreation* within the Department of Parks and Recreation. The act gives the division certain duties and responsibilities, including the planning, acquisition, development, conservation, and restoration of lands in state vehicular recreation areas. Existing law requires the division to develop and implement a grant and cooperative agreement program with other agencies funded from no more than $\frac{1}{2}$ of the revenues in the Off-Highway Vehicle Trust Fund, with specified percentages of these revenues to be available, upon appropriation, for various purposes related to off-highway vehicles.

Existing law requires the remaining revenues in the Off-Highway Vehicle Trust Fund to be available for the support of the division and for the planning, acquisition, development, construction, maintenance, administration, operation, restoration, and conservation of lands in state vehicular recreation areas and certain other areas. The act is repealed on January 1, 2018.

This bill would revise and recast various provisions of the act. The bill would expand the duties of the division by requiring it to, among other things, (1) prepare and implement management and wildlife habitat protection plans for lands in, or proposed to be included in state vehicular recreation areas, as specified, (2) post on the department's Internet Web site all plans, reports, and studies related to off-highway vehicle recreation developed by the division, (3) in consultation with specified bodies and departments, ~~review and update~~, *review, and if deemed necessary, update* the 2008 Soil Conservation Standard and Guidelines to establish a generic and measurable soil conservation standard by December 31, 2020, and subsequently review and update that standard when deemed necessary by the department, (4) monitor annually in each state vehicular recreation area to determine whether soil conservation standards are being met and the objectives of wildlife habitat protection plans are being met, and (5) protect natural, cultural, and archaeological resources within state vehicular recreation areas. The bill would require the division to take other specified measures to protect natural and cultural resources within state vehicular recreation areas, as specified. The bill would extend the operation of the act's provisions ~~indefinitely~~, *indefinitely, except for the provision establishing the Off-Highway Motor Vehicle Recreation Commission, which the bill would repeal on January 1, 2023*.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5090.10 of the Public Resources Code
2 is amended to read:
3 5090.10. "Conservation" and "conserve" mean activities,
4 practices, and programs that protect and sustain soils, plants,
5 wildlife, habitats, and cultural resources in accordance with the
6 standards adopted pursuant to Section 5090.35.

1 SEC. 2. Section 5090.11 of the Public Resources Code is
2 amended to read:

3 5090.11. “Restoration” and “restore” mean, upon closure of
4 the unit or any portion thereof, the restoration of land to the
5 contours, the plant communities, and the plant covers comparable
6 to those on surrounding lands or at least those that existed prior to
7 off-highway motor vehicle use.

8 SEC. 3. Section 5090.13 is added to the Public Resources Code,
9 to read:

10 5090.13. “Monitoring program” means a program adopted by
11 the department that provides periodic evaluations of the condition
12 of resources and informs adaptive management within state
13 vehicular recreation areas.

14 SEC. 4. Section 5090.14 is added to the Public Resources Code,
15 to read:

16 5090.14. “Adaptive management” means to use the results of
17 information gathered through a monitoring program or scientific
18 research to adjust management strategies and practices to conserve
19 cultural resources and provide for the conservation and
20 improvement of natural resources.

21 SEC. 5. Section 5090.14.1 is added to the Public Resources
22 Code, to read:

23 5090.14.1. “State vehicular recreation area” means a unit of
24 the state park system established pursuant to Section 5090.43.

25 SEC. 6. Section 5090.15 of the Public Resources Code is
26 amended to read:

27 5090.15. (a) There is in the department the Off-Highway Motor
28 Vehicle Recreation Commission, consisting of nine members, five
29 of whom shall be appointed by the Governor and subject to Senate
30 confirmation, two of whom shall be appointed by the Senate
31 Committee on Rules, and two of whom shall be appointed by the
32 Speaker of the Assembly.

33 ~~(b) Persons appointed to the commission shall have expertise,~~
34 ~~or work or volunteer experience, or both, in one or more of the~~
35 ~~following areas, with not more than two commissioners at any~~
36 ~~time serving under the same qualifications:~~

37 ~~(1) Off-highway vehicle recreation.~~

38 ~~(2) Biological or soil sciences.~~

39 ~~(3) Experience with rural landownership and management.~~

40 ~~(4) Law enforcement.~~

1 ~~(5) Environmental or cultural resource protection or~~
2 ~~management.~~

3 ~~(6) Nonmotorized outdoor recreation.~~

4 *(b) In order to be appointed to the commission, a nominee shall*
5 *represent one or more of the following groups:*

6 *(1) Off-highway vehicle recreation interests.*

7 *(2) Biological or soil scientists.*

8 *(3) Groups or associations of predominantly rural landowners.*

9 *(4) Law enforcement.*

10 *(5) Environmental protection organizations.*

11 *(6) Nonmotorized recreation interests.*

12 *(c) It is the intent of the Legislature that appointees to the*
13 *commission represent all of the ~~primary qualifications groups~~*
14 *delineated in paragraphs (1) to (6) of subdivision (b), inclusive, to*
15 *the extent possible, at all times. It is further the intent of the*
16 *Legislature that the commissioners reflect the geographic diversity*
17 *of California as well as the diversity of all Californians, including,*
18 *but not limited to, the special needs of Californians who participate*
19 *in off-highway vehicular recreation pursuant to this chapter.*
20 *possible.*

21 *(d) Whenever a reference is made to the State Park and*
22 *Recreation Commission pertaining to a duty, power, purpose,*
23 *responsibility, or jurisdiction of the State Park and Recreation*
24 *Commission with respect to the state vehicular recreation areas,*
25 *as established by this chapter, it is a reference to, and means, the*
26 *Off-Highway Motor Vehicle Recreation Commission.*

27 *(e) By December 31, 2018, the department shall convene a*
28 *stakeholder process to make recommendations to the Governor*
29 *and the Legislature regarding ways to implement this section. The*
30 *stakeholder process may consider a variety of recommendations,*
31 *including, but not limited to, ways to achieve a diverse commission,*
32 *including the geographic diversity of California, as well as the*
33 *diversity of all Californians, including, but not limited to, the*
34 *special needs of all who participate in off-highway vehicular*
35 *recreation, and ways to achieve diverse public participation in the*
36 *commission process. The department shall submit these*
37 *recommendations to the Governor and the Legislature on or before*
38 *January 1, 2020.*

39 *(f) This section shall remain in effect only until January 1, 2023,*
40 *and as of that date is repealed.*

1 SEC. 7. Section 5090.24 of the Public Resources Code is
2 amended to read:

3 5090.24. The commission has the following duties and
4 responsibilities:

5 (a) Be fully informed regarding all governmental activities
6 affecting the program.

7 (b) Meet at least four times per year at various locations
8 throughout the state to receive comments on the implementation
9 of the program. Establish an annual calendar of proposed meetings
10 at the beginning of each calendar year. The meetings shall include
11 a public meeting, before the beginning of each grant program cycle,
12 to collect public input concerning the program, recommendations
13 for program improvements, and specific project needs for the
14 system.

15 (c) Hold a public hearing to receive public comment regarding
16 any proposed substantial acquisition or development project at a
17 location in close geographic proximity to the project, unless a
18 hearing consistent with federal law or regulation has already been
19 held regarding the project.

20 (d) Consider, upon the request of any owner or tenant, whose
21 property is in the vicinity of any land in the system, any alleged
22 adverse impacts occurring on that person's property from the
23 operation of off-highway motor vehicles and recommend to the
24 division suitable measures for the prevention of any adverse impact
25 determined by the commission to be occurring, and suitable
26 measures for the restoration of adversely impacted property.

27 (e) Review and comment annually to the director on the
28 proposed budget of expenditures from the fund.

29 (f) Review all plans for new and expanded local and regional
30 vehicle recreation areas that have applied for grant funds.

31 (g) Review and comment on strategic plans periodically
32 developed by the division.

33 (h) Prepare and submit a program report to the Governor and
34 the appropriate policy and fiscal committees of each house of the
35 Legislature on or before January 1, 2022, and every three years
36 thereafter. The report required to be submitted pursuant to this
37 subdivision shall be submitted in compliance with Section 9795
38 of the Government Code. The report shall be adopted by the
39 commission after discussing the contents during two or more public
40 meetings. One of the public meetings shall be held in northern

1 California and one shall be held in southern California. The report
 2 shall address the status of the program and off-highway motor
 3 vehicle recreation, including all of the following:

4 (1) A summary of the process, standards, and plans developed
 5 pursuant to this chapter.

6 (2) The condition of natural and cultural resources of areas and
 7 trails receiving state off-highway motor vehicle funds and the
 8 resolution of conflicts of use in those areas and trails.

9 (3) The status and accomplishments of funds appropriated for
 10 restoration pursuant to paragraph (2) of subdivision (b) of Section
 11 5090.50.

12 (4) A summary of resource monitoring data compiled and
 13 restoration work completed.

14 (5) Actions taken by the division and department since the last
 15 program report to discourage and decrease trespass of off-highway
 16 motor vehicles on private property.

17 (6) Other relevant program-related environmental issues that
 18 have arisen at state vehicular recreation areas since the last program
 19 report, including, but not limited to, actions undertaken to ensure
 20 compliance with federal and state Endangered Species Acts, local
 21 air quality laws and regulations, federal Clean Water Act and
 22 regional water board ~~regulations~~ *regulations*, or permits.

23 (i) Make other recommendations to the deputy director regarding
 24 the off-highway motor vehicle recreation program.

25 SEC. 8. Section 5090.30 of the Public Resources Code is
 26 amended to read:

27 5090.30. There is in the department the Division of
 28 Off-Highway Motor Vehicle Recreation. Whenever any reference
 29 is made to the Office of Off-Highway Motor Vehicle Recreation,
 30 it shall be deemed to be a reference to, and to mean, the division.

31 SEC. 9. Section 5090.31 of the Public Resources Code is
 32 amended to read:

33 5090.31. The division shall be under the direction of a deputy
 34 director appointed by the director.

35 SEC. 10. Section 5090.32 of the Public Resources Code is
 36 amended to read:

37 5090.32. The division has the following duties and
 38 responsibilities:

39 (a) Planning, acquisition, development, conservation, and
 40 restoration of lands in the state vehicular recreation areas.

- 1 (b) Management, maintenance, administration, and operation
2 of lands in the state vehicular recreation areas.
- 3 (c) Provide for law enforcement and appropriate public safety
4 activities.
- 5 (d) Implementation of all aspects of the program.
- 6 (e) Ensure program compliance with the California
7 Environmental Quality Act (Division 13 (commencing with Section
8 21000)) in state vehicular recreation areas.
- 9 (f) Provide staff assistance to the commission.
- 10 (g) Prepare and implement management and wildlife habitat
11 protection plans for lands in, or proposed to be included in, state
12 vehicular recreation areas, including new state vehicular recreation
13 areas. These plans shall be developed in consideration of statutorily
14 required state and regional conservation objectives. However, a
15 plan shall not be prepared in any instance specified in subdivision
16 (c) of Section 5002.2. Trails may only be added or included as
17 components of existing trail systems when developing or updating
18 plans in state vehicular recreation areas, upon completion of full
19 environmental review.
- 20 (h) Conduct, or cause to be conducted, surveys, and prepare, or
21 cause to be prepared, studies that are necessary or desirable for
22 implementing the program.
- 23 (i) Recruit and utilize volunteers to further the objectives of the
24 program.
- 25 (j) Prepare and coordinate safety and education programs.
- 26 (k) Provide for the enforcement of Division 16.5 (commencing
27 with Section 38000) of the Vehicle Code and other laws regulating
28 the use or equipment of off-highway motor vehicles in all areas
29 acquired, maintained, or operated by funds from the fund; however,
30 the Department of the California Highway Patrol shall have
31 responsibility for enforcement on highways.
- 32 (l) Provide for the conservation of natural and cultural resources,
33 including appropriate mitigation.
- 34 (m) Post on the department's Internet Web site all plans, reports,
35 and studies related to off-highway vehicle recreation developed
36 by the division.
- 37 (n) Report on any closure implemented pursuant to Section
38 5090.35 at the next commission meeting following the closure.
- 39 (o) Complete other duties as determined by the director.

1 SEC. 11. Section 5090.34 of the Public Resources Code is
2 amended to read:

3 5090.34. (a) In cooperation with the commission, the division
4 shall make available on the division’s Internet Web site information
5 regarding off-highway motor vehicle recreation opportunities,
6 pertinent laws and regulations, and responsible use of the system.
7 Where practical, the Internet Web site shall include the following:

8 (1) The text of laws and regulations relating to the program and
9 operation of off-highway vehicles.

10 (2) A statewide map and regional maps of federal, state, and
11 local off-highway vehicle recreation areas and facilities in the
12 state, including links to maps of federal off-highway vehicle routes
13 resulting from the route designation process.

14 (3) Information concerning safety, education, and trail etiquette.

15 (4) Information to prevent trespass, damage to public and private
16 property, and damage to natural resources, including penalties and
17 liability associated with trespass and damage caused.

18 (b) The division may create, and update when appropriate, a
19 guidebook of federal, state, and local off-highway vehicle
20 recreation opportunities that includes information where current
21 specific maps and information for each facility can be located.
22 Contact information shall be provided and shall include available
23 Internet Web site addresses, telephone numbers, and addresses of
24 offices where maps can be accessed. The guidebook shall also
25 include the address of the Internet Web site where the information
26 in subdivision (a) may be found.

27 (c) The division may work with retailers of off-highway motor
28 vehicles and off-highway recreation associations to distribute the
29 guidebook developed under subdivision (b) and to increase
30 awareness of the resources available on the division’s Internet
31 Web site.

32 SEC. 12. Section 5090.35 of the Public Resources Code is
33 amended to read:

34 5090.35. (a) The protection of public safety, the appropriate
35 utilization of lands, and the conservation of natural and cultural
36 resources are of the highest priority in the management of the state
37 vehicular recreation areas. Additionally, the division shall promptly
38 repair and continuously maintain areas and trails, and anticipate
39 and prevent accelerated and unnatural erosion and other
40 off-highway *vehicle* impacts to the extent possible. The division

1 shall take steps necessary to prevent damage to significant natural
2 and cultural resources within state vehicular recreation areas.

3 (b) (1) The division, in consultation with the United States
4 Natural Resource Conservation Service, the United States
5 Geological Survey, the United States Forest Service, the United
6 States Bureau of Land Management, the Department of Fish and
7 Wildlife, and the Department of Conservation shall, by December
8 31, 2020, ~~review and update~~, *review, and if deemed necessary,*
9 *update* the 2008 Soil Conservation Standard and Guidelines to
10 establish a generic and measurable soil conservation ~~standard and~~
11 *standard*. *The division* shall subsequently review and update the
12 standard when deemed necessary by the department.

13 (2) If the division determines that the soil conservation standards
14 and habitat protection plans are not being met in any portion of
15 any state vehicular recreation area, the division shall temporarily
16 close the noncompliant portion to repair and prevent accelerated
17 erosion, until the soil conservation standards are met.

18 (3) If the division determines that the soil conservation standards
19 cannot be met in any portion of any state vehicular recreation area,
20 the division shall close and restore the noncompliant portion
21 pursuant to Section 5090.11.

22 (c) (1) The division shall compile and, when determined by the
23 department to be necessary, periodically review and update an
24 inventory of wildlife populations and prepare a wildlife habitat
25 protection plan that conserves and improves wildlife habitats for
26 each state vehicular recreation area. By December 31, 2030, the
27 division shall compile an inventory of native plant communities
28 in each state vehicular recreation area to inform future plan updates.

29 (2) If the division determines that the wildlife habitat protection
30 plan is not being met in any portion of any state vehicular
31 recreation area, the division shall close the noncompliant portion
32 temporarily until the wildlife habitat protection plan is met.

33 (3) If the division determines that the wildlife habitat protection
34 plan cannot be met in any portion of any state vehicular recreation
35 area, the division shall close and restore the noncompliant portion
36 pursuant to Section 5090.11.

37 (d) The division shall monitor annually in each state vehicular
38 recreation area to determine whether soil conservation standards
39 are being met and the objectives of wildlife habitat protection plans
40 are being met.

1 (e) The division shall not fund trail construction unless the trail
 2 is capable of complying with the conservation specifications
 3 prescribed in this section. The division shall not fund trail
 4 construction where conservation is not feasible. The division shall
 5 not fund the maintenance of a trail unless that trail is a component
 6 of a state vehicular recreation area road and trail system.

7 (f) The division shall protect natural, cultural, and archaeological
 8 resources within the state vehicular recreation areas.

9 SEC. 13. Section 5090.39 is added to the Public Resources
 10 Code, to read:

11 5090.39. (a) The department shall require that:

12 (1) Any soil conservation standard, wildlife habitat protection
 13 plan, or monitoring program, required by this chapter, applies best
 14 available science.

15 (2) All standards, plans, and monitoring programs subject to
 16 paragraph (1) shall provide opportunities for public comment,
 17 including, but not limited to, ~~written, comments,~~ *written comments*
 18 and public meetings, as appropriate.

19 (b) Nothing in this chapter relieves the division from compliance
 20 with state and federal laws and regulations, including permit
 21 requirements.

22 SEC. 14. Section 5090.43 of the Public Resources Code is
 23 amended to read:

24 5090.43. (a) State vehicular recreation areas consist of areas
 25 selected, developed, and operated to provide off-highway vehicle
 26 recreation opportunities. State vehicular recreation areas shall be
 27 selected for acquisition on lands where the need to establish areas
 28 to protect natural and cultural resources is minimized, the terrain
 29 is capable of withstanding motorized vehicle impacts, and where
 30 there are quality recreational opportunities for off-highway motor
 31 vehicles. Areas shall be developed, managed, and operated for the
 32 purpose of providing the fullest appropriate public use of the
 33 vehicular recreational opportunities present, in accordance with
 34 the requirements of this chapter, while providing for the
 35 conservation of cultural resources and the conservation and
 36 improvement of natural resource values over time.

37 (b) After January 1, 1988, no new cultural or natural preserves
 38 or state wildernesses shall be established within state vehicular
 39 recreation areas. To protect natural and cultural resource values,
 40 sensitive areas may be established within state vehicular recreation

1 areas where determined by the department to be necessary to
2 protect natural and cultural resources. These sensitive areas shall
3 be managed by the division in accordance with Sections 5019.71
4 and 5019.74, which define the purpose and management of natural
5 and cultural preserves.

6 (c) If off-highway motor vehicle use results in damage to any
7 natural or cultural resources or damage within sensitive areas,
8 appropriate measures shall be promptly taken to protect these lands
9 from any further damage. These measures may include the erection
10 of physical barriers and shall include the restoration of natural
11 resources and the repair of damage to cultural resources.

12 SEC. 15. Section 5090.50 of the Public Resources Code is
13 amended to read:

14 5090.50. (a) The division shall develop and implement a grant
15 and cooperative agreement program to support the planning,
16 acquisition, development, maintenance, administration, operation,
17 enforcement, restoration, and conservation of trails, trailheads,
18 areas, and other facilities associated with the use of off-highway
19 motor vehicles, and programs involving off-highway motor vehicle
20 safety or education.

21 (b) When appropriated by the Legislature for grants and
22 cooperative agreements, available funds shall be awarded in
23 accordance with the following categories:

24 (1) Operation and maintenance.

25 (A) Fifty percent of the funds appropriated by the Legislature
26 pursuant to subdivision (a) of Section 5090.61 shall be expended
27 solely for grants and cooperative agreements for the acquisition,
28 maintenance, operation, planning, development, or conservation
29 of authorized trails and facilities associated with the use of
30 off-highway motor vehicles for recreation or motorized access to
31 nonmotorized recreation.

32 (B) Guidelines developed to implement this paragraph, pursuant
33 to subdivision (d), shall at a minimum:

34 (i) Give preference to applications that sustain existing
35 authorized off-highway motor vehicle recreation opportunities.

36 (ii) Give additional consideration to applications that improve
37 facilities that provide motorized access to nonmotorized recreation
38 opportunities.

39 (C) Applications that would affect lands identified as inventoried
40 roadless areas by the Forest Service of the United States

1 Department of Agriculture are eligible for cooperative agreements
2 under paragraph (1) if the application is for a project that does any
3 of the following:

4 (i) Realigns a forest system road or trail to prevent irreparable
5 resource damage that arises from the design, location, use, or
6 deterioration of a classified route and that cannot be mitigated by
7 route maintenance.

8 (ii) Reconstructs a national forest system road or trail to
9 implement a route safety improvement project on a classified route
10 determined to be hazardous on the basis of accident experience or
11 accident potential on that route.

12 (iii) Maintains a road or trail that is included in the National
13 Forest System Roads and Trails on or before January 1, 2009.

14 (D) Any unencumbered funds under this paragraph shall only
15 be used in future grant cycles for purposes consistent with this
16 paragraph.

17 (2) Restoration.

18 (A) Twenty-five percent of the funds appropriated by the
19 Legislature pursuant to subdivision (a) of Section 5090.61 shall
20 be expended solely for grants and cooperative agreements for
21 projects that restore or repair habitat damaged by either legal or
22 illegal off-highway motor vehicle use.

23 (B) The division shall develop and implement, in consultation
24 with the Wildlife Conservation Board, a competitive grant and
25 cooperative agreement program which shall be administered in
26 accordance with this paragraph.

27 (C) Funds identified in this paragraph shall be available for
28 grants and cooperative agreements for projects that restore or repair
29 habitat damaged by both legal and illegal off-highway motor
30 vehicle use.

31 (D) Eligible projects include:

32 (i) Removal of a road or trail or restoration of an area associated
33 with the rerouting and subsequent closure of a designated road or
34 trail.

35 (ii) Removal of roads or trails and the restoration of damaged
36 habitats in any area that is not designated for motorized vehicle
37 use.

38 (iii) The removal of closed roads or trails, or a portion of a
39 closed road or trail, that will help to prevent off-highway motor
40 vehicle access to closed areas.

1 (iv) Scientific and cultural studies regarding the impact of
2 off-highway motor vehicle recreation not otherwise required by
3 state or federal laws.

4 (v) Planning to identify appropriate restoration techniques,
5 strategies, and project implementation, including planning
6 associated with environmental review.

7 (vi) Restoration projects that generally improve and restore the
8 function of natural resource systems damaged by motorized
9 activities.

10 (E) Eligible applicants include local, state, and federal agencies,
11 federally or state recognized Native American tribes, educational
12 institutions, certified community conservation corps, resource
13 conservation districts, and other eligible nonprofit organizations.

14 (F) Guidelines developed to implement this paragraph shall at
15 a minimum do all of the following:

16 (i) Give additional consideration to applications for projects
17 that will restore areas that have experienced the most damage from
18 motorized use or face the highest threat of significant
19 environmental damage from motorized use.

20 (ii) Guarantee that no grant will be used for the development
21 or maintenance of trails for motorized use.

22 (iii) Encourage public agencies managing lands to prepare and
23 implement a management and enforcement plan to prevent
24 reoccurring damage from unauthorized use.

25 (G) Any unencumbered funds under this paragraph shall be
26 used only in future grant cycles for purposes consistent with this
27 paragraph.

28 (3) Law enforcement.

29 (A) Twenty percent of the funds appropriated by the Legislature
30 pursuant to subdivision (a) of Section 5090.61 shall be available
31 for law enforcement grants and cooperative agreements and shall
32 be allocated to local and federal law enforcement entities for peace
33 officers or other personnel who have authority to issue citations
34 or take other official law enforcement action, and related
35 equipment. The amount of the grant or cooperative agreement shall
36 be proportionate to the off-highway motor vehicle enforcement
37 needs under each entity's jurisdiction.

38 (B) The division shall develop a method to determine the law
39 enforcement needs for each applicant. Forty percent of law
40 enforcement grants and cooperative agreements shall be given to

1 local law enforcement entities, 30 percent to units of the United
2 States Bureau of Land Management, and 30 percent to units of the
3 United States Forest Service.

4 (C) The division shall develop eligibility guidelines for law
5 enforcement projects. The guidelines, at a minimum, shall require
6 the applicant to do all of the following:

7 (i) Specify formal and informal cooperation with other
8 appropriate law enforcement entities, including any applicable
9 federal entities.

10 (ii) Establish a policy on how violations of off-highway motor
11 vehicle laws and regulations will be enforced on federal land, if
12 the applicant is a local law enforcement entity.

13 (iii) Identify areas with high priority law enforcement needs
14 because of public safety, cultural resources, and sensitive
15 environmental habitats, including wilderness areas and areas of
16 critical environmental concern.

17 (iv) Explain whether the applicant is recovering a portion of
18 law enforcement costs directly associated with privately sponsored
19 events where sponsors have obtained a local permit.

20 (v) Establish a public education program that includes
21 information regarding safety programs offered in the area and how
22 to report off-highway motor vehicle operation violations.

23 (vi) Specify how personnel is trained and educated regarding
24 off-highway motor vehicle safety and resource and cultural
25 protection.

26 (D) Notwithstanding subdivision (h), law enforcement entities
27 that receive funds allocated pursuant to this paragraph shall be
28 subject to a financial and performance audit at least once every
29 five years. The audits may be conducted in a random order. As
30 part of the audit, the department shall consider whether the law
31 enforcement entity has spent the grant money in accordance with
32 its application.

33 (E) Any unencumbered funds under this paragraph shall be used
34 only in future grant cycles for purposes consistent with this
35 paragraph.

36 (4) Education and safety.

37 (A) Five percent of the funds appropriated by the Legislature
38 pursuant to subdivision (a) of Section 5090.61 shall be available
39 for grants and cooperative agreements that either provide
40 comprehensive education that teaches off-highway motor vehicle

1 safety, environmental responsibility, and respect for private
2 property, or provide safety programs associated with off-highway
3 motor vehicle recreation.

4 (B) Any unencumbered funds under this paragraph shall be used
5 only in future grant cycles for purposes consistent with this
6 paragraph.

7 (c) Eligible grant and cooperative agreement applicants include:

8 (1) Cities, counties, and districts that have approval to apply for
9 grant funds, in the form of a resolution from their governing body.

10 (2) State agencies for projects under paragraph (2) of subdivision
11 (b).

12 (3) Agencies of the United States.

13 (4) Federally and state recognized Native American tribes.

14 (5) Educational institutions, certified community conservation
15 corps, resource conservation districts, and other eligible nonprofit
16 organizations for eligible projects described in subdivision (f).

17 (d) Guidelines developed to implement this program shall at a
18 minimum do all of the following:

19 (1) Distribute grants and cooperative agreements on a
20 competitive basis, except for law enforcement grants allocated in
21 accordance with paragraph (3) of subdivision (b).

22 (2) Be developed with public input, including focus groups.

23 (3) Require applications to be in accordance with local or federal
24 plans and the strategic plan for off-highway motor vehicle
25 recreation prepared by the division.

26 (4) Require grant applicants to comply with the California
27 Environmental Quality Act (Division 13 (commencing with Section
28 21000)). Applicants for cooperative agreements shall complete
29 environmental review procedures that are at least comparable to
30 those of the California Environmental Quality Act (Division 13
31 (commencing with Section 21000)).

32 (5) Require the applicant to agree to provide matching funds or
33 the equivalent value of services or material used, in an amount not
34 less than 25 percent of the total project cost, except for the category
35 of restoration, which shall not be less than 10 percent of the total
36 project cost.

37 (6) Require the applicant, if it is a city or county, to disclose
38 how fees collected pursuant to Section 38230 of the Vehicle Code
39 are being used and whether the use of these fees complements the
40 applicant's project.

- 1 (7) Fund all eligible applications to the extent feasible.
- 2 (e) All grants and cooperative agreements involving ground
- 3 disturbing activities shall be subject to the uniform application of
- 4 soil and wildlife habitat protection standards specified in Section
- 5 5090.53.
- 6 (f) Grants may be awarded to educational institutions and
- 7 nonprofit organizations. Eligible projects shall be limited to
- 8 scientific research, natural resource conservation activities, trail
- 9 and facility maintenance, restoration, and programs involving
- 10 off-highway motor vehicle safety or education. If the application
- 11 for grant funds involves activities on any public lands, all of the
- 12 following shall apply:
 - 13 (1) The applicant shall include a work plan for the project.
 - 14 (2) The applicant shall provide written permission from the
 - 15 appropriate land manager to conduct a project, including a
 - 16 description of how the project fits with the land management goals
 - 17 of the area.
 - 18 (3) The applicant shall provide matching funds or the equivalent
 - 19 value of volunteer services or material used, in an amount not less
 - 20 than 25 percent of the total project cost, except for the category of
 - 21 restoration, which shall not be less than 10 percent of the total
 - 22 project cost.
 - 23 (4) The applicant shall be fiscally responsible for adhering to
 - 24 the terms and conditions of the grants.
- 25 (g) The deputy director of the division shall not participate in
- 26 the scoring of grants or cooperative agreements.
- 27 (h) The department shall conduct an annual financial audit of
- 28 the grants and cooperative agreements program. During each year,
- 29 the department shall also conduct, or cause to be conducted, an
- 30 audit of the performance of a minimum of 20 percent of grant and
- 31 cooperative agreement recipients.
- 32 (i) The division shall establish an administrative appeal process
- 33 as part of the grants and cooperative agreements program. At a
- 34 minimum, this process shall do all of the following:
 - 35 (1) Give applicants the right to appeal on the following grounds:
 - 36 (A) The division failed to follow regulations established for the
 - 37 award of grants and cooperative agreements.
 - 38 (B) The division lacked sufficient factual evidence to support
 - 39 or deny the award of a grant or cooperative agreement.

1 (2) Require the applicant to first appeal to the deputy director
2 of the division. If that appeal is denied, the applicant may then
3 appeal to the director of the division, or the director's appointee.

4 (3) Require applicants to file their first appeal within 30 calendar
5 days following the notice of award or denial of a grant or
6 cooperative agreement. Notice of the decision or the rejection of
7 the appeal shall be issued within 60 days following the filing of
8 an appeal.

9 (4) Require applicants to exhaust these appeal rights prior to
10 seeking other legal remedies through the courts.

11 (j) A grant shall not be made, nor a cooperative agreement
12 entered into, pursuant to this section without the approval of the
13 director.

14 SEC. 16. Section 5090.61 of the Public Resources Code is
15 amended to read:

16 5090.61. Moneys in the fund shall be available, upon
17 appropriation by the Legislature, as follows:

18 (a) An amount, not to exceed 50 percent of the annual revenues
19 to the fund, shall be available for grants and cooperative agreements
20 pursuant to Article 5 (commencing with Section 5090.50).

21 (b) (1) The remainder of the annual revenues to the fund shall
22 be available for the support of the division in implementing the
23 off-highway motor vehicle recreation program and for the planning,
24 acquisition, development, mitigation, construction, maintenance,
25 administration, operation, restoration, and conservation of lands
26 in the system.

27 (2) As used in this subdivision, "support of the division"
28 includes functions performed outside of the division by others on
29 behalf of the division, including a prorated share of the
30 department's common overhead and other costs incurred on behalf
31 of the division for personnel management and training, accounting,
32 and fiscal analysis, records, purchasing, public information
33 activities, consultation of professional scientists and reclamation
34 experts for the purposes of Section 5090.35, and legal services.

35 SEC. 17. Section 5090.70 of the Public Resources Code is
36 repealed.

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