



California Regulatory Notice Register

REGISTER 2020, NUMBER 48-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

NOVEMBER 27, 2020

PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict-of-Interest Code — Notice File Number Z2020-1117-02 1495

Amendment

Multi-County: Truckee Fire Protection District

TITLE 2. SECRETARY OF STATE

Access to Voter Registration — Notice File Number Z2020-1117-09 1496

TITLE 5. CALIFORNIA STUDENT AID COMMISSION

Cal Grant Program Appeal Process — Notice File Number Z2020-1117-08 1498

TITLE 16. CEMETERY AND FUNERAL BUREAU

Cemeteries: Endowment Care Finds — Unitrust — Notice File Number Z2020-1117-06 1501

TITLE 23. CALIFORNIA WATER COMMISSION

Special Application for Early Funding — Notice File Number Z2020-1117-01 1506

TITLE 23. CENTRAL VALLEY FLOOD PROTECTION BOARD

Definitions and Standards — Notice File Number Z2020-1117-07 1510

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

*California Endangered Species Act — Consistency Determination
Number 2080-2020-008-05, Castlerock Family Farms* 1515

DEPARTMENT OF FISH AND WILDLIFE

*California Endangered Species Act — Consistency Determination
Number 2080-2020-009-00, Sierra Pacific Industries* 1521

(Continued on next page)

***Time-
Dated
Material***

DEPARTMENT OF FISH AND WILDLIFE

California Endangered Species Act — Consistency Determination

Number 2080–2020–010–03, West County Transportation Agency..... 1524

SUMMARY OF REGULATORY ACTIONS

Regulations filed with Secretary of State 1527

2020 RULEMAKING CALENDAR

(INCORPORATED BY REFERENCE)

Special Note..... 1529

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 328–4880. The Register can also be accessed at <http://www.oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: Truckee Fire Protection District

A written comment period has been established commencing on November 27, 2020 and closing on January 11, 2021. Written comments should be directed to the Fair Political Practices Commission, Attention Amanda Apostol, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the

proposed conflict-of-interest code(s). Any written comments must be received no later than January 11, 2021. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code-reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite

3000, Sacramento, California 95811, telephone (916) 322-5660.

TITLE 2. SECRETARY OF STATE

ACCESS TO VOTER REGISTRATION INFORMATION

NOTICE IS HEREBY GIVEN that the Secretary of State (SOS) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Persons in this Notice, must be received by the SOS at its office not later than on January 11, 2021.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the contact persons listed below no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the SOS, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact persons and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Public Comment Period: November 27, 2020, through January 11, 2021.

AUTHORITY AND REFERENCE

Authority cited: Section 2188.2, Elections Code; Sections 6254.4 and 12172.5, Government Code.

Reference cited: Sections 2188, 2194, and 18109, Elections Code.

INFORMATIVE DIGEST

A. *Informative Digest*

Elections Code section 2188.2 that was enacted through Assembly Bill 1678 (Chapter 96, Statutes of 2018) requires the Secretary of State to adopt regulations that describe the best practices for storage and security of voter registration information received by an applicant from the Secretary of State or the

Counties. These proposed regulations are not only implementing the statutory mandate of section 2188.2 of the Elections Code but are also updating the existing regulations under Title 2, Division 7, Chapter 1 Sections 19001 through 19009 that were first promulgated in 1976 and later amended in 1977. Many provisions of the Elections Code relating to the voter registration information have either been amended or newly added since 1977. For example, Elections Code section 607 that is referenced in the current regulations has renumbered as section 2187 in the year 1994 and no longer serves as a reference to the current regulations either in number or in substance.

These proposed regulations comply with the corresponding provisions of the Elections Code amended as of January 1, 2020. These regulations are necessary to conform with not only the current law but also the current practice and to provide public transparency for how the voter registration information is made available.

The purpose of repealing and replacing Title 2, Division 7, Chapter 1, Article 1, Voter Registration, of the California Code of Regulations is as follows:

1. To provide guidance to Secretary of State staff and local elections officials on the procedures for processing requests for voter registration information.
2. To eliminate outdated requirements that are no longer relevant to the processing of requests for voter registration information and the use of voter registration information by those who obtain it from the Secretary of State or local elections officials.
3. To establish voter registration security requirements.
4. To establish new procedures for transferring voter registration information already obtained.
5. To establish new procedures for requesting specific voter records.
6. To clarify that neither the Secretary of State nor local elections officials are required to provide technical support for voter registration information provided in response to an approved request.
7. To provide transparency for the public on access to voter registration information.

B. *Policy Statement Overview/Anticipated Benefits of Proposal*

The proposed regulations were drafted for the purpose of realigning regulations related to the access of voter registration information with current practices and to give guidance that will ensure data accuracy and consistency across the state. These changes amend definitions, define processes and add new procedures to conform to requirements needed for

processing data in the new statewide voter registration system. These proposed regulations also eliminate outdated requirements that are no longer relevant to the processing of voter registrations. In addition, these regulations will provide transparency for voters about how their voter registration information can be obtained by parties other than the Secretary of State and local elections officials. Finally, these regulations add information security requirements that ensure the protection of voter registration information no longer under the control of the Secretary of State or local elections officials.

C. *Consistency/Compatibility with Existing State Regulations*

After conducting an evaluation of regulations in this area, the SOS has determined that these are the only regulations dealing with access to voter registration information. This regulatory proposal updates existing regulations relating to access to voter registration information. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

D. *Documents Incorporated by Reference:* None.

E. *Documents Relied Upon in Preparing the Regulations:*

- Memo dated January 12, 1995, by then Chief of Elections Division of the Secretary of State John Mott-Smith.
- Sections 19001 through 19009 of Division 7 of Title 2 of California Code of Regulations
- A Handbook for Elections Infrastructure Security by Center for Internet Security
- EAC Election Management Guidelines; Chapter 2 System Security
- EAC Election Management Guidelines
- Chapter 3 Physical Security; and #Protect2020 Strategic Plan

DISCLOSURES REGARDING THE PROPOSED REGULATIONS

The SOS has made the following initial determinations:

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Mandate on Local Agencies and School Districts: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact: The SOS has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business: The SOS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. These regulations update existing regulations that involve costs on private persons or businesses for purchasing voter registration information. While these regulations continue to involve those costs, they do not involve any new costs. These regulations clarify the cost for the SOS to provide this information, a figure on which the previous versions of the regulations were silent. The concept that the costs incurred to provide this information should be covered by the requestor is not novel with these regulations.

Significant Effect on Housing Costs: None.

Effect on Small Business: These regulations will affect small businesses only insofar as small businesses obtain voter registration information. Based on experience processing these requests under the current regulations, we are aware that some small businesses avail themselves of this service, namely service companies that aggregate data for political campaigns. These regulations are being updated based upon recent statutory changes, and we have included security requirements for data companies (which include small businesses or entities) to maintain records on whom they provide voter registration information.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The SOS has determined that the proposed regulations are (1) unlikely to create or eliminate any jobs in California, (2) unlikely to create or eliminate any California businesses, and (3) unlikely to result in the expansion of businesses currently doing business within California. The proposed regulations reflect updated business practices for the new statewide voter registration system. These regulations do not significantly change existing business practices such that jobs or businesses would be created or eliminated.

Benefits of the Proposed Regulations: The benefits of the regulation to the health and welfare of California residents lies in the fact that these regulations will eliminate outdated requirements, define processes, add new procedures and give guidance to ensure data accuracy and data consistency statewide. These regulations will ultimately benefit California residents

as they will clarify how their voter registration information may be obtained and how it shall be safeguarded when outside of the control of the Secretary of State or local elections officials.

CONSIDERATION OF ALTERNATIVES

The SOS must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would either 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 or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments relevant to the above determinations.

INITIAL STATEMENT OF REASONS, THE TEXT OF PROPOSAL AND THE RULEMAKING FILE

The SOS has prepared an Initial Statement of the reasons for the proposed action and has available all the information upon which the proposal is based. The Initial Statement of Reasons is available on the SOS's website.

Copies of the express language of the proposed regulations, any document incorporated by reference, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained throughout the rulemaking process upon request from the SOS contact or on the website listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

A Final Statement of Reasons will be created after the closing of the public comment period. A copy of the final statement of reasons can be obtained once it has been prepared from the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Robbie Anderson
Secretary of State
1500 11th St., 5th Floor
Sacramento, CA 95814
(916) 216-6488
aanderso@sos.ca.gov

The backup contact person is:

Taylor Kayatta
Secretary of State
1500 11th St., Room 495
Sacramento, CA 95814
(916) 695-1530
tkayatta@sos.ca.gov

Website Access: Materials regarding this proposal can be found at: <https://www.sos.ca.gov/administration/regulations/proposed-regulations/>.

TITLE 5. CALIFORNIA STUDENT AID COMMISSION

CAL GRANT PROGRAM APPEAL PROCESS (EDUCATION CODE SECTION 69432.7)

NOTICE IS HEREBY GIVEN that the California Student Aid Commission (Commission) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The Commission will hold a public hearing on Thursday, January 14, 2021, or as soon after that as business before the Commission will permit, via teleconference. Details about the hearing, including the meeting time, agenda items, staff presentation materials, and options to participate in the hearing by telephone or computer will be available prior to the hearing on the Commission's website at: <https://www.csac.ca.gov/commission-meeting-materials>.

In accordance with the guidance from Executive Order N-29-20, a physical location will not be provided. Members of the public are strongly encouraged to participate using the teleconference phone number provided on the Commission website in the meeting agenda for the above-specified date so as to minimize the spread of COVID-19 and reduce the risk of infection during this current state of emergency. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest.

It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD AND
SUBMITTAL OF COMMENTS

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

California Student Aid Commission
Attention: Gary Collord, Legal Services
P. O. Box 419026
Rancho Cordova, CA 95741-9026

Comments may also be submitted by facsimile (FAX) at (916) 464-8033 or by e-mail to Rulemaking@csac.ca.gov. The public comment period for this regulatory action will begin on November 27, 2020. Comments must be submitted before 5:00 p.m. on January 13, 2021 to be considered.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 69432.7 of the Education Code, the proposed regulations implement, interpret and make specific Sections 69432.7(l)(3)(I)(iv) and (II) of the Education Code. The Commission is considering changes to Division 4 of Title 5 of the California Code of Regulations to add an appeal process and appeal criteria for the Cal Grant Program as follows:

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Education Code Section 69432.7 was most recently amended by Assembly Bill 3255 (AB 3255), Chapter 505, Statutes of 2018. Education Code Section 69432.7(l)(3)(I) provides that the Commission shall do the following relative to establishing an appeal process and appeal criteria for qualifying institutions participating in the Cal Grant Program:

Subsection (iv) (I)

Establish an appeal process for an otherwise qualifying institution that fails to satisfy the three-year cohort default rate and graduation rate requirements in subparagraphs (C) and (F), respectively.

Subsection (iv) (II)

The Commission may grant an appeal for an academic year only if the Commission has determined the institution has a cohort rate size of 20 individuals or less and the cohort is not representative of the overall institutional performance.

The proposed regulations contained in this document were developed to satisfy these provisions of the Education Code relative to establishing a Commission appeal process for qualifying institutions, and to clarify the conditions under which the Commission may grant an appeal. Specifically, these regulations will officially establish the Commission’s appeal process and appeal criteria for qualifying institutions participating in the Cal Grant Program. The proposed regulation will streamline the appeal process and clarify eligibility conditions for institutions interested in filing an appeal with the Commission and clarify the conditions under which the Commission may grant an appeal.

Objectives and Benefits of the Proposed Regulation

The Commission is proposing to establish a voluntary appeal process and appeal criteria for qualifying institutions participating in the Cal Grant Program, as set forth in Education Code Section 69432.7(l)(3)(I)(iv). The proposed regulations will add clarity and specificity to the Cal Grant Program by detailing the conditions and criteria, relative to cohort default and graduation rates, that are eligible for appeal; and clarify and streamline the process for filing an appeal with the Commission. The proposed regulation is designed to bring greater efficiency and transparency to the Commission’s appeal process and improve the Commission’s administration of the Cal Grant Program. The proposed regulation is necessary to specify the procedural and substantive requirements for the appeal process.

Evaluation of Inconsistency or Incompatibility with Existing State Regulations

After conducting a review for any related regulations in this area, the Commission has determined that no other regulations exist concerning a Commission appeal process (or other mechanism) to potentially restore program eligibility for institutions participating in the State’s Cal Grant Program. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Commission has made the following initial determinations:

Mandate on Local Agencies and School Districts:
None.

Fiscal Impact Estimates:

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary

costs or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

With respect to potential cost or savings to State agencies, the California Student Aid Commission will incur minor absorbable costs relative to preparing the proposed regulations and to process and consider eligible appeals filed by institutions. The lack of a formalized appeal process and appeal criteria obligated the Commission to consider appeals that did not meet the eligibility criteria of the Education Code, and for which the Commission was statutorily unauthorized to approve. This created added cost, as well as inefficient and unnecessary demands on the time and resources of Commission staff and the Commissioners. Thus, over time, the Commission expects to realize a net cost savings by adopting the proposed regulations.

Cost Impact on Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Other Business Impacts:

The Commission has determined the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal would impose no costs upon business. The proposal does not affect small businesses as defined by California Government Code Section 11342.610. This proposal would not affect private sector or small business as defined by California Government Code Section 11342.610.

Effect on Housing Costs: None.

Cost or Savings in Federal Funding to the State: None.

Results of the Economic Impact Analysis:

The Commission has determined that this regulatory proposal will not have any effect on the creation of jobs or new businesses, on the elimination of jobs or existing businesses, or on the expansion of businesses in the State of California. The regulation is not expected to adversely affect or benefit California residents' health and welfare, worker safety, or the State's environment.

The proposed regulation clarifies and details the requirements and process for filing an appeal claim with the Commission by qualifying institutions participating in the Cal Grant Program. Filing an appeal under the proposed regulation is a voluntary option available to qualifying institutions. As such, the proposed regulation places no new or substantial

requirements on businesses or individuals within California.

FEDERAL MANDATE

There are no comparable provisions of federal law related to this proposal. The regulation would only apply in California and specifically to the Cal Grant Program and would neither affect nor conflict with any federal regulations or federal education programs. In accordance with the California Education Code, the regulation references and relies upon the same definition and methodology used by the Federal Department of Education to determine "cohort default rates" for institutions participating in the Cal Grant Program.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Commission invites interested parties to submit statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period or at the public hearing.

CONTACT PERSONS

Inquiries concerning the proposed adoption of the regulations and written comments may be directed to:

Gary Collord
California Student Aid Commission
11040 White Rock Road,
Rancho Cordova, CA 95670
Telephone: (916) 347-0632
Fax: (916) 464-8033 Facsimile
Email: Rulemaking@csac.ca.gov

The back-up contact person for these inquiries is:

Julia Blair
California Student Aid Commission
11040 White Rock Road,
Rancho Cordova, CA 95670
Telephone: (916) 464-8918
Fax: (916) 464-8033 Facsimile
Email: Rulemaking@csac.ca.gov

AVAILABILITY OF THE STATEMENT
OF REASONS, TEXT OF PROPOSED
REGULATIONS, AND RULEMAKING FILE

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office listed at the address above. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of regulations, the initial statement of reasons, an economic and fiscal analysis, and other reference information upon which the proposed rulemaking is based. Copies may be obtained by making a written request to Gay Collord.

These documents may also be viewed and downloaded from the Commission’s website at www.csac.ca.gov.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After considering all timely and relevant comments received, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with changes clearly indicated, available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Gary Collard at the above address. The Commission 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 making a written request to Gary Collord at the above address.

WEBSITE ACCESS

Materials regarding this proposal can be found at www.csac.ca.gov.

**TITLE 16. CEMETERY AND FUNERAL
BUREAU**

- § 2334, Endowment Care Fund
Conversion Application**
- § 2334.1, Endowment Care Fund
Conversion Condition**
- § 2334.2, Denial of Endowment Care Fund
Conversion Application**
- § 2334.3, Abandonment of Endowment Care Fund
Conversion Application**
- § 2334.4, Reversion to Net Income
Distribution Method**
- § 2334.5, Endowment Care Fund Maintenance
after Conversion to the Unitrust
Distribution Method**
- § 2350, Endowment Care Fund Reports**

NOTICE IS HEREBY GIVEN that the Cemetery and Funeral Bureau (Bureau) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office on January 14, 2021.

The Bureau has not scheduled a public hearing on this proposed action. The Bureau will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

The Bureau may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 7606, and 7740 of the Business and Professions Code (BPC), and to implement, interpret or make specific BPC sections 142, 7612.6, 7613.9, 7653.6, and Health and Safety Code (HSC) sections 8725, 8726, 8726.1, 8726.2, 8726.3, 8728, 8731, 8733.5, 8736, 8738, 8738.1, 8740, 8751, and 8751.1, the Bureau is considering amendments to Division 23 of Title 16 of the CCR as described in this Notice.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The death care industry transacts business with consumers at a time when they are emotionally vulnerable. Protection of the public is mandated to be the highest priority for the CFB in exercising its licensing, regulatory, and disciplinary functions. CFB achieves its goal of consumer protection through the following primary methods: issuing and renewing licenses; overseeing funeral and cemetery trust funds; investigating complaints; conducting inspections; and disciplining licensees for violations of its laws and regulations.

CFB licenses, regulates, and investigates complaints against 13 different licensure categories in California, totaling approximately 13,500 licensees. These licensing categories include funeral establishments, funeral directors, embalmers, apprentice embalmers, cemetery brokers, cemetery broker branch, cemetery broker additional, cemetery salespersons, cremated remains disposers, crematories, crematory managers, cemetery managers, and private, nonreligious cemeteries.

Existing law requires each privately owned cemetery authority create an endowment care trust fund through a written trust agreement executed by their board of directors and requires them to deposit funds to the trust for each interment space they sell. There are various types of interments cemeteries sell (graves, crypts, niches, and scattering of cremated remains on the cemetery's property) and each type of interment has a minimum required deposit. The deposits cemeteries make to endowment care trusts, along with the initial contribution required by HSC section 8738.1, form what is known as the corpus of the trust. The corpus along with the portion of accumulated capital gains that have been permanently assigned to the fund form the principal. The law prohibits the expenditure of the fund corpus. Rather, it must be invested with the intent to earn income for the general care and future maintenance of the cemetery.

In 2017, the California Legislature passed Assembly Bill (AB) 926 (Irwin, Chapter 750, Statutes of 2017),

making the endowment care fund automatically subject to the net income distribution method, and specifying the requirements for distribution under this method. AB 926 also authorizes a cemetery authority, its directors, or its board of trustees, to apply and obtain prior approval from the Bureau to convert its endowment care fund from the net income distribution method to the unitrust distribution method subject to specific conditions and standards beginning January 1, 2020. These standards include, among other things, imposing a trustee compensation cap and requiring the creation of a reserve account for maintenance. This account must be used in years when the unitrust endowment care fund has inadequate funds for full distribution. These standards also ensure that the trustee maintains investment strategies that promote both the goal of growing the assets and producing income for the cemetery authority. AB 926 requires the Bureau to evaluate the effectiveness of the unitrust distribution authority and to report its findings at its next two hearings before the Joint Sunset Review Oversight Hearings of the Assembly Committee on Business and Professions and Senate Committee on Business, Professions and Economic Development.

In 2019, AB 795 (Irwin, Chapter 309, Statutes of 2019) was passed and amended AB 926 by delaying its implementation date to January 1, 2021. AB 795 set limits on trustee compensation that should allow for professional management of trust assets and prevent depletion of assets via excessive trustee fees. Additionally, AB 795 places controls on excessive investment adviser fees that could unduly deplete the fund and limits the ability of private creditors to seize trust funds assets. It also makes clear that in the event of a seizure by a public entity, trust funds assets could only be used for care, maintenance, and embellishment of the cemetery for which the funds were originally put in trust.

BPC section 7606 authorizes CFB to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Cemetery and Funeral Act (Act).

In order to comply with the mandates of AB 926 and AB 795, the Bureau proposes the following amendments:

- **Adopt CCR section 2334, Endowment Care Fund Conversion Application**

The Bureau proposes to adopt a regulation setting forth the timeframe, required contents of, and documents required to be submitted with an "Endowment Care Fund Conversion Application," and incorporates the form by reference.

- **Adopt CCR section 2334.1, Endowment Care Fund Conversion Condition**

The Bureau proposes to adopt a regulation providing that the Bureau's approval is required for conversion and stating the effective date of the conversion.

- **Adopt CCR section 2334.2, Denial of Endowment Care Fund Conversion Application**

The Bureau proposes to adopt a regulation setting forth the conditions under which the Bureau will deny a cemetery's application to convert to the unitrust distribution method.

- **Adopt CCR section 2334.3, Abandonment of Endowment Care Fund Conversion Application**

The Bureau proposes to adopt a regulation providing that an application for an Endowment Care Fund Conversion will be deemed abandoned if the applicant refuses or fails to comply with the provisions of section 2334 within one year of written notification by the Bureau. In addition, this section provides that, when the application is deemed abandoned, the applicant must re-submit a new application and documents.

- **Adopt CCR section 2334.4, Reversion to Net Income Distribution Method**

The Bureau proposes to adopt a regulation enumerating the conditions under which the Bureau may require the cemetery authority to revert to the net income distribution method from the unitrust distribution method. It provides a method for a cemetery authority to request reversion to net income distribution. It provides a timeframe for the reversion. It describes the method for reestablishing the reserve account required under the net income distribution method. It also requires that a cemetery authority that has been reverted to the net income distribution method will need to reapply to convert to the unitrust distribution method.

- **Adopt CCR section 2334.5, Endowment Care Reserve For Maintenance after Conversion to the Unitrust Distribution Method**

The Bureau proposes to adopt a regulation setting forth the methods for the creation of the reserve for maintenance account a cemetery authority must create prior to the effective date of conversion to the unitrust distribution method. It also specifies that the reserve for maintenance account must be separately identified from all the cemetery funds.

- **Amend CCR section 2350, Endowment Care Fund Reports**

Existing law addresses the annual report required pursuant to BPC section 7612.6(b).

The Bureau proposes to amend the regulation to separate it into two subdivisions to clarify existing regulatory language. Subdivision (a) corrects the terminology of the existing regulation which pertains to the annual report requirements pursuant to BPC

section 7612.6(b). Subdivision (b) lists the additional information that must be provided with the endowment care fund report when the cemetery authority is using the unitrust distribution method. It also replaces outdated codes from BPC section 9650(c) to BPC section 7612.6(b) in the text and the Authority and Reference section.

ANTICIPATED BENEFITS OF PROPOSED REGULATIONS

The unitrust distribution method allows expenditures based on the total net value of the endowment care fund assets, regardless of the actual income earned from the investment of those assets. The unitrust distribution method provides a cemetery authority an alternative method that provides potentially higher distribution to properly care for the cemetery. It also allows for more growth of the principal of the trust that will provide the cemetery the ability to use enough money from its trust to provide for the ongoing care and future maintenance of the cemetery.

DETERMINATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING REGULATION(S)

During the process of developing these regulations and amendments, CFB has conducted a search of any similar regulations of these topics and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

Endowment Care Fund Conversion Application, form 23-ECFC (New 01/21)

DISCLOSURES REGARDING PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies:

The proposed regulations are not anticipated to increase workload or costs to the state.

Current law requires the Bureau to implement and oversee an application process to convert an endowment care fund from a net distribution method to a unitrust distribution method. Any workload and costs of implementation are a result of current law.

Cost or Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact:

CFB has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Business Reporting Requirement

The proposed regulations impose additional reporting, recordkeeping, or other compliance requirements:

BPC section 7612.6(b) addresses the cemetery authority annual report requirements.

The Bureau has determined that it is necessary for the health, safety, or welfare of the people of the state to add reporting requirements and/or information to the existing regulation that will aid the Bureau in its annual evaluation that will demonstrate the cemetery authority continues to meet the conditions of approval as originally approved.

Cost Impact on Representative Private Person or Business:

There is no cost for the cemetery authority to apply for the Bureau's approval to convert from the net income distribution method to the unitrust distribution method.

The Bureau is unable to project the potential revenue that can be generated by a cemetery authority converting to the unitrust distribution method.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The CFB has determined that the proposed regulations would affect small businesses.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Bureau has made an initial determination that the adoption and amendment of this regulatory proposal will not have an adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

As of July 2020, the Bureau currently licenses 193 endowment care cemeteries, which are all projected to apply for the unitrust distribution method in the first year. Of the 193, the Bureau anticipates 96 licensees will qualify for the unitrust distribution method. The Bureau expects at least half of all licensees annually will remain utilizing the unitrust distribution method.

The Bureau has determined that this regulatory proposal will have the following effects:

- It will not create or eliminate jobs in the State of California because this proposed regulation applies to the licensed cemetery authorities seeking the Bureau's approval to convert the endowment care to the unitrust distribution method.
 - It will not create new businesses within the State of California because the proposed regulations would only allow existing licensed cemetery authorities to apply for the Bureau's approval to convert to the unitrust distribution method. The proposed regulation does not negatively impact the existing cemetery industry.
 - It will not expand or eliminate existing business because this regulation applies to the existing licensed cemetery authorities in California. The proposed regulations are only applicable to cemeteries that are already licensed by the Bureau and provides the cemetery with the business option to expend funds, which may be available to the cemetery under the unitrust distribution method.
 - This regulatory proposal will not affect the health and welfare of California residents because the regulations are aimed toward licensed cemetery authorities seeking the Bureau's approval to convert the endowment care fund to the unitrust distribution method. Although the unitrust distribution method allows approved cemetery authorities to expend more money from their endowment care funds for allowable cemetery expenditures, without proper oversight of cemeteries using the unitrust distribution method consumers could be irreparably harmed if the cemetery's expenditures jeopardize the long-term sustainability of the endowment care fund.
- This regulatory proposal may affect worker safety if a sufficient endowment care fund is maintained by the cemetery that would allow the cemetery to expend funds to repair surfaces and ensure the property is kept in a condition so as to prevent a hazard to the worker.
- This regulatory proposal may affect the state's environment if a sufficient endowment care fund is maintained over the life expectancy of the cemetery, which may enhance the condition of the cemetery grounds, thus making a positive impact on the environment.

INITIAL STATEMENT OF
REASONS AND INFORMATION

CFB has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from CFB at 1625 North Market Blvd., Suite S-208, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS AND
RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Contact Person named below or by accessing the website listed below.

CONSIDERATION OF ALTERNATIVES

The Bureau must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Set forth below are the alternatives that were considered and the reason the alternative was rejected or adopted:

Alternative 1: Maintain the status quo. This alternative was rejected because it would make the CFB non-compliant with the statutory mandates of AB 926 and AB 795.

Alternative 2: Adopt new regulations and amend existing regulatory sections. This alternative was accepted as the most efficient option for the Bureau to evaluate the application to grant approval to licensed cemetery authorities seeking the Bureau's approval to convert the endowment care fund to the unitrust distribution method, in

order to comply with AB 926 and AB 795, which mandates CFB to adopt proposed regulations by January 1, 2021.

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at 1625 North Market Blvd., Suite S-208, Sacramento, California 95834.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Name:
Carolina Sammons

Address:
1625 North Market Boulevard, Suite S-208
Sacramento, CA 95834

Telephone Number:
(916) 574-7876

Fax Number:
(916) 928-7988

Email Address:
carolina.sammons@dca.ca.gov

The backup contact person is:

Name:
Cheryl Jenkins

Address:
1625 North Market Boulevard, Suite S-208
Sacramento, CA 95834

Telephone Number:
(916) 574-8203

Fax Number:
(916) 928-7988

Email Address:
cheryl.jenkins@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Carolina Sammons at (916) 574-7876.

Website access: Materials regarding this proposal can be found at https://www.cfb.ca.gov/laws_regs/proposed_regs.shtml.

TITLE 23. CALIFORNIA WATER COMMISSION

The California Water Commission (Commission) will conduct a public hearing at the time and place noted below to consider the adoption of regulations for the special application for early funding, which are currently in effect as emergency regulations adopted on August 19, 2020 and effective on August 31, 2020 (OAL File 2020-0821-04E). The proposed regulations provide a process for a special application for early funding to allow the California Water Commission to award early funding to projects that received a Maximum Conditional Eligibility Determination (MCED) in the Water Storage Investment Program (WSIP). The proposed regulations do not change the total amount available to a project from the WSIP, nor do the proposed regulations constitute a new solicitation for projects that did not receive an MCED.

OPPORTUNITY FOR PUBLIC COMMENT

Public Hearings. The hearing will be held in accordance with the requirements set forth in Government Code section 11346.8. In accordance with Governor Newsom's Executive Orders N-29-20 and N-33-20, as well as recommendations from the California Department of Public Health, this hearing will not have a physical location. This will be a remote-only hearing, conducted via a web-based videoconferencing service called Zoom. The hearing details are as follows:

Date: January 20, 2021
Time: 9:30 a.m.

Zoom details will be released with the public agenda for this meeting, which will be released at least ten (10) days in advance of the hearing.

This item may be considered at any time during the regularly scheduled meeting of the Commission. Please consult the agenda, which will be available at least ten (10) days before January 20, 2021, to confirm the time at which this item will be considered. The agenda will be posted at <http://cwc.ca.gov>.

Sections Affected: Proposed adoption of California Code of Regulations, title 23, section 6010(f), (g), and (h).

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will

begin on November 27, 2020. To be considered by the Commission, written comments not physically submitted at the hearing, must be submitted on or after November 27, 2020 and received no later than 5:00 p.m. on January 13, 2021 and must be addressed to the following:

California Water Commission
901 P Street, Room 314
P.O. Box 924836
Sacramento, CA 94236

—or—

cwc@water.ca.gov

Please note that under the California Public Records Act (Government Code §6250 *et seq.*), written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request.

The Commission requests, but does not require, that written and email statements on this item be filed at least 10 days prior to the hearing so that Commission staff and Commissioners have additional time to consider each comment. The Commission encourages members of the public to bring to the attention of staff, in advance of the hearing, any suggestions for modification of the proposed regulatory action.

Additionally, the Commission requests, but does not require, that persons who submit written comments to the Commission reference the title of the proposal in their comments to facilitate review.

AUTHORITY AND REFERENCE

Authority Cited: Sections 79705, 79711, 79750, 79751, 79752, 79753, 79754, 79755, and 79757, Water Code. Reference: Sections 79705, 79711, 79751, 79755, 79757, 10733.2, and 10753.7, Water Code.

DOCUMENTS INCORPORATED BY REFERENCE

No documents are incorporated by reference in the regulations.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW PURSUANT TO GOVERNMENT CODE SECTION 11346.5(a)(3)

Background and Effect of the Proposed Rulemaking

This notice of proposed rulemaking will make permanent an existing emergency regulation, adopted

by the Commission on August 19, 2020, which became effective on August 31, 2020.

The proposed regulations provide a process for a project proponent who did not obtain early funding in the original application review to obtain early funding if the project meets the existing requirements of Section 6010 of the regulations and if the Commission grants the early funding request. The proposed regulations do not result in a re-examination of the merits of a project, nor do they change the total amount of funding a project may receive from the program if the project meets all of the statutory requirements of Water Code section 79755. The proposed regulations only make early funding, which is a portion of the total amount of the maximum eligibility amount, available to those projects that did not receive early funding during the initial application review in 2018.

Objectives, Benefits, and Policy Statement Explaining the Specific Benefits Anticipated from the Proposed Regulatory Action

The proposed regulations will establish the procedure for proponents of water projects to request early funding from the Commission, consistent with the Water Storage Investment Program regulations. These projects are suffering from COVID-19 economic circumstances which require additional available funding earlier, which was the subject of the emergency regulations.

Determination of Inconsistency and Incompatibility with Existing State Regulations Pursuant to Government Code section 11346.5(a)(3)(D)

The proposed regulations establish a procedure for water storage proponents to obtain early funding from the Water Storage Investment Program. None of the proposed regulations are inconsistent or incompatible with existing state regulation. The Commission has developed these regulations in alignment with existing state law and regulations that govern an open and transparent process for addressing state governmental agencies.

The Commission developed the proposed regulations to be consistent with the following sections of California Code: Government Code sections 11340.5 and 11342.600 requiring any rule of general application to be adopted as a regulation.

The proposed regulations are uniquely applicable to the applicants in the Water Storage Investment Program who did not receive early funding awards in 2018. In addition to the consistency of the regulatory policies with the implementing statute, the policies are also consistent with existing laws and regulations that relate to the specific policies discussed below.

During the process of developing the proposed regulatory action, Commission staff has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither

inconsistent nor incompatible with existing state regulations.

Mandated by Federal Law or Regulations

The proposed regulations are not mandated by federal law or regulations but are required because of duties imposed on the California Water Commission via federal law.

Comparable Federal Regulations

The proposed regulation implements a new process for water projects to obtain early funding from the Water Storage Investment Program. These regulations do not have a federal counterpart, and do not impact, duplicate, or conflict with Federal regulations or statutes.

Summary of Existing Laws and Regulations Related Directly to the Proposed Rulemaking

The Water Storage Investment Program implements Proposition 1, Chapter 8 that provided \$2.7 billion for public benefits of water storage projects. To implement this chapter, the Commission adopted program regulations, as required in chapter 8, then proceeded with a solicitation and application review. The language in Water Code section 79755(a) prevents the Commission from making final awards until the applicant has finalized environmental documentation, completed permits, obtained 100 percent of the non-public cost share, and has executed contracts with applicable State agencies for the administration of public benefits. While section 79755(c) prevents a final award until the project is construction ready, it allows for early funding of projects to assist with work related to completion of environmental documentation and permits. Program regulations implemented the early funding provision by requiring applicants to request early funding in their initial application. Four of the eight applicants that completed the review process requested early funding in their applications. In July 2018, the Commission made maximum conditional eligibility determinations (MCEDs) for eight projects providing enough information and assurances that projects could proceed to complete the statutory requirements. The Commission also made three early funding awards. Early funding is a portion of a project's MCED that applicants may spend prior to final award. Early funding is capped at five percent (5%) of the MCED to limit stranding of funds if a project does not progress to final award.

Existing law provides applicants the ability to obtain funding for environmental documentation. Water Code section 79755(c) states "Notwithstanding subdivision (a), funds may be made available under this chapter for the completion of environmental documentation and permitting of a project." Existing section 6010 of Title 23 of the California Code of Regulations governs the conditions that must be met before the Commission

will award funding for environmental documentation and permits. The proposed regulations allow for those applicants meeting the existing requirements to request funding for environmental documentation and permits based on changed circumstances created by the COVID-19 pandemic.

Other Statutory and Legal Requirements

California Government Code section 11340.5 states:

- (a) No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to this chapter.

California Government Code section 11342.600 defines a regulation as:

...[E]very rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

Because the proposed regulatory action is a “standard” adopted to “govern its procedure”, the Commission needs to undertake a rulemaking to ensure the process it implements is consistent with Government Code section 11340.5.

**FISCAL IMPACT DETERMINATION
REGARDING THE PROPOSED ACTION**

Local Mandate (Government Code section 11346.5(a)(5))

Pursuant to Government Code sections 11346.5(a)(5) and (a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs to covered State agencies. The proposed regulatory actions would not create costs or savings in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, Title 2, division 4, part 7 (commencing with section 17500) or other nondiscretionary costs of savings to State or local agencies.

The regulation does not impose a mandate on any private individual, business or local government. The regulations govern three existing applicants to the Water Storage Investment Program.

The determinations of the Commission’s Executive Officer concerning the costs or savings necessarily

incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below:

- Cost to any Local Agency or School District Requiring Reimbursement Pursuant to Government Code section 17500 *et seq.*: None.
- Cost or Savings for State Agencies: None.
- Other Non-discretionary Costs or Savings on Local Agencies: None.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

Cost Impacts on Representative Private Persons or Businesses

In developing this regulatory proposal, Commission staff evaluated the potential economic impacts on representative private persons or businesses. The commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Small Business

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the projects do not meet the qualifications of a small business.

Business Reporting Requirements

The administrative requirements of the proposed regulations do not apply to business or private individuals. Therefore, there is no reporting requirement that applies to businesses.

Housing Costs

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

**RESULTS OF THE ECONOMIC IMPACT
ANALYSIS/ASSESSMENT PREPARED
PURSUANT TO GOVERNMENT CODE
SECTION 11346.3(b)**

Effect on Jobs/Businesses

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of

existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.

Benefits of the Proposed Regulation

The objective of the proposed regulations is to ensure a level playing field and a consistent process for any California water storage project proponent seeking early funding from the Water Storage Investment program who did not receive an early funding award during the initial application review in 2018.

A detailed explanation of the benefits of the proposed regulation is in the Initial Statement of Reasons, under “Purpose of Proposed Regulations.”

DISCLOSURES REGARDING THE PROPOSED ACTION

The proposed regulation does not award funding from WIIN Act sources. Rather, it ensures water projects from California that apply for funding from the Federal government pursuant to the WIIN Act are consistent with California’s stated goals and policies related to water storage.

The following summarizes the sections of the proposed regulation and the potential categories of economic and fiscal impact:

Section 6010(f): provides one additional opportunity to apply for early funding for projects that did not apply or did not receive early funding pursuant to certain criteria.

Section 6010(g): requires staff to provide an update on the project at the scheduled Commission meeting before the Commission hears the request from the applicant.

Section 6010(h): requires the Commission to decide whether to award funding.

Costs potentially resulting from these regulations are:

Costs to local agencies to prepare information, submit information, and attend the Commission meeting.

The following are conclusions of an economic and fiscal impact analysis for the proposed regulations:

The proposed regulation will not result in a significant or permanent change in the number of jobs within the state.

No creation or elimination of businesses within the state would occur as a result of this proposed regulation.

The proposed regulation would not affect the competitive advantages or disadvantages of businesses within the state.

The proposed regulation would not significantly affect investment in the state.

Incentives for innovation in business products, materials, or processes would not be affected.

ALTERNATIVES STATEMENT

The Commission must determine that no reasonable alternative considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

Commission staff has prepared an Initial Statement of Reasons for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled “Initial Statement of Reasons.”

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on the Commission’s website listed below, or may be obtained from Kimberly Muljat, California Water Commission, 901 P Street, Sacramento, California, 95814, (916) 651-7501.

The following materials are available for public review:

- Text of Proposed Regulation
- Notice of Proposed Rulemaking
- Initial Statement of Reasons
- Materials Relied Upon
- Form 400
- Form 399
- Final Statement of Reasons (upon completion)
- Final Text of Regulation (upon completion)

These materials may be viewed in two ways:

- Visiting the Commission’s website (<http://cwc.ca.gov>)
- Arranging an in-person review. Please contact Kimberly Muljat (contact information provided above).

Final Statement of Reasons Availability

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice or may be accessed on the Commission’s website (<http://cwc.ca.gov>).

Agency Contact Persons

Inquiries concerning the substance of the proposed regulatory action may be directed to:

Holly Stout
California Water Commission
901 P Street, Room 314
P.O. Box 924836
Sacramento, CA 94236
916-651-0156
cwc@water.ca.gov

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed to:

Kimberly Muljat
California Water Commission
901 P Street, Room 314
P.O. Box 924836
Sacramento, CA 94236
916-651-7501

The Commission staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

Internet Access

This notice, the Initial Statement of Reasons, and all subsequent regulatory documents, including the FSOR, when completed, are available on the Commission's website for this rulemaking at <https://cwc.ca.gov>.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (beginning with section 11340).

Following the public hearing, the Commission may adopt the regulatory text as originally proposed, or with nonsubstantial or grammatical modification. The Commission may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified text from the Commission contact persons listed in this notice.

The hearing location 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

Commission 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.

TITLE 23. CENTRAL VALLEY FLOOD PROTECTION BOARD

NOTICE IS HEREBY GIVEN that the Central Valley Flood Protection Board (Board) proposes to amend California Code of Regulations (CCR), Title 23, Division 1, Chapter 1, Article 2, Section 4 Definitions. The Board also proposes to amend CCR, Title 23, Division 1, Chapter 1, Article 8, Sections 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, and figures 8.01, 8.02, 8.03, 8.04, 8.05, 8.06, 8.07, 8.08, 8.09, 8.10 and 8.11. The Board also proposes to codify CCR, Title 23, Division 1, Chapter 1, Article 8, Section 139.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the comment period.

WRITTEN COMMENT PERIOD

Interested parties may submit written comments relevant to the Board's proposed regulatory action by mail or electronically. The written comment period closes on **Monday, January 11, 2021**. Submit written comments to:

Jit Dua, Board Counsel
Central Valley Flood Protection Board
3310 El Camino Ave., Suite 170
Sacramento, CA 95821

Electronic Submittal of Comments: Any interested person, or her/his authorized representative, may submit comments by facsimile (FAX) at (916) 574-0682 or by email to: Rulemaking@cvflood.ca.gov.

AUTHORITY AND REFERENCE

California Water Code (CWC) sections 8534, 8571, 8598, 8608, 8609, and 8710 authorize the Board to adopt regulations or rules as needed to carry out its legislatively mandated powers and duties relative to these proposed amendments and adoption.

CWC section 8534 specifies that the Board shall enforce on behalf of the State the erection, maintenance and protection of levees, embankments and channel

rectification as will, in its judgment, best serve the interests of the State. The Proposed Rulemaking implements, interprets and makes specific CWC section 8534 governing the construction of flood control facilities and encroachments to the flood control system.

CWC 8571 authorizes the Board to adopt, amend, or repeal rules to promote the convenient, orderly and just conduct of the business of the Board. The Proposed Rulemaking implements, interprets and makes specific CWC section 8571 governing the adoption, amending, and repealing rules for the convenient, orderly and just conduct of the business of the Board.

CWC section 8598(a) authorizes the Board to establish a standard for levee construction. The Proposed Rulemaking implements, interprets and makes specific CWC section 8598 governing the construction of flood control system levees.

CWC section 8608 specifies, in part, that the Board shall establish and enforce standards for the maintenance and operation of levees, channels, and other flood control works of an authorized project or an adopted plan, including but not limited to standards for encroachment construction. The Proposed Rulemaking implements, interprets and makes specific CWC section 8608 governing the construction of flood control facilities and encroachments to the flood control system.

CWC section 8609 specifies, in part, that the Board may “designate floodways throughout the Sacramento and San Joaquin Rivers drainage to control encroachments in, and to preserve the flow regimens of, floodways for the purpose of protecting public improvements, lives, land use values, and improvements created in reliance upon historical flood patterns.” The Proposed Rulemaking implements, interprets and makes specific CWC section 8609 governing the construction of flood control facilities and encroachments to the flood control system.

CWC section 8710 establishes that “[e]very plan of reclamation, flood control, drainage, improvement, dredging or work, that includes or contemplates the construction, enlargement, revetment or alteration of any levee, embankment, canal or other excavation in the bed of or along or near the banks of the Sacramento or San Joaquin River or any of their tributaries or connected therewith, or upon any land adjacent thereto, or within any of the overflow basins thereof, or upon any land susceptible to overflow therefrom, shall be approved by the board before construction is commenced.” The Proposed Rulemaking implements, interprets and makes specific CWC section 8710 governing the construction of flood control facilities and encroachments to the flood control system to be approved by the Board.

Forms

Economic and Fiscal Impact Statement (STD. 399), November 2019

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board is the State of California’s regulatory agency responsible for ensuring that appropriate standards are met for the design, construction, maintenance, and protection of the flood control system that protects life, property, and wildlife habitat in California’s vast and diverse Central Valley from the devastating effects of flooding. The Board issues encroachment permits and works with other agencies to improve the flood protection facilities, enforces removal of problematic encroachments, and keeps watch over the Central Valley’s continually improving flood management system. As one of its core functions, the Board issues permits and oversees any alteration to the State–Federal flood control system within its jurisdictional authority. The Board sets standards for the design and construction of flood control facilities and encroachments with permit application review, approval, issuance, and verification of compliance with Title 23, Division 1, Article 8 Standards. The Board’s technical regulations require updating for the Board to meet its mandate to protect, operate and maintain the State’s flood control system within the Board’s jurisdiction.

This rulemaking proposes to amend the California Code of Regulations, Title 23, Division 1, Chapter 1, Article 2, Section 4 and Article 8, Sections 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, and figures 8.01, 8.02, 8.03, 8.04, 8.05, 8.06, 8.07, 8.08, 8.09, 8.10 and 8.11. This rulemaking also proposes to codify California Code of Regulations, Title 23, Division 1, Chapter 1, Article 8, Section 139.

Amend CCR, Title 23, Division 1, Chapter 1, Article 2, Section 4 (Definitions).

Section 4 of CCR, Title 23, Division 1, Chapter 1, Article 2 sets forth definitions of terms of art and commonly used terms throughout CCR, Title 23, Division 1. This rulemaking proposes to amend this section to track and comport with the proposed amendments to CCR, Title 23, Division 1, Chapter 1, Article 8 standards, Sections 111 through 139, which sets forth the standards for the design and construction of encroachments, levees and other flood control works.

Amend CCR, Title 23, Division 1, Chapter 1, Article 8, Section 111–138 (Standards), Figures 8.01–8.11.

Sections 111 through 138 and Figures 8.01–8.11 sets forth technical standards that govern the design

and construction of flood control facilities and encroachments, which impact the flood control works and floodways within the Board's jurisdiction. This rulemaking proposes to amend Sections 111 through 138 and Figures 8.01–8.11 to provide the applicants with the technical information needed to design flood control facilities and encroachments and prepare and submit applications to the Board for proposed work requiring a Board permit.

Adopt CCR, Title 23, Division 1, Chapter 1, Article 8, Section 139 (Standards).

Section 139 sets forth the technical standards that govern the design and construction of in-ground pools, which have the potential impact the flood control works and floodways within the Board's jurisdiction. This rulemaking proposes to codify Section 139, to provide the applicants with the technical information needed to design in-ground pools and prepare and submit applications to the Board for proposed work requiring a Board permit.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The Board's existing regulations governing technical standards have not been amended since 1996. The proposed regulations are necessary to specify the information required to be submitted to the Board to determine the acceptability of proposed work or encroachments, to specify acceptable engineering methods for developing that information, and to set engineering standards that are consistent with modern engineering requirements.

Adoption and implementation of this proposed action will establish standards consistent with improvements in engineering standards for proposed work to avoid impacts to the flood carrying capacity of rivers and regulated streams and maintain the integrity of flood control project features. Levees are the most prevalent flood control project feature throughout the Board's jurisdiction and their failure can result in devastating losses of life and infrastructure. Likewise, encroachments to the flood control system also have the potential to interfere with operation, maintenance, and flood fighting capabilities along stream channels, levees, and other flood control project features. Updated technical standards are needed to avoid such interference.

SUBSTANTIAL DIFFERENCES FROM EXISTING, COMPARABLE FEDERAL REGULATIONS OR STATUTES

There are no comparable regulations in the federal Code of Regulations that address the specific subject addressed by the proposed regulations.

EVALUATION OF INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

Pursuant to Government Code Section 11346.5(a)(3)(D), the Board evaluated the proposed regulations to determine whether they are inconsistent or incompatible with existing state regulations and concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

MANDATED BY FEDERAL LAW OR REGULATIONS

The proposed regulations are not mandated by federal law or regulations, nor is it identical to previously adopted or amended federal regulations.

OTHER STATUTORY REQUIREMENTS

There are no other applicable matters prescribed in state statutes or regulations specific to the Board that affect or would be affected by the proposed regulations.

DISCLOSURES REGARDING PROPOSED ACTION

The Board has made the following initial determinations:

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The proposed regulations do not impose mandates on local agencies or school districts. Permit applications submitted to the Board are assessed on the project type, not the type of applicant.

FISCAL IMPACTS

Pursuant to Government Code Section 11346.5(a)(6), the Board has prepared an Economic and Fiscal Impact Analysis of Proposed Amendments to CCR Title 23, Division 1, Chapter 1 (EIA). Based upon the analysis and supporting information in the EIA, the Board makes the following determinations:

- the cost or savings to any state agency,
- the cost to local agencies or school districts that are required to be reimbursed,
- other nondiscretionary costs or savings imposed on local agencies, and
- the costs or savings in federal funding to the state.

Costs to Local Agencies or School Districts that are Required to be Reimbursed:

The Board has determined that the proposed rulemaking would not create costs or mandates to any local agency or school districts that are required to be reimbursed.

Costs or Savings to Any State Agency:

The Board has determined that the proposed rulemaking would not create costs or savings to any state agency.

Other Nondiscretionary Costs or Savings Imposed on Local Agencies:

The Board has determined that the proposed rulemaking would not create nondiscretionary costs or savings imposed on local agencies.

Costs or Savings in Federal Funding to the State:

The Board has determined that the proposed rulemaking would not create costs or savings in federal funding to the state.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

The proposed rulemaking will only be imposed within the geographic area of the Board’s jurisdiction in the Central Valley and will not be an adverse economic impact statewide. The Board has determined that the proposed rulemaking 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.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (EIA)

The Board determined that the proposed regulations would not significantly affect the following:

- *The creation or elimination of jobs within the State of California.* The proposed rulemaking revises technical standards that govern the design and construction of flood control facilities and encroachments, which impact the flood control works and floodways within the Board’s jurisdiction and is not anticipated to create or eliminate any jobs.
- *The creation of new business or elimination of existing business within California.* No new businesses are anticipated to be created nor are any existing businesses anticipated to be eliminated due to the proposed rulemaking.
- *The expansion of businesses currently doing business within the state.* The proposed rulemaking

revises technical standards that govern the design and construction of flood control facilities and encroachments, which impact the flood control works and floodways within the Board’s jurisdiction. The individuals and businesses that are seeking to build a project encroaching upon the State—federal flood control system are already subject to the Board’s existing regulations and, as such, the proposed rulemaking is not anticipated to have an effect on the expansion of businesses currently doing business within the State.

Anticipated benefits of the proposed rulemaking include the increased safety and welfare of California residents, businesses, property and public and private infrastructure. The proposed rulemaking further enables the Board to continue carrying out its mission to reduce the risk of catastrophic flooding to people and property within the California Central Valley.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The proposed rulemaking applies to private individuals and businesses conducting activities or seeking to encroach on the flood control facilities within the Board’s jurisdiction and are technical in nature. It does not implement any new permitting or inspection related fees beyond what is currently required for new permit applications, or existing encroachments requiring updated permits. Depending on the nature of the encroachment, an applicant may be required to undertake additional measures to ensure that the encroachment will not be injurious to the flood control system, which may result in increased project costs to the permit applicant. While the Board does not anticipate any increased direct costs to any particular permit applicant as a result of the proposed rulemaking, there is the potential for an increase in the number of applicants overall required to obtain a permit from the Board as a result of the proposed rulemaking. Due to the potential in-ground pools and wells have to negatively impact flood control facilities, the proposed rulemaking would increase the set-back distance for in-ground pools and wells from flood control facilities. The increased set-back for pools and wells, depending upon the depth of excavation, will potentially require individuals or businesses to obtain a permit for their respective in-ground pool or well, which under the Board’s current regulations may not be required to obtain a permit and is discussed in further detail in the EIA.

BUSINESS REPORT

The proposed fee regulation does not require a report from the businesses it impacts.

EFFECTS ON SMALL BUSINESSES

The proposed rulemaking is a technical update and is not anticipated to result in any direct costs to small businesses applying for encroachment permits from the Board except as discussed above and discussed in further detail in the EIA.

EFFECTS ON HOUSING COSTS

The Board determined that the proposed rulemaking would not have a significant effect on housing costs. The proposed rulemaking does not result in any additional permit or inspection fees imposed on dwellings that are not already required when seeking a permit to or receiving an encroachment permit from the Board.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Board invites interested parties to submit statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period, or if a hearing is requested, at the scheduled hearing.

AVAILABILITY OF STATEMENTS AND DOCUMENTATION

The Board will make available the following documents which can be accessed online at <http://cvfpb.ca.gov/>

- Express Terms;
- Initial Statement of Reasons;
- All the information upon which the proposed rulemaking is based;

- The full text of any modified regulations that are nonsubstantial or sufficiently related in nature to the original text, made available for at least 15 days prior to the Board's adoption/repeal/amendment of the resulting regulation;
- Final Statement of Reasons (when prepared).

Inquiries regarding the proposed action should be directed to the Contact Person listed below. This agency representative will, upon request, make the express terms, documentation, and public records related to the proposed action available.

CONTACT PERSON

Written comments and questions concerning the proposed regulations may be sent to:

Name:
Jit S. Dua

Address:
3310 El Camino Avenue, Suite 170
Sacramento, California, 95821

Phone:
(916) 574-1766

Email:
jit.dua@cvflood.ca.gov

Backup Contact Person:

Name:
Ryan Jones

Address:
3310 El Camino Avenue, Suite 170
Sacramento, California, 95821

Phone:
(916) 574-0699

Email:
ryan.jones@cvflood.ca.gov

GENERAL PUBLIC INTEREST

**DEPARTMENT OF FISH AND
WILDLIFE**

**CALIFORNIA ENDANGERED
SPECIES ACT
CONSISTENCY DETERMINATION NO.
2080-2020-008-05**

Project:

2200 West Highway 246, Buellton, CA 93101
(Assessor's Parcel Numbers 099-230-034 &
099-230-011)

Location:

Santa Barbara County

Applicant:

Castlerock Family Farms II, LLC

Notifier:

Justin Holdaway

Background

Castlerock Family Farms II, LLC (Applicant), proposes to develop a cannabis cultivation project (Project) on 23 acres located at 2200 West Highway 246, County of Santa Barbara, State of California, and designated Assessor's Parcel numbers (APN) 099-230-034 and 099-230-011 (Property). Although the Property spans APN 099-230-034 and 099-230-011, the project will take place entirely on APN 099-230-034 (Work Site).

The Project includes the conversion of existing agricultural lands for the purpose of cannabis cultivation. The Project includes three (3) separate field areas, a field office/operations area, an administrative hold area, trash/composting, employee parking, access and roadways, utilities, and the permitting of as-built non-cannabis residential/ agricultural structures, all of which will be located on the Work Site.

Cultivation Areas

The Project involves the planting of cannabis in three separate outdoor field areas, totaling 22.95 acres. The largest cultivation area (16.53 acres) is in the southeast corner of the Work Site. A second, smaller cultivation area (4.63 acres) is in a fallow field area located centrally on the Work Site, and the third cultivation area (1.79 acres) is located at the site of a former horse/cattle stockade area in the northwest portion of the Work Site.

For these outdoor cultivation areas, cannabis will either be planted in the ground in mounded rows or will be planted in plastic containers above the ground.

A small farm tractor and harrow will be used to till the soil prior to planting and to create planting mounds. Only natural sunlight will be used for cultivation and cannabis will be planted year-round. Plastic sheeting will be placed over the mounded planting rows to retain soil moisture and prevent weed growth. A drip irrigation system will be used for irrigation, drawn from an existing agricultural well in the northern portion of the largest cultivation area. Cultivation areas will be covered with 24-foot-wide hoops, which will in turn be covered with plastic.

Operations Area

An operations area will be established west of the 4.63-acre cultivation area. It will be an administrative site and contain a compost area, parking area, trash/recycling, as well as a small, 160 square foot office unit. Electrical power to the office will be supplied from existing overhead powerlines.

Administrative Hold Area

An existing equipment storage yard will be utilized as an administrative hold area (0.44 acres), which is an area designated for all segregated cannabis or nonmanufactured cannabis products subject to being put on hold per permitting agency requirements. No structural development is proposed for this area. Any product placed on administrative hold will be placed within a secure fenced area in plastic storage bags and/or totes on the ground.

Fencing and Security

The three cultivation areas, operations area, and administrative hold area will be secured with fencing and security cameras. These locations will be fenced with 6- or 8-foot-tall, no-climb, deer fencing. Security cameras will be located around the perimeter of the fenced areas. Lighting will be installed and be motion-activated, fully shielded, and directed downward. In general, motion-activated lights will be programmed to remain on for no more than six minutes after they are triggered. Fencing and lighting will be located outside of the watercourses and watercourse setback areas, which are discussed further below.

Stormwater/Drainage

Runoff from the cultivation areas will be contained onsite using berms, drainage swales and stormwater detention basins. To protect water quality, stormwater will be routed through vegetated biofiltration strips and swales, silt fencing/straw wattles will be used, vehicle and farm equipment access on dirt driveways will be prohibited within the cultivation areas when it is raining or wet.

Access, Roadways, and Stream Crossings

Vehicle, equipment, and employee access will utilize the existing asphalt-paved and gravel roadway network on the Work Site. Vehicle and equipment circulation within the cultivation areas will be via 10'-

20' wide dirt drive aisles. All project employees will park in designated parking areas or on the shoulder of the existing paved access road (and outside of any watercourse setback areas). Signage will be placed along the southern perimeter of the largest cultivation area and within watercourse setback areas to prevent vehicle parking or vehicle encroachment into the watercourse setback areas and adjacent watercourse features.

All roads on the property will be maintained with the use of scrapers or graders to even out the surface of the roads. This will occur after any significant storm event that has significantly damaged the surface of the road or that renders the roads un-drivable. All access roads are drained into grass swale drainages or as sheet flow into grassy areas. Vegetation preservation immediately adjacent to the roads and stormwater management will reduce sedimentation and prevent erosion. Road maintenance activities will occur during the dry season (April 16–September 14).

Streams and Stream Setbacks

The setback area between the 16.53-acre cultivation area and the adjacent Santa Ynez River will be restored to a natural state and will include the creation of 3.28 acres of riparian habitat. Other planting efforts may occur for screening purposes. As such, a row of trees located along the agricultural berm and along the eastern limits of the 16.53-acre cultivation area is proposed to further screen the project areas from Highway 246.

Federal Permit History

In September 2019, the United States Fish and Wildlife Service (“USFWS” or the “Service”) approved a General Conservation Plan for Cultivation Activities, Santa Barbara County, California (GCP). The GCP is a conservation plan as required in Endangered Species Act (ESA) section 10(a)(2)(A) for issuance of an incidental take permit pursuant to ESA section 10(a)(1)(B) for the incidental take of California tiger salamander by private landowners engaged in horticulture activities. Private landowners that want to receive an incidental take permit through the GCP must apply to USFWS for approval.

Anticipated Take of Covered Species

The Project activities described above are expected to incidentally take¹ California tiger salamander (*Abystoma californiense*) (CTS) where those activities take place within the 23-acre Project site. In particular,

CTS could be incidentally taken as a result of the development-related activities and long-term related activities that include equipment access, staging, and material storage, trenching and backfilling for pipelines and other underground utilities, vegetation clearing, tree removal, plowing, grading and earth moving activities, installation of foundations for new structures, installation of landscaping, active agricultural activities, installation of new above ground agricultural structures, operation and maintenance of structures, agricultural fields, and infrastructure, irrigation and water management, vehicular traffic, security fencing and lighting, and increased human activities. CTS is designated as an endangered species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and a threatened species pursuant to the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subd. (b)(3)(G).)

CTS individuals are documented as present 1,200 feet (ft)(SARO-1) north of the Project site and there is suitable CTS habitat within and adjacent to the Project site. Because of the proximity of the nearest documented CTS, dispersal patterns of CTS, and the presence of suitable CTS habitat within the Project site, USFWS (Service) determined that CTS is reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of CTS.

The Applicant applied for an Incidental Take Permit under the GCP for federal authorization to take CTS on the Project site. On September 16, 2020, the Service issued an Incidental Take Permit (Permit No. TE78196D-1) (ITP) to the Applicant. The ITP describes the Project, requires the Applicant to comply with terms of the ITP, and incorporates additional measures.

The ITP also requires the Applicant to implement and adhere to measures contained within the GCP.

According to the Service, the Project will result in the loss of reproductive value of 991 using methodology described in Searcy and Shaffer (2008).

The ITP authorizes take of CTS in the form of capture for up to ten individuals and up to two individuals in the form of injury or mortality during Project construction. Take of California tiger salamanders is authorized in the form of capture for up to five individuals and up to one individual(s) in the form of injury or mortality during any single year of Project operations.

In order to determine the amount of mitigation needed, the value of the impacted habitat was calculated using the methodology outlined in Searcy and Shaffer (2008), incorporating the amount of CTS aquatic breeding habit and upland habitat covering the site to be impacted. A mitigation ratio

¹ Pursuant to Fish and Game Code section 86, “‘Take’ means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” See also *Environmental Protection Center v. California Department of Forestry and Fire Protection* (2008) 44 CAL.4th 459,507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), “‘take’ ... means to catch, capture or kill”).

of 1:1 (reproductive value lost: reproductive value conserved) was then applied for impacts to CTS and its habitats. The method described in Searcy and Shaffer (2008) attaches a value to habitat that scales with the reproductive value of the individuals estimated to be occupying an area. According to Searcy and Shaffer (2008) the reproductive value of a site is a function of: 1) distance from each known or potential breeding pond within dispersal distance of the site; and 2) land-use in the surrounding areas.

For the GCP, USFWS conducted a model run (utilizing Searcy and Shaffer [2008]). In order to determine the number of reproductive value units lost through implementation of a covered activity, the model was run to calculate the number of reproductive value units that would be lost. The Project would consequently result in the loss of a reproductive value of up to 991 units as calculated in accordance with Searcy and Shaffer (2008); compensatory mitigation is based on the loss of this reproductive value for the CTS.

On October 12, 2020 the Director of the Department of Fish and Wildlife (CDFW) received a notice from Justin Holdaway, on behalf of the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the BO and its related ITS are consistent with CESA for purposes of the Project and CTS. (Cal. Reg. Notice Register 2020, No. 44-Z, p. 1444.)

Determination

CDFW has determined that the ITP, and the GCP insofar as the ITP references and requires compliance with the GCP, is consistent with CESA as to the Project and CTS because the mitigation measures contained in the ITP, and the GCP insofar as the ITP references and requires compliance with mitigation measures in the GCP, meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of CTS will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the ITP, and the GCP insofar as the ITP references and requires compliance with mitigation measures in the GCP, will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of CTS. The mitigation measures in the ITP, and the GCP insofar as the ITP references and requires compliance with the GCP, include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

1. Prior to the commencement of any activity that could result in take of California tiger salamanders, the applicant will demonstrate that 1.2 mitigation credits have been purchased from the La Purisima Conservation Bank. Proposed project impacts result in a loss of reproductive value of 991 using methodology described in Searcy and Shaffer (2008). Using the same calculations, one credit at the La Purisima Conservation Bank has a reproductive value of approximately 850. Therefore, the purchase of 1.2 credits will offset the impacts resulting from the project.

1.1 Although not a condition of the ITP, CDFW requests a copy of the documentation of the credit purchase at La Purisima Conservation Bank.

2. During the project planning phase, the applicants worked with the Service to site all impacts as far away from known and potential California tiger salamander breeding habitats and to avoid high quality upland and dispersal habitat as possible.
3. At least 15 days prior to ground-disturbing activities, the Applicant will submit the names and credentials of biologists and monitors to the Service for approval to conduct the minimization measures outlined below. Excluding an emergency activity, no project activities will begin until the Applicant has received notice from the Service that the biologists and monitors are approved to do the work. The Service-approved biologist(s) will notify the Ventura Fish and Wildlife Office of their intent to conduct any monitoring events within 48 hours of commencing the activity.

3.1 The ITP requires the Applicant to retain a Service-approved biologist to conduct various measures including pre-site preparation and construction surveys. Although not a condition of the ITP, CDFW requests that the Service solicit CDFW's opinion before approving the CTS biologist.

4. A Service-approved biologist will conduct a biological resources training program for all construction workers and their contractors to minimize potential impacts to the California tiger salamander and sensitive habitats. Training will occur prior to initial ground-disturbing activities and be repeated, annually and as needed for new workers for the duration of each project covered by the permit. The training program will be reviewed and approved by the Service and will include a description of: (1) important biological resources within their project site, specifically

- California tiger salamander that have potential to occur within or adjacent to work areas; (2) the applicable avoidance and minimization measures; (3) the roles and responsibilities of personnel; and (4) communication protocols if California tiger salamanders are detected. Applicants who submit their training programs along with their permit applications should expect to receive an approval at the time they receive their Permit. Applicants who submit their training programs after they submit their permit application should expect to receive an approval within 30 days of receipt of the training program.
5. A Service–approved biologist will periodically review and monitor ground–disturbing activities and restoration efforts and will be responsible for ensuring that conditions of approval are being enforced and that success criteria are being met. Except for emergency situations, a Service–approved biologist will have the authority to temporarily halt activities if permit requirements and conditions are not being met.
 6. Prior to ground–disturbing activities, all grading limits and construction boundaries, including staging areas, parking, and stockpile areas, will be delineated and clearly marked in the field. All suitable California tiger salamander habitat located within 10 feet of ground–disturbing activities will be delineated with specific sensitive species labeling (e.g., permanent signage stating, “No Entry — Sensitive Habitat”). A service–approved biologist(s) will work with the Service to identify these areas.
 7. All proposed linear routes (i.e., roads and pipelines) will be reviewed and modified, if necessary, in the field to minimize impacts to the California tiger salamander with assistance by the on–site biologist or environmental monitor.
 8. Personnel will limit their vehicle use to existing routes of travel. Travelling off designated roads will be prohibited unless access is determined critical for a particular activity and the route has been flagged to avoid or minimize adverse effects. To minimize the potential for road mortality of California tiger salamander and their habitat, nighttime traffic will be minimized during the ground–disturbing phase to the extent feasible; all hauling activities within habitat for covered wildlife will be restricted to daylight hours, defined as the hours after sunrise and before sunset.
 9. Except in areas with posted speed limits greater than 10 miles–per–hour, project–related vehicle speeds will not exceed 10 miles–per–hour when driving within California tiger salamander habitat.
 10. Prior to moving vehicles or equipment, personnel will look under the vehicles or equipment for the presence of California tiger salamanders. If a California tiger salamander or any other wildlife species is observed, the vehicle will not be moved until the animal has vacated the area on its own accord or has been relocated out of harm’s way in accordance with Measure 12.
 11. A Service–approved biologist will conduct pre–activity surveys of California tiger salamander habitat within project disturbance boundaries immediately prior to the onset of any ground disturbance associated with the project to determine if any California tiger salamander individuals are present, and to refine the final habitat mitigation acreages. The Service–approved biologist will monitor ground–disturbing activities in the vicinity of habitats to be avoided. Upon completion of initial ground disturbance, the biologist or monitor will periodically (minimum twice per week) visit the project site throughout the ground–disturbing period to ensure that impacts to the project site are in compliance with the permit. After periods of rain, a Service–approved biologist will conduct daily pre–activity surveys to ensure no California tiger salamanders have migrated into the work area prior to ground–disturbing activities resuming. No construction work will be initiated until a Service–approved biologist determines that the work area is clear of California tiger salamanders. Should any California tiger salamanders be observed within harm’s way, the animal will be allowed to vacate the area on its own accord or be relocated in accordance with Measure 12.
 - 11.1. Although not a condition of the ITP, CDFW requests that the Service solicit CDFW’s opinion before approving the CTS biologist and that copies of the monitoring reports be provided to CDFW.*
 12. Any California tiger salamander or individuals of other wildlife species will be allowed to vacate the project areas on its own accord under the observation of a Service–approved biologist. If any California tiger salamanders or individuals or other wildlife species do not relocate on their own, or if they are in harm’s way, they will be relocated out of harm’s way to nearby suitable habitat, similar to that in which it was found, and outside the project area. Only a Service–approved biologist will relocate California tiger salamanders. The biologists conducting relocation

activities will follow the Declining Amphibian Task Force Fieldwork Code of Practice: https://www.fws.gov/SOUTHWEST/es/NewMexico/documents/SP/Declining_Amphibian_Task_Force_Fieldwork_Code_of_Practice.pdf.

A Service-approved biologist will relocate any California tiger salamanders found within the project footprint to an active rodent burrow system located no more than 300 feet outside of the project area unless otherwise approved by the Service. The individuals will be handled with clean and wet hands. During relocation they will be placed in a clean, covered plastic container with a wet non-cellulose sponge. Captured individuals will be relocated immediately; individuals will not be stored for lengthy periods or in heated areas. The relocation container will be kept out of direct sunlight. A Service-approved biologist will monitor relocated California tiger salamanders until they enter a burrow and are concealed underground or otherwise deemed safe in the relocation area by the biologist. Relocation areas will be identified by the Service-approved biologist based on the best suitable habitat available. The Service-approved biologist will document both the capture site and the relocation site by photographs and GPS positions. The California tiger salamander will be photographed and measured (Snout-Vent) for identification purposes prior to relocation. All documentation will be provided to the Service within 24 hours of relocation.

12.1. Although not a condition of the ITP, CDFW requests that the Service solicit CDFW's opinion before approving the CTS biologist and that copies of the translocation and monitoring reports be provided to CDFW.

13. Rodent burrows within the project areas that overlap California tiger salamander habitat will be excavated by a Service-approved biologist using hand tools until it is certain that the burrows are unoccupied. In lieu of burrow excavation, steel plates or plywood may also be utilized to protect small mammal burrows from ground disturbance. Plates and plywood will be removed nightly and will be removed if work is scheduled to cease for consecutive days. Any individual California tiger salamanders that are encountered will be allowed to vacate the area on their own accord or be relocated out of harm's way in accordance with Measure 12.
14. Exclusionary silt fencing (or other suitable fence material) will be installed at the discretion of a Service-approved biologist to minimize the

potential for California tiger salamanders to enter the worksite. Exclusionary fencing will be maintained for the duration of the project. If a California tiger salamander or other wildlife species is observed within an enclosed worksite, a portion of the fencing will be removed to allow the individual to vacate the area on its own. Alternatively, the animal may be relocated out of harm's way in accordance with Measure 12.

15. All construction and sediment control fencing will be inspected each workday during construction activities to ensure they are functioning properly.
16. Steep-walled excavations (e.g., trenches) that may act as pitfall traps will be inspected for wildlife at least once per day and immediately before backfilling. In lieu of daily inspections (weekends, etc.), exclusionary fencing, covers, ramps, or similar measures will be taken to prevent wildlife entrapment.
17. Open pipe segments will be capped or sealed with tape (or equivalent material) nightly, or otherwise stored at least three feet above ground. Should a pipe segment become occupied by a California tiger salamander or any other wildlife species, the animal will be allowed to vacate the pipe on its own or will be removed and relocated in accordance with Measure 12.
18. If covered activities must occur during the rainy season, permittees will not work during rain events, 48 hours prior to significant rain events (>0.5 inch), or during the 48 hours after these events, to the extent practicable. If work must occur 48 hours prior to significant rain events (>0.5 inch), or during the 48 hours after these events, a Service-approved biologist will conduct a pre-activity survey to ensure that the work area is clear (refer to Measure 9 above).
19. The applicant will ensure that all staging areas, equipment storage areas, stockpile sites, and refueling areas are located at least 100 feet from surface water bodies and wetland habitats to minimize the potential for releases into surface water or wetland habitat. In lieu of the 100-foot buffer, secondary containment measures may be employed to prevent contamination of soil and water.
20. When working in areas with a predominance of native plants, the upper layer of topsoil material (6 inches) will be segregated during excavations to preserve the seed bank. The preserved topsoil will be covered to protect it from erosion and invasion of non-native plants until completion of the activity, when the topsoil will be replaced in the affected area. Existing access roads are not subject to this measure.

21. Disturbed areas will be restored and stabilized to reflect pre-existing contours and gradients to the extent practicable. Erosion and sediment controls (e.g., silt fences, fiber rolls, sandbags) will be installed, where necessary, utilizing weed free materials in areas with a predominance of native plants. Where necessary, restored areas will be maintained and monitored, including weed removal (focused on noxious weeds and excluding nonnative annual grasses). All planting and seeding will occur the first year after construction is complete, after the first significant rain event of the year (i.e., more than 0.25 inches of precipitation).
22. Upon locating California tiger salamander individuals that may be dead or injured as a result of project-related activities, notification will be made within 72 hours to the Service's Ventura Field Office at (805) 644-1766.

Financial Assurances

23. As set forth in Avoidance, Minimization and Monitoring measures No. 1 above, prior to the commencement of any activity that could result in take of California tiger salamander, the Applicant will demonstrate that 1.2 mitigation credits have been purchased from the La Purisima Conservation Bank.

23.1 Although not a condition of the ITP, CDFW requests a copy of the documentation of the credit purchase at La Purisima Conservation Bank.

Monitoring and Reporting Measures

24. March 31 following each year of permit issuance and project implementation, permittees will submit a report to the Ventura Fish and Wildlife Office to document the status of the project. The reports will be sent to the Ventura Fish and Wildlife Office by email at sbccultivationgcp@fws.gov. Section 5 of the GCP details the information that is required in the annual reports. The ITP under **Reporting Requirements: Project Completion Report** requires that once an applicant completes activities covered by a permit, the applicant will notify the Ventura Fish and Wildlife Office that they have completed all covered activities and mitigation measures and provide a final report to the Ventura Fish and Wildlife Office; subsequent annual compliance reports will not be necessary thereafter unless take of a listed species occurs or a changed or unforeseen circumstance occurs."

24.1 The GCP and ITP requires the Applicant to submit annual reports, monitoring reports and a project completion report to the Service. Although not a condition of the GCP or ITP, CDFW requests copies of the

annual reports, monitoring reports and final report.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of CTS, provided the Applicant implements the Project as described in the ITP and associated GCP, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the ITP and GCP. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the ITP and GCP, the Applicant shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See generally Fish & Game Code, §§ 2080.1, 2081, subdivisions (b) and (c)).

REFERENCES

Searcy, C. A. and H. B. Shaffer. 2008. Calculating biologically accurate mitigation credits: insights from the California tiger salamander. *Conservation Biology* 22: 997-1005.

Department of the Interior, U.S. FISH & WILDLIFE SERVICE. 2020. Endangered Species Permit Office; 2800 Cottage Way, Suite W-2606, Sacramento, CA 95825-1846; permitsR8ES@fws.gov. NATIVE ENDANGERED SP. HABITAT CONSERVATION PLAN ENDANGERED WILDLIFE; Permit Number TE78196D-1. Effective: 9/16/2020. Expires: 7/7/2040. Permittee: Castlerock Family Farms II, LLC, 2200 W. HWY 246 Buellton, CA, 93101 U.S.A. Name and Title of Principal Officer: Patrick Pflipsen; Permit area is 22 acres of a parcel located at 2200 West Highway 246 (Assessor's Parcel numbers 099-230-034 and 099-230-011), in the Buellton area of Santa Barbara County, California. Authority: Statutes and Regulations: 16 USC 1539(a), 16 USC 703-712; 50 CFR 17.22, 50 CFR 21.23, 50 CFR 21.27, 50 CFR 13.

Consistency Determination Request to CDFW Direct Charles Bonham. 2020. Justin Holdaway. 2200 West Highway 246, Buellton, CA, 93101 (099-230-034 and 099-230-011). October 12, 2020. Castlerock Family Farms II, LLC. (805) 698-7153, 25 El Paseo, Santa Barbara, CA 93101 or at twhite@twlandplan.com.

United States Fish and Wildlife Service. 2016. Recovery plan for the Santa Barbara County Distinct Population Segment of the California tiger salamander (*Ambystoma californiense*). U.S. Fish and Wildlife Service, Pacific Southwest Region, Ventura, California. vi + 87 pp.

California Department of Fish and Wildlife (CDFW). 2019. California Natural Diversity Database, Rarefind V. 3.1.0. Updated January 1, 2019.

United States Fish and Wildlife Service. 2019. General Conservation Plan for Cultivation Activities (GCP), Santa Barbara County. Ventura Fish and Wildlife Office. 2493 Portola Road, Suite B, Ventura, CA 93101.

Watershed Environmental, Inc. 2019. Biological Assessment Commercial Cannabis Cultivation Project. 2200 W. Highway 246 (APN: 099-230-034) Buellton, CA. 3324 State Street, Suite B, Santa Barbara, CA 93105.

DEPARTMENT OF FISH AND WILDLIFE

**CALIFORNIA ENDANGERED SPECIES ACT
CONSISTENCY DETERMINATION NO.
2080-2020-009-00**

Project:

Sierra Pacific Industries — Habitat Conservation Plan for Northern and California Spotted Owl

Location:

Siskiyou, Trinity, Shasta, Modoc, Lassen, Tehama, Mariposa, Plumas, Butte, Yuba, Sierra, Nevada, Placer, Eldorado, Amador, Calaveras, and Tuolumne counties

Applicant:

Sierra Pacific Industries

Background

Sierra Pacific Industries (SPI) developed a fifty-year Habitat Conservation Plan (HCP) (Project) (effective 09/30/2020) that supports the issuance of authorizations from the United States Fish and Wildlife Service (Service) that allows for limited take of Northern spotted owl (*Strix occidentalis caurina*; hereafter NSO) incidental to SPI's forest management activities on their commercial timberlands. The HCP covers 1,565,707 acres of land spread throughout the Klamath, Cascade, and Sierra Nevada ranges in California.

SPI's HCP covers timber operations and related management activities including, but not limited to: growing, harvesting, and transporting timber; timber stand regeneration and improvements; road and landing construction and maintenance; fuel break construction and maintenance; and monitoring and research (e.g., for spotted owls) (Project activities).

The Project activities described above are expected to incidentally take¹ NSO where those activities take place within the Klamath Mountains, Southern Cascades, and Sierra Nevada ecological subregions (Project area). In particular, NSO could be incidentally taken as a result of habitat modification and lost reproduction. NSO is designated as a threatened species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and a threatened species pursuant to the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(5) (G).)

NSO individuals are documented as present within the Project area and there is unoccupied but suitable NSO habitat within and adjacent to the Project area. Because of the presence of NSO, proximity of the nearest documented NSO, dispersal patterns NSO, and the presence of suitable NSO habitat within the Project area, the Service determined that NSO is reasonably certain to occur within the Project area and that Project activities are expected to result in the incidental take of NSO.

Because the Project is expected to result in take of a species designated as threatened under the federal ESA, SPI prepared an HCP in support of an application for an incidental take permit (ITP) pursuant to section 10(a)(1)(b) of the ESA. The ITP requires full implementation of, and compliance with, all conservation measures listed in the HCP for avoidance, minimization, and mitigation for impacts to NSO, all of which the Service incorporated as conditions of the ITP. On September 25, 2020, the Service issued a biological opinion (Service file No. 08EYRE00-2020-F-0151) (BO). The BO describes the Project, requires SPI to comply with terms of the BO and its ITP, and incorporates additional measures.

The ITP also requires the Applicant to implement and adhere to measures contained within the HCP.

On October 16, 2020, the Director of the Department of Fish and Wildlife (CDFW) received a notice from SPI requesting a determination pursuant to Fish and Game Code section 2080.1 that the BO and its related ITP are consistent with CESA for purposes of the Project and the anticipated incidental take of NSO. (Cal. Reg. Notice Register 2020, No. 44-Z, p. 1445.)

Determination

CDFW has determined that the ITP and BO, including the Incidental Take Statement (ITS), is consistent with CESA as to the Project and NSO

¹ Pursuant to Fish and Game Code section 86, “‘Take’ means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” See also *Environmental Protection Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), “‘take’...means to catch, capture or kill”).

because the mitigation measures contained in the BO and ITP, as well as the conditions in the Environmental Impacts Statement (EIS) meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of NSO will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the BO and ITP, and the associated EIS, will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of NSO. The mitigation measures in the BO and ITP and EIS that will be implemented by SPI include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- 1) **Increase Potential Habitat Areas (PHAs).** PHAs (a 1,000-acre area consisting of a pair of adjoining 500-acre hexagons in SPI's habitat model) will increase across the landscape over the permit term. SPI will implement habitat management and protection strategies that will identify, maintain, restore, and increase PHAs composed of at least 50% nesting habitat in the Project area. The number of PHAs is modeled to increase in the NSO range from 147 (88,527 acres on SPI lands) to 497 (287,476 acres on SPI lands).
- 2) **Protect habitat at the three most recently known NSO Yearly Activity Centers (YACs).** YACs (a 500-foot-radius circle around the location of a nest site or day roost site of the NSO in a territory, creating an 18 acre circle) and surrounding areas will be protected from most operations through the establishment of protection zones (PZs). PZs are established around all known and newly discovered NSO YACs. To establish a PZ, the best available habitat is first identified (a minimum of 72 acres, regardless of ownership). The portion of that habitat identified on SPI lands becomes the PZ. Most vegetation-disturbing activities on SPI land will be precluded in all PZs. Operations that may be allowed include salvage operations in substantially damaged timberlands and minor modification of habitat following analysis of the potential impacts of such modification and Service review, and will be subject to the limitations of the ITP. There are currently 367 PZs on SPI lands, covering 21,747 acres (this number includes both NSO and California spotted owl (*Strix occidentalis occidentalis*) PZs). SPI will maintain at least 80% of this currently protected acreage regardless of current occupancy.
- 3) **Mitigate substantially damaged timberlands.** SPI will retain important habitats (e.g., large snags and broken tree tops) during salvage harvesting to accelerate the development of future habitat for NSO in sites that are reforested following salvage logging.
- 4) **Reduce potential for catastrophic fire.** SPI will reduce the risk of catastrophic fire that may consume NSO habitat by establishing fuel breaks and other fuel reduction strategies.
- 5) **Reduce potential impacts to reproductive sites.** When covered activities occur under a Timber Harvesting Plan, SPI will conduct pre-operational surveys for NSO. Active nest sites will be protected by a 0.25-mile buffer from March 15 to August 31. No harvesting or vegetation-disturbing activities will be allowed within the buffer during this period. Prolonged excessive noise that could result in take will also be restricted. If road use is reasonably certain to disturb NSO, SPI will consult with the Service to adopt minimization measures. While full protocol surveys may not occur before Exemption and Emergency Operations, efforts will be made to locate and avoid NSO.
- 6) **Reduce potential impact from illegal activities.** SPI will implement land access control activities (gated roads and active patrols) and cooperate with local, state, and federal law enforcement agencies to eradicate illegal marijuana plantations and prevent illegal firewood cutting that could remove snags and other habitat structures.
- 7) **Manage for habitat elements and operating standards.** Habitat elements that will be retained include:
 - All trees that have contained NSO nest structures at any time in the past;
 - Habitat Retention Areas (HRAs) at a rate of two percent per harvest area;
 - One wildlife tree (a hardwood greater than 22 inches diameter at breast height (dbh) or a non-merchantable live, green conifer greater than 30 inches dbh with appropriate wildlife characteristics) per five acres of harvest area;
 - All Legacy Trees (any hardwood tree greater than 36 inches dbh or non-merchantable, live, green conifer greater than 30 inches dbh.)
 - Additionally Retained Trees (trees required to be retained in addition to all other required elements) in regeneration units no further than 150 feet from other retained habitat elements;

- In non-regeneration harvest areas, at least two hardwoods greater than or equal to 22 inches dbh per acre, or the next largest available;
 - In regeneration harvest areas, less than six inches dbh hardwoods will be retained or stump-sprouting hardwoods will be recruited at a rate of two per acre;
 - Snags and green culls (a live tree that contains less than 25 percent sound merchantable wood within its bole); and
 - Portions of plantations will not be thinned to promote within-stand heterogeneity and maintain density-induced mortality processes.
- 8) **Addressing barred owl (*Strix varia*) as a stressor on NSO populations.** In 2015, as a precursor to the development of the HCP, SPI began studying barred owl management via removal activities. The study's objectives included assessing the genetic differentiation of barred owl populations across northern and central California, analyzing allele frequency changes on the front of the range expansion, estimating the amount of barred owl-spotted owl interbreeding in each population, and identifying what barred owls are preying on in California. These efforts are ongoing, and SPI will continue this study for the term of the permit or for as long as Federal and State permits allow. This study includes the collection of 50 barred owls per year, for a potential total of 2,500 barred owls collected over the course of the 50-year term of the HCP.

Monitoring and Reporting Measures

To inform the HCP and ITP, assumptions were made by SPI and the Service regarding habitat quality and quantity, owl detection probability, effects of habitat modification on NSO reproductive performance, effectiveness of fuels reduction strategies in altering wildfire behavior, and the influence of barred owl removal on NSO nesting success. Due to these assumptions, monitoring and adaptive management will be required to evaluate and verify the effectiveness of the conservation measures in the HCP over time. SPI will meet with the Service biannually to discuss progress on the HCP and ensure it is being implemented as proposed. Each of the eight conservation measures has an annual reporting requirement, which includes quantifiable metrics.

The BO requires the Applicant to submit monitoring reports to the Service every three months. Although not a condition of the BO, CDFW requests a copy of the monitoring reports as well. The reports should include dates operations occurred and the success of revegetation and restoration.

Financial Assurances

In the HCP, SPI warrants that it has, and shall expend, such funds as necessary to fulfill its obligations under the ITP and HCP. HCP Table 8.1 projects a total Project implementation cost of \$32,250,000 in 2018 dollars. Each year, SPI will provide a summary of expenditures made in the previous year, a scope of work and budget for all monitoring actions, and any other HCP implementation actions to take place in the following year. The HCP states that a responsible corporate official with authority to commit SPI's financial resources shall certify under penalty of perjury that funds to implement the HCP have been budgeted and will be committed for use in the following year, as well as any material changes in cost estimates based on actual work performed. The annual funding commitment includes \$35,000 for barred owl management research, \$10,000 for annual Operations and Maintenance training related to barred owl management, and \$35,000 for additional barred owl studies or measures in response to adaptive management.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of NSO, provided the Applicant implements the Project as described in the BO, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the BO and ITP and the EIR. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the BO and ITS or the EIR, the Applicant shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See generally Fish & Game Code, §§ 2080.1, 2081, subdivisions (b) and (c)).

In making this determination, CDFW acknowledges that the BO addresses NSO, a species designated as threatened under the ESA, and threatened under CESA. (See Cal. Code Regs., title 14, § 670.5, subd. (b)(5)(g).) This species is known to occur within the Project area. The Service determined in the BO and ITS that, for purposes of the ESA, mortality or injury to individual adult NSO is unlikely but that the authorized take of habitat could result in limited mortality of eggs, nestlings, and juveniles. The Service authorized such take under the ESA, requiring the Applicant to implement various avoidance and minimization measures for the species. The Applicant is aware that, for purposes of CESA, take of NSO as defined by state law is prohibited, except as authorized by the Fish and Game Code. (See generally Fish & Game Code, §§ 86, 2080.)

CDFW's determination that the Service BO and ITS are consistent with CESA is limited to NSO.

**DEPARTMENT OF FISH AND
WILDLIFE**

**CALIFORNIA ENDANGERED
SPECIES ACT
CONSISTENCY DETERMINATION NO.
2080-2020-010-03**

Project:

West County Transportation Agency Parking Lot

Location:

Sonoma County

Applicant:

West County Transportation Agency

Notifier:

WRA, Inc.

Background

West County Transportation Agency (Applicant), represented by Mr. Chad Barksdale, proposes to develop a school bus parking area and bioretention features on approximately 5.49 acres. The West County Transportation Agency Parking Lot Project (Project) includes the conversion of an undeveloped lot into a paved parking lot that can accommodate a majority of the Applicant's bus fleet, as well as employee vehicles. The Project is located on Assessor Parcel Number 134-074-022 at Latitude 38.394996, Longitude -122.727837 and is situated directly west of the Applicant's existing operations facility at 367 West Robles Avenue south of the city of Santa Rosa. The Project is centrally located near all member school districts and would provide contiguous operational services, maintenance, and parking area for all buses and employees, alleviating strains associated with leasing and traveling between six remote bus yards. The parking lot would be 3.5 acres in size with the capacity to accommodate 138 passenger vehicles, 51 coach buses, and 26 vans. Bioretention areas to treat storm water would be constructed on the remainder of the Project site.

The Project activities described above are expected to incidentally take¹ California tiger salamander (CTS;

¹ Pursuant to Fish and Game Code section 86, "'Take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 CAL.4th 459,507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), "'take' ... means to catch, capture or kill").

Ambystoma californiense), where those activities take place within the Project site. In particular, CTS could be incidentally taken as a result of crushing or entombing of individuals during construction; cut and fill grading; vehicular access; collapsing of burrows; and entrapment in excavated pits, trenches, storm drains, or within construction materials. Incidental take may also occur in the form of pursue, catch, capture, or attempt to do so from CTS surveying and relocation. CTS is designated as an endangered species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and a threatened species pursuant to the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(3)(G).)

CTS individuals are documented as present approximately 500 feet southeast of the Project site and there is suitable CTS habitat within and adjacent to the Project site. Because of the proximity of the nearest documented CTS, dispersal patterns of CTS, and the presence of suitable CTS habitat within the Project site, the U. S. Fish and Wildlife Service (USFWS) determined that CTS is reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of CTS.

According to USFWS, the Project will result in the permanent loss of 5.47 acres of upland CTS habitat.

Because the Project is expected to result in take of a species designated as endangered under the federal ESA, the U.S. Army Corps of Engineers (USACE) consulted with USFWS as required by ESA. On June 28, 2019, USFWS issued a biological opinion (Service file No. 08ESMF00-2019-F-1552-1) (BO) to USACE. The BO describes the Project, requires the Applicant to comply with terms of the BO and its incidental take statement (ITS), and incorporates additional measures.

On October 21, 2020, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from WRA, Inc. on behalf of the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the BO and its related ITS are consistent with CESA for purposes of the Project and CTS. (Cal. Reg. Notice Register 2020, No. 45-Z, p. 1459.)

Determination

CDFW has determined that the BO, including the ITS, is consistent with CESA as to the Project and CTS because the mitigation measures contained in the BO and ITS meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of CTS will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the BO and ITS

will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of CTS. The mitigation measures in the BO and ITS include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- Prior to any earthmoving activities, the Applicant will purchase 5.47 acres of CTS habitat credits from a USFWS–approved mitigation bank(s) that are in a CTS Conservation Area as defined in the Santa Rosa Plain Conservation Strategy and within a CTS Core Area as defined in the 2016 Recovery Plan.
- Ground disturbance will commence between April 15 and October 15, of any given year, depending on the level of rainfall and/or site conditions. However, grading and other disturbance in pools and ponds, if unavoidable, will be conducted only when dry, typically between July 15 and October 15. Work within a pool or wetland may begin prior to July 15 if the pool or wetland has been dry for a minimum of 30 days prior to initiating work. Work will be limited to periods of low rainfall (less than 0.08 inches per 24–hour period and less than 40 percent chance of rain). Construction activities shall cease 24 hours prior to a 40 percent or greater forecast of rain from the National Weather Service (NWS). Construction may continue 24 hours after the rain ceases if no precipitation is in the 24–hour forecast. Any work in pools and wetlands that are holding water will be subject to approval of USFWS.
- Prior to the start of construction, the Applicant will install wildlife exclusion fencing (WEF) at the edge of the Project footprint in all areas where CTS could enter the construction area. WEF with exit ramps may be required to allow any CTS on–site to move into an adjacent habitat off–site. The location of the fencing shall be determined by the on–site Project manager and the USFWS–approved biologist in cooperation with USFWS prior to the start of staging or surface disturbing activities. A conceptual fencing plan shall be submitted to USFWS for review and approval prior to WEF installation. The location, fencing materials, installation specifications, and monitoring and repair criteria shall be approved by USFWS prior to start of construction. The Applicant shall include the WEF specifications on the final project plans. The Applicant shall include the WEF specifications including installation and maintenance criteria in the bid

solicitation package special provisions. The WEF shall remain in place throughout the duration of the proposed project and will be regularly inspected and fully maintained. Repairs to the WEF shall be made within 24 hours of discovery. Upon completion of the Project, the WEF shall be completely removed, the area cleaned of debris and trash, and returned to natural conditions.

- The Applicant will limit access routes, the number and size of staging areas, and work areas to the minimum necessary to achieve the Project goals. Boundaries of the construction work area will be clearly marked prior to initiating construction/grading. Environmentally Sensitive Areas (ESAs) containing sensitive habitats adjacent to or within construction work areas for which physical disturbance is not allowed will be clearly delineated using high visibility orange fencing. The ESA fencing will remain in place throughout the duration of the Project, while construction activities are ongoing, and will be regularly inspected and fully maintained at all times. The final Project plans will depict all locations where ESA fencing will be installed and will provide installation specifications. The bid solicitation package special provisions will clearly describe acceptable fencing material and prohibited construction–related activities including vehicle operation, material and equipment storage, access roads and other surface–disturbing activities within ESAs.
- A qualified biological monitor will conduct a training session for all construction workers before work is started on the Project. The training program is for all construction personnel including contractors and subcontractors. The training will include, at a minimum, a description of CTS, an explanation of CTS’ status and protection under state and federal laws, the avoidance and minimization measures to be implemented to reduce loss of this species, and communication and work stoppage procedures in case CTS is observed within the Project site. A fact sheet conveying this information will be prepared and distributed to all construction personnel. The Applicant shall provide interpretation for non–English speaking workers.
- The Applicant shall submit a CTS Relocation Plan to USFWS for written approval. The Relocation Plan shall contain the name(s) of the USFWS–approved biologist(s) to relocate CTS, method of relocation, a map, and a description of the proposed release sites and burrows, and written permission from the landowner to use their land as a relocation site. A mitigation or conservation

bank may be a desired location to relocate CTS from a salvage site; however, no mitigation or conservation bank may receive relocated CTS until all the bank's credits have been sold to prevent interfering with their performance criteria and credit release schedule.

Monitoring and Reporting Measures

- USFWS-approved qualified biological monitor(s) will be on-site each day during all earth moving activities including initial grading. The biological monitor(s) will conduct clearance surveys at the beginning of each day and regularly throughout the workday when construction activities are occurring that may result in take of CTS. All suitable aquatic and upland habitat including refugia habitat such as small woody debris, refuse, burrow entries, etc., shall be duly inspected. USFWS will consider the implementation of specific Project activities without the oversight of an on-site biological monitor on a case-by-case basis.
- Before the start of work each day, the biological monitor will check for animals under any equipment such as vehicles and stored pipes. The biological monitor will check all excavated steep-walled holes or trenches greater than one foot deep for any CTS. CTS will be removed by the biological monitor and relocated according to the CTS Relocation Plan. To prevent inadvertent entrapment of animals during construction, all excavated, steep-walled holes or trenches more than six inches deep will be covered with plywood (or similar materials) that leave no entry gaps at the close of each working day or provided with one or more escape ramps constructed of earth fill or wooden planks. The USFWS-approved biologist shall inspect all holes and trenches at the beginning of each workday and before such holes or trenches are filled. All replacement pipes, culverts, or similar structures stored in the action area overnight will be inspected before they are subsequently moved, capped, and/or buried.
- The biological monitor(s) shall maintain monitoring records that include: (1) the beginning and ending time of each day's monitoring effort; (2) a statement identifying the listed species encountered, including the time and location of the observation; (3) the time the specimen was identified and by whom and its condition; (4) the capture and release locations of each individual; (5) photographs and measurements (snout to vent and total length) of each individual; and (6) a description of any actions taken. The biological monitor(s) shall maintain complete records in their possession while conducting monitoring

activities and will immediately provide records to USFWS upon request. All monitoring records will be provided to USFWS within 30 days of the completion of monitoring work. Although not a condition of the BO, CDFW also requests a copy of the monitoring records.

- If verbally requested before, during, or upon completion of ground disturbance and construction activities, the Applicant will ensure USFWS can immediately and without delay access and inspect the Project site for compliance with the Project description, Conservation Measures, and reasonable and prudent measures of the BO, and to evaluate Project effects to CTS and its habitat.
- To prevent CTS from becoming entangled, trapped, or injured, the Applicant will not use erosion control materials with plastic or synthetic monofilament netting within the Project site. This includes products that use photodegradable or biodegradable synthetic netting, which can take several months to decompose. Acceptable materials include natural fibers such as jute, coconut, twine or other similar fibers.

Financial Assurances

- The Notifier has provided CDFW with three bills of sale confirming the purchase of 5.47 acres of CTS credits at the Carinalli Todd Road Mitigation Bank (1.6 acres) and Hazel Mitigation Bank (3.87 acres) as required by the BO.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of CTS, provided the Applicant implements the Project as described in the BO, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the BO and ITS. If there are any substantive changes to the Project, including changes to the mitigation measures, or if USFWS amends or replaces the BO and ITS, the Applicant will be required to obtain a new Consistency Determination or a CESA Incidental Take Permit for the Project from CDFW. (See generally Fish & Game Code, §§ 2080.1, 2081, subdivisions (b) and (c).)

In making this determination, CDFW acknowledges that the BO addresses Sonoma sunshine (*Blenno sperma bakeri*), Burke's goldfields (*Lasthenia burkei*), and Sebastopol meadowfoam (*Limnanthes vinculans*) species designated as endangered under ESA, and endangered under CESA. See Cal. Code Regs., title 14, § 670.2, subds. (a)(2)(B), (a)(2)(L) and (a)(18)(D). Individuals of these species are not known to occur within the Project site, therefore, the Applicant recognized that take, as defined by CESA, of Sonoma sunshine, Burke's goldfields, and

Sebastopol meadowfoam is unlikely. However, the Project site does provide potential habitat for these species and as such, the Applicant mitigated for the loss of the species habitat by purchasing 1.56 acres of these species habitat credits as required by the BO, and an additional 0.04 acres due to combination credits. The Applicant is aware that, for purposes of CESA, take of Sonoma sunshine, Burke's goldfields, and Sebastopol meadowfoam as defined by state law is prohibited, except as authorized by the Fish and Game Code. (See generally Fish & Game Code, §§ 86, 2080). CDFW's determination that the USFWS BO and ITS are consistent with CESA is limited to CTS, and does not authorize take of the plant species pursuant to CESA.

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH THE
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

Board for Professional Engineers, Land
Surveyors and Geologists
File # 2020-1006-02
Fees and Certificates

In this regular rulemaking the Board for Professional Engineers, Land Surveyors, and Geologists amends licensing fees and procedures for issuance of licenses and certificates.

Title 16
Adopt: 3010
Amend: 407, 410, 3005
Filed 11/18/2020
Effective 01/01/2021
Agency Contact:
Richard B. Moore (916) 263-2285

Bureau of Real Estate Appraisers
File # 2020-0616-03
Federal Compliance

In this rulemaking action, the Bureau amends its regulations to prohibit an Appraisal Management Company from being registered if it is owned by any

person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any state for a substantive cause. The regulations also require the submission of a new form REA 5030 with a payment of the national registry fee and state processing fee, which now includes a state processing fee of \$25 for each appraiser and \$110 for the Appraisal Management Company.

Title 10
Amend: 3577, 3582
Filed 11/18/2020
Effective 11/18/2020
Agency Contact: Kyle Muteff (916) 341-6126

Commission on Teacher Credentialing
File # 2020-1019-06
Theater and Dance Credentials

The Commission on Teacher Credentialing filed this rulemaking action to amend six regulations to implement the new Theater and Dance credentials authorized by Education Code section 44257, as amended by S.B. 916 (Stats. 2016, ch. 652). Additional amendments include changing the phrase "Languages other than English" to "World Languages," removing the April 1, 2016 sunset provisions for the Supplementary and Subject Matter Authorizations in Computer Concepts and Applications, and making minor, technical changes.

Title 05
Amend: 80004, 80005, 80057.5, 80089.1, 80089.2,
80089.3
Filed 11/12/2020
Effective 01/01/2021
Agency Contact: Joshua Speaks (916) 327-5339

Department of Fish and Wildlife
File # 2020-1019-01
Fees for Lake and Streambed Alteration Agreements

The Department of Fish and Wildlife submitted this action as one without regulatory effect, pursuant to California Code of Regulations, title 1, section 100, to amend a regulation that establishes fees for lake and streambed alternation agreements. Annual changes to the fees are required by Fish and Game Code section 1609 by applying the index to determine an increase or decrease in the fees as specified in Fish and Game Code section 713. The amended fees will be effective January 1, 2021.

Title 14
Amend: 699.5
Filed 11/12/2020
Effective 01/01/2021
Agency Contact: Lance Salisbury (916) 653-3559

Department of Health Care Services
File # 2020-1019-02
Psychiatric Health Facility

These changes without regulatory effect change obsolete references to the Department of Mental Health to the Department of Health Care Services and update the relevant agency's address. The action also replaces cross references to repealed statutes with references to current statutes.

Title 22
Amend: 77005, 77009, 77037, 77045, 77052.5, 77105, 77143
Filed 11/16/2020
Agency Contact:
Erika Drayton-Jebali (916) 345-8404

Department of Public Health
File # 2020-0930-02
Clinical Lab Personnel Standards Definitions

This rulemaking action by the California Department of Public Health amends definitions and requirements relating to education, training, experience, and examinations leading to licensure and certification of clinical laboratory personnel.

Title 17
Amend: 1029
Repeal: 1054, 1029.5, 1029.7, 1029.9, 1029.10, 1029.15, 1029.20, 1029.25, 1029.30, 1029.31, 1029.34, 1029.35, 1029.40, 1029.45, 1029.50, 1029.51, 1029.52, 1029.55, 1029.60, 1029.65, 1029.70, 1029.75, 1029.80, 1029.81, 1029.82, 1029.83, 1029.85, 1029.86, 1029.90, 1029.95, 1029.100, 1029.105, 1029.108, 1029.110, 1029.115, 1029.118, 1029.119, 1029.120, 1029.125, 1029.126, 1029.127, 1029.130, 1029.132, 1029.133, 1029.134, 1029.135, 1029.140, 1029.145, 1020.150, 1029.153, 1029.154, 1029.155, 1029.160, 1029.165, 1029.168, 1029.169, 1029.171, 1029.173, 1029.175, 1029.180, 1029.185, 1029.190, 1029.195, 1029.196, 1029.197, Article 5.3, 1054.1, and 1054.2
Filed 11/12/2020
Effective 01/01/2021
Agency Contact: Christy Correa (916) 440-7764

Fair Political Practices Commission
File # 2020-1021-02
Enforcement Proceedings

This rulemaking action by the Fair Political Practices Commission amends several regulations concerning enforcement proceedings.

Title 02
Adopt: 18360
Amend: 18361.1, 18361.4, 18361.5, 18361.9, 18361.11, 18404.2
Repeal: 18360
Filed 11/16/2020
Effective 01/01/2021
Agency Contact:
Amanda Apostol (916) 322-5660

Secretary of State
File # 2020-0826-02
CAL-ACCESS Software Vendor Certification

The Secretary of State filed this rulemaking action to adopt regulations that establish standards and procedures for certifying software vendors who electronically file information required of state candidates, donors, lobbyists, and others (filers) subject to the Political Reform Act of 1974. The electronic filing of this information will be into the Secretary of State's CAL-ACCESS replacement electronic filing system. The new electronic filing system mandated by Government Code section 84602(b) is currently being developed by the Secretary of State and is anticipated to be ready to use by February 2021. Among other things, the regulations require software vendors to be certified by the Secretary of State to enter filer information into the CAL-ACCESS replacement system through an Application Programming Interface (API) and ensure the security and accuracy of the data entered and stored in the system.

Title 02
Adopt: 23001, 23002, 23003, 23004, 23005, 23006, 23007, 23008
Filed 11/12/2020
Effective 11/12/2020
Agency Contact: Taylor Kayatta (916) 695-1530

Veterinary Medical Board
File # 2020-1112-01
Fee Schedule

The Veterinary Medical Board submitted this emergency readoption action to keep in effect licensure fee increases adopted as an emergency on January 27, 2020. The fees are increased to their statutory maximums for veterinarians and registered veterinary technicians.

Title 16
Amend: 2070, 2071
Filed 11/18/2020
Effective 11/25/2020
Agency Contact: Justin Sotelo (916) 515-5238

2020 RULEMAKING CALENDAR

Special Note

In an effort to conserve resources, the 2020 Rulemaking Calendar is being incorporated by reference into this edition of the California Regulatory Notice Register (CRNR).

The 2020 Rulemaking Calendar is accessible through the following means:

1. Electronic copies are available from the Office of Administrative Law upon request by emailing staff@oal.ca.gov.
2. Your nearest depository library. Go to <http://www.library.ca.gov/government-publications/state-document-depository-program/depositories/> for a list of California depository libraries.
3. Hard copies are available. Please contact Thomson Reuters at 1-888-728-7677. The cost

of the printed calendar is \$30.00. Subscribers of the Notice Register may obtain at no extra charge a hard copy of the Rulemaking Calendar upon request.

**PRIOR REGULATORY
DECISIONS AND CCR
CHANGES FILED WITH THE
SECRETARY OF STATE**

A quarterly index of regulatory decisions by the Office of Administrative Law (OAL) is provided in the California Regulatory Notice Register in the volume published by the second Friday in January, April, July, and October following the end of the preceding quarter. For additional information on actions taken by OAL, please visit www.oal.ca.gov.