



California Regulatory Notice Register

REGISTER 2023, NUMBER 35-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

SEPTEMBER 1, 2023

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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 <https://oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

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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: Pleasant Valley Joint Union Elementary School District

ADOPTION

MULTI-COUNTY: Grassland Basin Authority

A written comment period has been established commencing on September 1, 2023 and closing on October 16, 2023. Written comments should be directed to the Fair Political Practices Commission, Attention Daniel Vo, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest codes 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 codes will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest codes, 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 codes 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 codes. Any written comments must be received no later than October 16, 2023. 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 codes should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 323-9103.

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 Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 323-9103.

**TITLE 11. COMMISSION ON PEACE
OFFICER STANDARDS AND TRAINING**

AMEND COMMISSION REGULATION 1202
PEACE OFFICER CERTIFICATES

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11, of the California Code of Regulations, as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code (GC) section 11346.8, any interested person, or their duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by October 16, 2023.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 404-5619, by email to Michelle Weiler at michelle.weiler@post.ca.gov or by letter to:

Commission on POST
Attention: Michelle Weiler
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code (PC) section 13503 (authority of POST), PC 13506 (POST authority to adopt regulations), and PC §13510 (Senate Bill 2). This proposal is intended to interpret, implement, and make specific PC 13510, which authorizes POST to establish a certification program for peace officers in the state of California.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

On September 30, 2021, Governor Newsom signed Senate Bill (SB) 2. SB 2 made significant changes to existing Government and Penal Codes, respectively.

These changes provide for additional peace officer hiring eligibility requirements. SB 2 also grants POST the authority to certify all peace officers in California, and subsequently take action against those certifications, should POST determine serious misconduct occurred. While the peace officer eligibility hiring requirements went into effect on January 1, 2022, the remaining changes to Government and Penal Codes went into effect on January 1, 2023.

This rulemaking action provides additional clarity related to requirements for obtaining peace officer certification and how to qualify for professional peace officer certificates.

The regulatory amendment proposed in this rulemaking action will address Police Chiefs appointed without a valid Basic Certificate; removes the Basic Certificate exemption for law enforcement agencies who do not participate in the POST program; corrects an incorrect regulatory reference; clarifies acceptable education units when applying for professional certificates; and clarifies that POST shall cancel any certificate obtained through misrepresentation, fraud, or administrative error, not just professional certificates.

Anticipated Benefits of the Proposed Amendments:

The benefits anticipated by the proposed amendments to the regulation will provide clarity related to requirements for obtaining peace officer certification and how to qualify for professional peace officer certificates. This will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving public health, safety, and welfare in the state. The proposed amendments will have no impact on worker safety or the state's environment.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

POST has determined that these proposed amendments are not inconsistent nor incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that this is the only regulation that concerns processes and procedures related to requirements for obtaining peace officer certification and how to qualify for professional peace officer certificates.

FORMS INCORPORATED BY REFERENCE

There are no forms to be incorporated by reference.

DISCLOSURES REGARDING THE
PROPOSED ACTION

POST has made the following initial determinations:

Mandate on local agencies or school districts: None.
Cost or savings to any state agency: None.

Costs to any local agency or school district which must be reimbursed in accordance with Government Code 17500 through 17630: None.

Other non-discretionary costs or savings imposed on local agencies: None.

Costs or savings in federal funding to the state: None.

Cost impacts on a representative private persons or business: POST is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant, statewide adverse economic impact directly affecting California businesses: POST has determined that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: None.

Small Business Determination: POST has determined that the proposed regulations will not affect small business because the regulations only affect state agencies that are adopting, amending, or repealing regulations. Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

RESULTS OF ECONOMIC IMPACT ANALYSIS/ASSESSMENT

POST concludes that it is (1) unlikely the proposal will create or eliminate jobs in the state of California, (2) unlikely that the proposal will create or eliminate any businesses, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Benefits of the Proposed Action: As stated above under the Informative Digest/Policy Statement Overview, the benefits of the regulation will increase the efficiency of the state of California in delivering services to stakeholders by providing clarity related to requirements for obtaining peace officer certification and how to qualify for professional peace officer certificates. Thus, law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the state's environment.

CONSIDERATION OF ALTERNATIVES

In accordance with GC §11346.5, subdivision (a) (13), POST must determine that no reasonable alternative it considered, or that has otherwise identified

and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as 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 than the proposed action.

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to Michelle Weiler, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-4870. General questions regarding the regulatory process may be directed to Katelynn Poulos at (916) 227-4894.

TEXT OF PROPOSAL

Individuals may request copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to, the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the POST Website at <https://post.ca.gov/Regulatory-Actions>.

ADOPTION OF PROPOSED REGULATIONS/ AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons.

To request a copy of the Final Statement of Reasons once it has been approved, submit a written request to the contact person(s) named above.

**TITLE 21. DEPARTMENT OF
TRANSPORTATION**

The California Department of Transportation (“Department”), pursuant to authority granted by Streets and Highways Code section 27565, proposes to amend the California Code of Regulations, Title 21, Division 2, Chapter 16, concerning Compatibility Specifications for Automatic Vehicle Identification Equipment used for toll collection after considering all comments, objections, and recommendations regarding the proposed action. Following the public comment period and public hearing, the proposal may be adopted substantially as set forth without further notice.

PUBLIC HEARING

Date and Time: October 17, 2023
9:30 a.m. to 11:30 a.m.
Purpose: To receive comments about this
action.

Caltrans has scheduled a public hearing on this proposed action. The public hearing will be held remotely to improve access to meetings, allowing a broader access through teleconferencing options. Instructions for remote participation in the public hearing are below:

REMOTE ATTENDANCE

The public hearing may be accessed by clicking the WebEx link below or visiting WebEx at <https://signin.webex.com/join>. And entering the ID and password below. If you experience technical difficulties you may contact WebEx at 1 (408) 906-2222.

WebEx Link: <https://cadot.webex.com/cadot/j.php?MTID=m3f21e04452d8c14942532fc1efc24676>
Meeting Number (Access Code): 2481 881 3857
Meeting Password: ZVcGfShf547

To participate by telephone dial 1 (408) 418-9388. When prompted, enter the Webinar ID and password listed above. To comment or ask a question over the phone, dial *3 to “raise your hand” and *6 to mute/unmute your phone line.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulation action to the Department. The written comment period closes on **October 16, 2023**. To be considered by the Department, comments must be submitted to and received by the Department of Transportation, Traffic Operations. Attention: Joe Rouse, 1120 N Street, MS-36, Sacramento, California 95814; by fax at (916) 653-6080; or by email with a subject line of “Title 21 Public Comment” at Title.21.Changes@dot.ca.gov before the close of the comment period.

CONTACT PERSONS

Please direct any inquiries regarding this action to: Joe Rouse at (916) 654-6448 or by email at Title.21.Changes@dot.ca.gov.

The backup contact person for these inquiries is: Grace Tell at (949) 279-8798 or by email at grace.tell@dot.ca.gov.

Questions regarding the substance of the proposed regulatory action should be directed to:

Department of Transportation
Division of Traffic Operations
Attention: Joe Rouse
1120 N Street, MS-36
Sacramento, California 95814

AUTHORITY

Streets and Highways Code section 27565 authorizes the Department to adopt the proposed regulatory action concerning Compatibility Specifications for Automatic Vehicle Identification.

REFERENCE

Streets and Highways Code section 27565 provides that toll facilities shall adopt and promulgate compatible automatic vehicle identification systems.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

There are currently more than 870 lane mile of toll roads, high-occupancy/toll lanes, and bridges operating in California. The number of toll facilities is

expected to nearly double in the next 10 to 15 years. These facilities are operated, or will be operated, by 12 different local government entities, hereafter referred to as the “toll facility operators”.

All toll facilities in California utilize electronic toll collection (ETC). An ETC system uses automatic vehicle identification (AVI); a reader is placed at the toll collection point and communicates with a transponder in a vehicle as it passes through that point. The process for exchanging information between the reader and the transponder in an AVI system is known as a protocol.

Senate Bill 1523 (Chapter 1080, Statutes of 1990), mandated that the California Department of Transportation (Caltrans) work with the State’s toll facility operators to develop an AVI protocol for ETC systems. The bill required that the protocol would allow for one transponder to be used on any toll facility in California, a concept known as interoperability. The bill also required that the protocol had to be an open standard, meaning that it be made publicly available so that multiple manufacturers and vendors can have an opportunity to develop and supply ETC equipment. The AVI protocol used in California was first adopted in 1992 and amended in 2018 and published in Chapter 16 of Title 21 of the California Code of Regulations. The protocols are known as “Title 21” and “6C”. The 2018 amendment added the 6C protocol and provided a 5 year transition from the Title 21 to 6C protocol, with the Title 21 protocol being retired effective January 1, 2024.

There are currently approximately 12 million active Title 21 and 6C protocol transponders in California split evenly between protocols. The toll facility operators bear the full costs of purchasing and distributing transponders for use by motorists. These costs are not borne by the users; when establishing an ETC account they are only required to prepay tolls, replenish the account, as needed, and pay any account maintenance fees. Transponder purchases make up a substantial portion of these agencies’ operating expenditures.

Toll facility operators have not issued as many transponders as anticipated in recent years due to COVID–19 travel restrictions and its impacts on travel patterns. Therefore, some toll operators took longer to issue their remaining Title 21 transponder inventory and some are still finishing issuing a limited number of these transponders. These recently issued Title 21 transponders have considerable useful life left.

Toll facility operators and customers will be able to realize the useful life of the existing 6 million Title 21 transponders by taking advantage of the investment in the transponders currently being used and saving money by not needing to immediately purchase new replacement 6C transponders.

An extension of the legacy Title 21 sunset date to January 1, 2027 is expected to yield substantial benefits to both toll agencies and their customers. There is an estimated 5.8 million dollar annual savings to the toll agencies and added convenience for customers who will not have to swap out their Title 21 transponder for a new 6C version. The resultant savings could be used by the toll agencies to help pay down any indebtedness they may have incurred to develop their facilities. They could also be reinvested into desired or needed improvements on the facilities or in the transportation corridors where they are located, which would result in safer, more efficient travel for the public.

After conducting an evaluation on any other regulations on this area, Caltrans has determined that these are the only regulations concerning the state’s automated vehicle identification equipment and protocol used for electronic toll collection. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other non–discretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impact on private person(s) or businesses: Caltrans is not aware of any cost impacts on private person(s) or businesses that would necessarily incur in reasonable compliance with the proposed regulatory action. The toll facility operators bear the full costs of purchasing and distributing transponders for use by motorists. These costs are not borne by the users; when establishing an ETC account they are only required to prepay tolls, replenish the account, as needed, and pay any account maintenance fees. Those conditions would not change.

Significant effect on housing costs: None.

Small Business Determination:

This regulation will not directly affect small businesses. The toll facility operators bear the full costs of purchasing and distributing transponders for use by

motorists. These costs are not borne by users; when establishing an ETC account they are only required to prepay tolls, replenish the account, as needed, and pay any account maintenance fees. Those conditions would not change. Positive “secondary” impacts to small businesses may occur if business or employment gains occur from increased construction activity due to cost savings being reinvested into maintaining and improving toll facilities.

SUMMARY OF ECONOMIC IMPACT ANALYSIS

Caltrans has determined that this change could reduce toll agency expenditures by as much as \$5.8 million annually. Caltrans assumes that the toll agencies would reinvest these savings into maintaining and improving the toll facilities.

Creation/Elimination of Jobs & Expansion of Existing Business: It is expected to result in some expansion of businesses currently doing business in the State through the creation of an additional 49 jobs annually; 22 of those jobs would be in Highway Construction and 27 would be in the Maintenance and Rehabilitation Sector.

Creation/Elimination of new or existing business: None.

Anticipated Benefits: The proposed regulation will improve the health and welfare of California residents by improving the reliability of the State Highway System. There are no anticipated benefits to worker safety or the state’s environment.

The Economic Impact Analysis is available at <https://dot.ca.gov/programs/traffic-operations/electronic-toll>.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code, Section 11346.5 subdivision (a)(13), Caltrans has determined that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Caltrans invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

Caltrans will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address during regular business hours. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons, which includes the Standardized Regulatory Impact Assessment. Other related documents are also available. Copies may be obtained by contacting the Department of Transportation, Traffic Operations. Attention: Joe Rouse, 1120 N Street, MS-36, Sacramento, California 95814.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, Caltrans may adopt the proposed regulations substantially as described in this notice. If Caltrans makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before Caltrans adopts the regulations as revised. Please send requests for copies of any modified regulations to the Department of Transportation, Traffic Operations. Attention: Joe Rouse, 1120 N Street, MS-36, Sacramento, California 95814. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the Department of Transportation, Traffic Operations. Attention: Joe Rouse, 1120 N Street, MS-36, Sacramento, California 95814.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, which includes the Standardized Regulatory Impact Assessment, and the text of the proposed regulations can be accessed through <https://dot.ca.gov/programs/traffic-operations/electronic-toll>. Other related documents are also available at that website.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF HEALTH
CARE SERVICES/DEPARTMENT OF
DEVELOPMENTAL SERVICES**

**PROPOSED AMENDMENTS TO MEDI-
CAL HOME AND COMMUNITY BASED
SERVICES (HCBS) 1915(C) WAIVER FOR
THE DEVELOPMENTALLY DISABLED**

The Department of Health Care Services (DHCS) requests input from beneficiaries, providers, and other interested stakeholders concerning a proposed amendment to the Medi-Cal 1915(c) Home and Community-Based Services Waiver for the Developmentally Disabled (HCBS-DD Waiver).

Under the Lanterman Developmental Disabilities Services Act (Lanterman Act), Welfare & Institutions (W&I) Code section 4500 et seq., people with developmental disabilities, as defined in W&I Code section 4512(a), are eligible to receive services and supports that meet their individual needs and choices as defined in W&I Code section 4512(a). The Department of Developmental Services (DDS) administers the Lanterman Act.

DDS administers the HCBS-DD Waiver. DDS ensures, under the oversight of DHCS as the State Medicaid agency, that the HCBS-DD Waiver is implemented by regional centers in accordance with Medicaid law and the State's approved Waiver application. Regional centers coordinate, provide, and arrange or purchase the services and supports available under the HCBS-DD Waiver. Information about the HCBS-DD Waiver can be found at www.dds.ca.gov/initiatives/hcbs/

This amendment proposes to:

- modify the definition of target population to include children under five (5) years old;
- increase rates for independent living programs, adult residential homes, and participant directed Day Service and Supported Employment;
- add participant-directed goods and services as a new service;
- add budget authority for participant direction of services;
- add additional incentive payments for assisting individuals to obtain competitive integrated employment; and
- add supplemental payments for:
 - completion of surveys for eligible providers of community living arrangement services

and direct service providers as workforce capacity initiatives;

- certifications gained in trained employment services; and
- for direct service professionals who use a language or medium of communication other than English more than 50% of their time.

The aggregate fiscal impact of this amendment is estimated to be \$177,733,707 in waiver years two (2) through five (5). All proposed HCBS-DD Waiver amendments must be approved by the Centers for Medicare and Medicaid Services (CMS) to be effective.

PUBLIC REVIEW AND COMMENTS

DHCS plans to submit the proposed waiver amendment to CMS by October 1, 2023, for a proposed effective date of January 1, 2024.

A copy of the proposed waiver amendment will be posted on September 1, 2023, at <https://www.dhcs.ca.gov/services/Pages/Medi-CalWaivers.aspx> and at <https://www.dds.ca.gov/initiatives/hcbs/>.

Copies of the proposed amendment can be obtained by sending a written request to the mailing or email addresses listed below, or by visiting your local regional center. Please indicate 'HCBS Waiver' in the subject line or message.

Written comments may be sent to the following address:

Department of Developmental Services
Attention: Jonathan Hill
1215 O Street MS 7-40
Sacramento, CA 95814
Email Federal.Programs@dds.ca.gov

To be assured consideration prior to DHCS' submission of the waiver amendment to CMS, comments must be received no later than October 1, 2023. Please note that comments will continue to be accepted after October 1, 2023, but DHCS may not be able to consider those comments prior to the initial submission of the HCBS-DD waiver amendment to CMS.

DEPARTMENT OF FISH AND
WILDLIFE

HABITAT RESTORATION AND
ENHANCEMENT ACT
CONSISTENCY DETERMINATION
NUMBER 1653-2023-125-001-R1

Project: Cottonwood Creek Beaver Dam
Analogue Project
Location: Siskiyou County
Applicant: David Johnson, U.S. Fish and
Wildlife Service

Background

Project Location: The Cottonwood Creek Beaver Dam Analogue Project (Project) is located within Cottonwood Creek, a tributary to Middle Klamath River approximately 0.5 creek miles above the Hilt-Hungry Road bridge at 1216 Fruit Growers Road in the town of Hilt, at a property owned by Dirk Embree of FWS Forestry, and affects Cottonwood Creek, a tributary to the Middle Klamath River. The Cottonwood Creek supports populations of Klamath Mountains Province steelhead (*Oncorhynchus mykiss irideus*). 41.981198° North, 122.636137° West; 41.980971 ° North, 122.63557° West.

Project Description: U.S. Fish and Wildlife Service (Applicant) proposes to enhance or restore habitat within Cottonwood Creek to provide a net conservation benefit for Klamath Mountains Province steelhead (*Oncorhynchus mykiss irideus*). and North American beaver (*Castor canadensis*). This Project includes the construction of a series of four beaver dam analogues (BDAs) along a 400-foot reach of Cottonwood Creek. The objectives of the Project are to increase in-stream habitat complexity, reconnect Cottonwood Creek with its floodplain, increase base flows, and provide a foundation for beavers to build or maintain natural dams with an overall goal to improve fish habitat.

Beavers and their dams can have beneficial impacts to the physical and biological characteristics of riverine systems. Currently, beaver populations have been extirpated or greatly reduced throughout much of California. In upper Cottonwood Creek historical beaver dams were present two miles upstream of the treatment reach until they were breached following a rain on snow event in 2016. Beavers have also been observed less than one mile upstream of the treatment reach in adjacent mill ponds over the past two years. However, there are no current beaver dams in upper Cottonwood Creek. Since beavers are known to occur in upper Cottonwood Creek, the Project is also intended to provide a foundation for beavers to build or maintain dams that last long enough to establish

stable colonies. Due to the treatment reach has a low gradient, is only moderately incised, and willows are present, it is an optimal location to build BDAs and attract beavers.

The BDAs will be constructed by driving ten-foot, four-to-six-inch diameter Douglas fir posts four to six feet into the creek bed and bank. The posts will be driven using a small excavator fitted with a vibrating plate and collar that fits over one end of the post. Posts will be spaced approximately 20 inches apart and trimmed with a chainsaw to a maximum height of three feet above the dry channel. Each BDA will be approximately 30 feet in length (perpendicular to stream flow) with each BDA containing approximately 20 posts. After the posts have been driven into the creek bed and bank, willow cuttings harvested from adjacent willows will be woven between the vertical posts. Weed-free straw will then be stuffed into the weave to reduce porosity in the BDA structures. Next, approximately one cubic yard of native cobble and one cubic yard of high-clay content soil will be placed by hand at the base of each BDA for scour protection. The excavator will access the treatment reach sites and drive the posts without removing riparian plants. Some willows may need to be trimmed to allow equipment access, but any trimmed willow branches will be incorporated into the BDAs willow weave.

A paved road provides access to within 450 feet of the Project site. From the paved road, equipment (excavator for post pounding and skid steer for transporting posts and cobble from the staging areas) will drive from the staging areas to the BDA sites across the pasture and river-right floodplain. All BDA construction will occur from creek right, so the excavator does not need to access the river left bank. No new roads need to be constructed for equipment access. BDA construction will occur in September or October when the pasture and floodplain are dry.

Project Size: The total area of ground disturbance associated with the Project is approximately 0.335 acres and 220 linear feet. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) approximately 100 Douglas fir posts, (2) eight cubic yards of willow cuttings, (3) four cubic yards native cobbles, (4) four bales of weed-free straw, and (5) four cubic yards high-clay content soil.

Project Timeframes: Start date: September 1, 2023.
Completion date: October 15, 2023,
Number of workdays: Approximately four days.

Work window: September 1 through October 15, with the possibility of modification or extension with written approval.

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California, fish habitat, and encourage beaver reoccupation of this stretch of stream, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) Number 1A23066WNSI, Electronic Content Management Identification (ECM PIN) Number CW-888349 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to fish and wildlife.

Receiving Water: Cottonwood Creek, tributary to the Klamath River.

Filled or Excavated Area: Permanent area impacted: none.

Temporary area impacted: 0.025 acres maximum.

Length permanently impacted: 0 linear feet.

Length temporarily impacted: 220 linear feet.

Discharge Volume: Approximately 100 Douglas fir posts, eight cubic yards of willow cuttings, four cubic yards native cobbles, four bales of weed-free straw, and four cubic yards high-clay content soil will be discharged to waters of the state.

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of Intent (NOI) complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

Noticing: On July 27, 2023, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on July 27, 2023, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2023-0727-02) on August 11, 2023. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set forth in Fish and Game Code section 1653 for authorizing the Project.

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non-habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects.

Avoidance and Minimization Measures

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI. The specific avoidance and minimization measures as well as water quality protection measures are found in the addendum titled: BiologicalResourcesReport.doc in the section titled, Best Management Practices (beginning on page 6), of the addendum.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI titled: MonitoringandReportingPlan.doc in the section titled, Cottonwood Creek Beaver Dam Analogue Project Monitoring and Reporting Plan.

Notice of Completion

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires the Applicant to submit a Notice of Completion (NOC) no later than 30 days after the project has been completed. A complete NOC includes at a minimum:

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDID number and ECM PIN number indicated above;
- success criteria for the Project.

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant's NOI. Appli-

cant shall include the project name, WDID number, and ECM PIN number with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: Stacey.Alexander@wildlife.ca.gov.

Project Authorization

Pursuant to Fish and Game Code section 1654, CDFW’s approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, Applicant must adhere to all measures contained in the approved NOA and comply with other conditions described in the NOI.

If there are any substantive changes to the Project or if the Water Board amends or replaces the NOA, the Applicant shall be required to obtain a new consistency determination from CDFW. (See generally Fish & Game Code, § 1654, subdivision (c).)

DEPARTMENT OF FISH AND WILDLIFE

**CALIFORNIA ENDANGERED SPECIES ACT
CONSISTENCY DETERMINATION
NUMBER 2080–2023–014–01**

Project: Eureka Hill Road Bridge Retrofit Project
Location: Mendocino County
Applicant: County of Mendocino Department of Transportation
Notifier: James Linderman

Background

The County of Mendocino Department of Transportation (Applicant) proposes construction of the Eureka Hill Road Bridge Retrofit Project (Project) along Eureka Hill Road in Mendocino County. The Project would retrofit the existing Eureka Hill Road Bridge over the Garcia River to strengthen the structural components against seismic and erosive processes. The Project requires construction of a temporary clear water crossing (temporary work pad) beneath the bridge with temporary culverts to maintain streamflow and fish passage.

The Project activities described above are expected to incidentally take coho salmon (*Oncorhynchus*

kisutch) of the Central California Coast evolutionarily significant unit (CCC coho salmon) where those activities take place within the bed, bank, and channel of the Garcia River. In particular, CCC coho salmon could be incidentally taken as a result of the temporary stream diversion and dewatering process. CCC coho salmon are designated as an endangered species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.) (See Cal. Code Regs., title 14, § 670.5, subdivision (a)(2)(N)).

CCC coho salmon individuals are documented as present in the Garcia River. Because of the possible occurrences of all life stages of CCC coho salmon at the Project sites, the known dispersal patterns of CCC coho salmon, and the presence of suitable CCC coho salmon habitat within the Project site during the Project’s work period, the National Marine Fisheries Service (NMFS or Service) has determined that CCC coho salmon are reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of CCC coho salmon.

According to the Service, incidental take will be exceeded if more than 100 CCC coho salmon are captured for relocation, or if more than 4 juvenile CCC coho salmon are harmed or killed. The Project will not result in permanent habitat loss for the species.

Because the Project is expected to result in take of a species designated as threatened under the federal ESA, the California Department of Transportation (Caltrans), as a Federal Highway Administration agent, consulted with the Service as required by the ESA for the project to be carried out by the Applicant.

On June 25, 2014, the Service issued a Biological Opinion (BO) titled “Eureka Hill Road Bridge Seismic Retrofit Project, Mendocino County, California,” (NMFS File Number WCR–2014–834) to Caltrans for the Project. The BO described the Project, required the Applicant to comply with terms of the incidental take statement (ITS) and accompanying BO, and incorporated additional measures.

On July 7, 2021, the Service issued a letter to Caltrans titled “Endangered Species Act (ESA) Section 7(a)(2) and Magnuson–Stevens Fishery Conservation and Management Act Essential Fish Habitat additional proposed project information for the Eureka Hill Road Bridge Seismic Retrofit project on the Garcia River near Point Arena, California,” revising the BO to incorporate language providing funding assurances for the Project.

On March 9, 2022, the Service issued two letters amending the ITS and associated BO.

On June 16, 2022, the California Department of Fish and Wildlife (CDFW) determined that the ITS and accompanying revised BO, accompanying BA, and BA

Addendum were collectively consistent with CESA (Cal. Reg. Notice Register 2023, Number 4–Z, page 92).

On April 26, 2023, Caltrans finalized an addendum to the BA (BA Addendum) redesigning the water diversion and dewatering plan for the Project.

On July 12, 2023, the Service issued a revised BO entitled “Reinitiation Eureka Hill Road Bridge Seismic Retrofit Project,” (Service file Number WCR–2023–00634) (2023 revised BO) to Caltrans for the Project incorporating the BA Addendum. The 2023 revised BO describes the Project, requires the Applicant to comply with terms of the ITS and accompanying documentation, and incorporates additional measures. The ITS also requires the Applicant to implement and adhere to measures contained within the Project’s BA dated April 2021 and BA Addendum.

On July 18, 2023, the Director of the Department of Fish and Wildlife received a notice from James Linderman, on behalf of the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the ITS, and accompanying BO, BA, and BA Addendum are consistent with CESA for purposes of the Project and CCC coho salmon (Cal. Reg. Notice Register 2023, Number 31–Z, page 1009).

On August 14, 2023, the Service issued a letter titled “Clarification of the requirements of the Incidental Take Statement for the Endangered Species Act Section 7(a)(2) Biological Opinion and Magnuson–Stevens Fishery Conservation and Management Act Essential Fish Habitat consultation for the Reinitiation of the Eureka Hill Road Bridge Seismic Retrofit project,” which replaced the original ITS with a new revised ITS (revised ITS) The revision incorporates two conditions that were in the original July 12, 2023 BO.

Determination

CDFW has determined that the revised ITS and accompanying 2023 revised BO, BA, and BA Addendum are consistent with CESA as to the Project and CCC coho salmon because the mitigation measures contained in the revised ITS and accompanying BO, BA, and BA Addendum 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 CCC coho salmon will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the revised ITS and accompanying BO, BA, and BA Addendum 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 CCC coho salmon. The avoidance, minimization, and mitigation measures in the revised ITS and

accompanying BO, BA, and BA Addendum include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- 1) Applicant shall ensure that work in the live channel of the Garcia River (consisting of construction of the temporary work pad, implementation of footing retrofits at pier 2, and installation of column casings to the pier columns and top mats to the pier foundations) will be limited to the period of June 15 through October 15. If any work within the live channel of the Garcia River is not completed by October 15, a written approval/extension must be obtained from the Service and CDFW to allow work past October 15. Revegetation activities are excluded from this requirement with the stipulation that no heavy equipment be used in the channel.
- 2) The Applicant must retain a qualified biologist with expertise in the areas of anadromous salmonid biology, including handling, collecting, and relocating salmonids; salmonid/habitat relationships; and biological monitoring of salmonids. The Applicant must ensure that all biologists working on this Project are qualified to conduct fish collection in a manner that minimizes potential risks to CCC coho salmon. Electrofishing, if used, must be performed by a qualified biologist and conducted according to the Service Guidelines for Electrofishing Waters Containing Salmonids Listed under the Endangered Species Act (Available at: <https://media.fisheries.noaa.gov/dam-migration/electro2000.pdf>).
- 3) A qualified biologist must monitor the construction site during placement and removal of channel diversions and cofferdams to ensure that any harm or loss of salmonids is minimized and documented. The biologist must be on site during all dewatering events to ensure that all CCC coho salmon are captured, handled, and relocated safely. The biologist must notify the Service biologist one week prior to capture activities in order to provide an opportunity for Service staff to observe the activities.
Although not a requirement of the revised ITS and accompanying 2023 revised BO, BA, and BA Addendum CDFW requests to be notified as well.
- 4) Prior to Project implementation, the Applicant shall ensure that a Service– and CDFW–approved biologist will instruct all construction personnel and monitoring biologists of the terms and conditions being implemented to protect anadromous fish during construction. The biological monitor will have the full authority to halt work as necessary for the purpose of minimizing adverse effects on anadromous fish. The biological monitor

- will also be on site to monitor all work to install and remove the diversion and temporary gravel pad and to minimize adverse effects to anadromous fish from these activities.
- 5) Applicant shall notify and coordinate with the Service and CDFW 10 days prior to any stream diversions and fish capture and relocation activities.
 - 6) Prior to installation of the temporary work pad, the Applicant shall ensure that the work area is dewatered. Dewatering will be accomplished by funneling flows with clean plastic sheeting and gravel through temporary culverts; temporary culverts will remain in place during in-channel construction to maintain fish passage and bypass flows through the work area.
 - 7) During implementation of the seismic improvements, the Applicant shall ensure that the temporary work pad will prevent any debris from falling into the Garcia River.
 - 8) The Applicant shall ensure that Environmentally Sensitive Areas (ESAs) will be established at the edges of the temporary access routes within the riparian corridor and around a portion of the temporary work pad within the river to prevent encroachment into adjacent natural areas. ESA limits will be marked using orange snow fencing or equivalent and will remain in place and maintained in good condition until construction is complete.
 - 9) The Applicant shall ensure that the use of non-toxic vegetable-based hydraulic fluid will be required for all equipment operated below the ordinary high-water mark.
 - 10) The Applicant shall ensure that all fuel storage and refueling sites, concrete washouts, and any other hazardous materials are stored on the top of the bank at least 50 feet from surface water.
 - 11) The Applicant shall ensure that all construction equipment, pumps, hand tools, and personnel protective equipment that is to be used in the stream channel is subjected to inspection and appropriate treatments to prevent the spread of invasive plant and aquatic invertebrate species.
 - 12) The Applicant shall ensure that all upland areas temporarily impacted during project construction will be restored to preconstruction contours and revegetated with native species.
 - 13) The Applicant shall ensure that measures consistent with the current Caltrans' Construction Site BMP Manual (including the Storm Water Pollution Prevention Plan [SWPPP] and Water Pollution Control Plan [WPCP] Manuals) shall be implemented to minimize effects to anadromous fish during construction.
 - 14) Applicant shall ensure a SWPPP will be prepared by the contractor. The SWPPP will contain a Spill Response Plan with instructions and procedures for reporting spills, the use and location of spill containment equipment, and the use and location of spill collection materials. Implementation of the SWPPP will minimize effects to CCC coho salmon and their habitat from potential spills associated with construction activities.
 - 15) The Applicant shall ensure that gravel used for the temporary work pads shall consist of 1-to-4-inch diameter uncrushed, washed and rounded river rock (aka spawning gravel).
 - 16) Captured fish must be handled with extreme care and kept in water to the maximum extent possible during relocation activities. All captured fish must be kept in cool, shaded, aerated water protected from excessive noise, jostling, or overcrowding any time they are not in the stream, and fish must not be removed from this water except when released. To avoid predation, the biologist must have at least two containers and segregate young-of-year fish from larger age-classes and other potential aquatic predators. Captured salmonids will be relocated as soon as possible to a suitable instream location where habitat conditions are present to allow for survival of transported fish and fish already present.
 - 17) If any CCC coho salmon are found dead or injured, the biologist must contact the Service biologist immediately. All salmonid mortalities must be retained until further direction from the Service biologist. Tissue samples are to be acquired from each mortality prior to freezing the carcass per the methods identified in the NMFS Southwest Fisheries Science Center Genetic Repository protocols.
Although not a requirement of the revised ITS and accompanying 2023 revised BO, BA, and BA Addendum, CDFW requests to be contacted in this situation as well.
 - 18) The Applicant shall remove all cofferdams, pumps, pipes and sheet plastic from the stream upon Project completion; any clean native gravel used for the cofferdams will be left in the channel to augment available spawning habitat.
 - 19) The Applicant shall screen and maintain all pumps used to divert live stream flow outside the dewatered work area, throughout the construction period to comply with the Service's Fish Screening Criteria for Anadromous Salmonids. See: <http://swr.nmfs.noaa.gov/hcd/fishscm.pdf>. The Applicant shall ensure that any emergent or submergent aquatic vegetation be retained. Other vegetation shall be retained as practical within

the constraints of the Project. Where vegetation removal is necessary, rapidly sprouting plants, such as willows, shall be cut off at the ground line and the root systems left intact.

- 20) Prior to removal of the temporary work pad, the Applicant shall provide full mitigation by ensuring that large wood debris (LWD) (12-inch diameter or greater and 25 feet in length) will be embedded and cable anchored downstream of the Project's bridge on the Garcia River to enhance existing salmonid habitat at the site. Woody debris used will come from within the Garcia River watershed and will be cut for the express use of salmonid mitigation.

Monitoring and Reporting Measures

- 1) The Applicant must provide a written report to the Service by January 15, following completion of construction. The report must be submitted to the Service and must contain, at a minimum, the following information:
 - a. Fish Relocation: The report must include a description of the location from which fish were removed and the release site including photographs; the date and time of the relocation effort; a description of the equipment and methods used to collect, hold, and transport salmonids; if an electro shocker was used for fish collection, a copy of the log-book must be included; the number of fish relocated by species; the number of fish injured or killed by species; and a brief narrative of the circumstances surrounding ESA-listed fish injuries or mortalities.
 - b. Turbidity Monitoring: The report must include turbidity measurements at 250 feet downstream of the bridge prior to, during, and following construction and removal of the construction pad; a description of the equipment (secchi disc, transparency tub, etc.) and methods to measure turbidity must be included; and, if any fish are present within 250 feet of the construction pad, a brief narrative of any behavioral changes observed during turbidity monitoring should also be provided. A discussion of any unanticipated effects or unanticipated levels of effects on salmonids, a description of any and all measures taken to minimize those unanticipated effects, and a statement as to whether or not any unanticipated effects had any effect on ESA-listed fish; the number of salmonids killed or injured during Project construction; and photographs taken before, during, and after the activity from photo reference points.

- 2) The Applicant shall ensure that monitoring and maintenance for LWD installation occurs. Additional salmonid sheltering habitat created by this effort is expected to increase total salmonid juvenile counts by more than five individuals.

Although not a condition of the ITS and accompanying revised ITS and accompanying 2023 revised BO, BA, and BA Addendum, CDFW requests a copy of the monitoring reports as well.

Security

The Project and required mitigation are being funded by the Caltrans Local Assistance Program. A total of \$1,368,750 has been programmed for the construction of this bridge replacement project. The project funding appropriation will include funds needed for all associated fish habitat enhancement structures, best management practices, avoidance and minimization measures, and mitigation monitoring and maintenance following project completion, which is estimated to be \$400,000. Caltrans shall provide security, in compliance with the Master Funding Agreement entered into by CDFW and Caltrans on September 3, 2021, to ensure that it has adequate funding to complete the mitigation measures described above.

Conclusion

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of CCC coho salmon provided the Applicant implements the Project as described in the revised ITS and accompanying BO, BA, and BA Addendum including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the revised ITS and accompanying BO, BA, and BA Addendum. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the revised ITS and accompanying BO, BA, and BA Addendum, 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)).

CDFW's determination that the revised ITS and accompanying BO, BA, and BA Addendum are consistent with CESA is limited to CCC coho salmon.

**DEPARTMENT OF HEALTH
CARE SERVICES**

**NOTICE OF 30-DAY
PUBLIC COMMENT PERIOD
SEPTEMBER 5-OCTOBER 5, 2023
ASSISTED LIVING WAIVER
RENEWAL APPLICATION**

On September 5, 2023, DHCS will post a draft of the 2024 Assisted Living Waiver (ALW) Renewal Application for a 30-day public comment period, prior to submitting the final version to the Centers for Medicare and Medicaid Services for reauthorization. The ALW expires on February 29, 2024; DHCS intends to renew the Waiver for another 5-year waiver term beginning on March 1, 2024. The ALW provides eligible Medi-Cal beneficiaries the choice to reside in an assisted living setting as an alternative to long-term placement in a nursing facility. The goal of the Waiver is to facilitate the transition of institutionalized beneficiaries to a less-restrictive, community-based setting, and to prevent individuals who are at imminent risk of institutionalization from being admitted.

The ALW Renewal Application will be posted to DHCS' website, along with a public comment form and email address for submitting written feedback. All comments must be received by October 5, 2023. DHCS invites all interested parties to review the amendments and comment instructions on the DHCS ALW webpage at www.dhcs.ca.gov.

**OCCUPATIONAL SAFETY AND
HEALTH STANDARDS BOARD**

**NOTICE OF PUBLIC MEETING AND
BUSINESS MEETING**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting and Business Meeting:

PUBLIC MEETING:

On **October 19, 2023**, at 10:00 a.m. in the Council Chambers of the Walnut Creek City Hall 1666 North Main Street, Walnut Creek, California as well as via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)

- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

BUSINESS MEETING:

On **October 19, 2023**, at 10:00 a.m. in the Council Chambers of the Walnut Creek City Hall 1666 North Main Street, Walnut Creek, California

as well as via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE:

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**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.

California Film Commission
File # 2023-0808-01
California Soundstage Filming Tax Credit Program

This emergency rulemaking action by the California Film Commission amends regulations that implement a tax credit for qualified expenditures by a qualified motion picture produced in California at a certified studio construction project as provided for in Revenue and Taxation Code sections 17053.98(k) and 23698(k).

Title 10
Amend: 5530, 5531, 5532, 5533, 5534, 5535, 5536, 5537, 5538, 5539, 5540, 5541
Filed 08/18/2023
Effective 08/18/2023
Agency Contact: Hedvig Marx (323) 817-4115

California Horse Racing Board
File # 2023-0808-03
Prohibited Veterinary Practices

This emergency readoption action expressly allows possession and use of a medication on the premises of a facility under the jurisdiction of the California Horse Racing Board if no other human or animal drugs approved by the FDA are available to satisfy the need for the compounded drug and the drug is compounded by a California licensed veterinarian or California licensed pharmacy.

Title 04
Amend: 1867
Filed 08/16/2023
Effective 09/12/2023
Agency Contact:
Nicole Lopes-Gravely (916) 263-6397

California Coastal Commission
File # 2023-0728-01
Conflict-of-Interest

This is a Conflict-of-Interest code that has been approved by the Fair Political Commission and is being

submitted for filing with the Secretary of State and printing only.

Title 14
Filed 08/16/2023
Effective 08/16/2023
Agency Contact: Robin Mayer (415) 505-5908

Department of Food and Agriculture
File # 2023-0801-03
Standardization Program

This file and print action amends assessment rates for citrus to fund a navel and Valencia orange, lemon, and mandarin citrus inspection program, a crop estimating service, and a statewide acreage survey. This action is exempt from the Administrative Procedure Act pursuant to Food and Agricultural Code section 48002(e).

Title 03
Amend: 1430.142
Filed 08/22/2023
Effective 10/01/2023
Agency Contact: Sarah Cardoni (916) 597-6894

Office of the State Public Defender
File # 2023-0802-04
Conflict-of-Interest Code

This is a Conflict-of-Interest code that has been approved by the Fair Political Commission and is being submitted for filing with the Secretary of State and printing only.

Title 02
Amend: 38000, 38000.5, 38000.10
Filed 08/23/2023
Effective 09/22/2023
Agency Contact: Twanna Moore (916) 322-7043

California Coastal Commission
File # 2023-0714-03
Annual Increases to Permit Fees and Major Public Works Threshold

This action by the California Coastal Commission adjusts the threshold amount to qualify as a major public works or energy project and the fees for permit applications and other filings.

Title 14
Amend: 13012, 13055
Filed 08/23/2023
Agency Contact: Claire Wilkens (760) 419-8607

Contractors State License Board
File # 2023-0710-01
Civil Penalty Increase for Disciplinary Action

This change without regulatory effect increases the maximum civil penalty for a violation of Business and Professions Code section 7110 from \$8,000 to \$30,000. This change is being made to align the regulation with Business and Professions Code section 7099.2, which was amended by Assembly Bill (AB) 1747 (Stats. 2022, Chapter 757).

Title 16
Amend: 884
Filed 08/17/2023
Agency Contact: Diana Godines (916) 255-0541

Department of Insurance
File # 2023-0711-03
Standard Prescription Drug Formulary Template

This action without regulatory effect by the Department of Insurance regarding Standard Prescription Drug Formulary Template Regulations updates cross-references due to statutory changes made by Senate Bill 1021 (Stats. 2018, chapter 787) and changes reference citations.

Title 10
Amend: 2218.80, 2218.81, 2218.82
Filed 08/18/2023
Agency Contact: Stephen Kim (916) 492-3234

New Motor Vehicle Board
File # 2023-0711-01
Case Management

In these changes without regulatory effect, the Board amends its regulations related to case management to change the language to gender neutral pronouns and update the Board's mailing address.

Title 13
Amend: 551.1, 551.6, 551.13, 551.14, 551.16, 551.21, 551.23, 553.72, 555, 580, 595, 599
Filed 08/22/2023
Agency Contact: Robin Parker (916) 323-1536

Superintendent of Public Instruction
File # 2023-0706-01
Uniform Complaint Procedures

This action by the State Superintendent of Public Instruction makes changes without regulatory effect by changing references to the "State Department of Fair Housing and Employment" to the "Civil Rights Department."

Title 05
Amend: 4611
Filed 08/17/2023
Agency Contact: Lorie Adame (916) 319-0860

Air Resources Board
File # 2023-0707-01
In-Use Off-Road Diesel-Fueled Fleets Regulation

In this regular rulemaking, the California Air Resources Board amending the in-use off-road diesel-fueled fleets regulations. The changes include the following: (1) phase-out of the oldest and highest-emitting off-road engines (Tier 0, 1, and 2) from operation in California; (2) restrict the addition of vehicles with Tier 3 and 4 interim engines; (3) require contracting entities to obtain and retain a fleet's valid Certificate of Reported Compliance prior to awarding a contract or hiring a fleet; (4) mandate the use of fuel that is 99 or 100 percent renewable diesel for all fleets, with some limited exceptions; and (5) provide voluntary compliance flexibility options for fleets that adopt zero-emission technology.

Title 13
Amend: 2449, 2449.1, 2449.2
Filed 08/18/2023
Effective 10/01/2023
Agency Contact: Chris Hopkins (279) 208-7347

Board of Optometry
File # 2023-0714-01
Continuing Education: Purpose and Requirements

This action updates continuing education requirements to reflect the increase in online courses. It defines self-study and live and interactive courses and increases the information retention requirements for continuing education providers and licensees.

Title 16
Amend: 1536
Filed 08/23/2023
Effective 08/23/2023
Agency Contact: Gregory Pruden (916) 574-7808

Board of Registered Nursing
File # 2023-0711-02
Coursework Exemptions for Out-of-State Applicants

In this rulemaking action, the Board of Registered Nursing adopts new regulations which allow out-of-state nurses to apply for a California nursing license if they have been practicing in good standing for two or more years — even if they have not taken the California required laboratory classwork.

Title 16
Adopt: 1410.5
Filed 08/18/2023
Effective 10/01/2023
Agency Contact: Marissa Clark (916) 574-7438

Commission on Peace Officer Standards and Training
File # 2023-0712-02
Training and Testing Specifications for LD 14

This action by the Commission on Peace Officer Standards and Training updates the incorporated by reference document, Training and Testing Specifications for Peace Officer Basic Courses (Rev. Oct. 1, 2023), to add Learning Domain 14 regarding Officer Wellness to the basic course curriculum.

Title 11
Amend: 1005, 1007
Filed 08/22/2023
Effective 10/01/2023
Agency Contact:
Raymund Nanadiego (916) 227-2852

Department of Corrections and Rehabilitation
File # 2023-0705-02
Temporary Cameras in Inmate Hospital Rooms

This action adopts a requirement to use camera equipment to monitor an inmate while at a hospital when custody staff should not be in the room with the inmate due to the inmate's clinical condition, as determined by medical staff, and no viewing window is available.

Title 15
Adopt: 3270.4
Filed 08/16/2023
Effective 10/01/2023
Agency Contact: Josh Jugum (916) 445-2266

Department of Corrections and Rehabilitation
File # 2023-0712-01
Institutional Executive Review Committee

This rulemaking action extends the time for review of use-of-force cases from 30 to 60 calendar days from the date of their logged occurrence. The action requires the Institutional Executive Review Committee (IERC) to refer incidents of use of force to the Allegation Investigation Unit for investigation and tolls the 60-day review period until after the in-

cident is forwarded to the Hiring Authority for a final determination. The action also authorizes the IERC to pause the 60-day review period to obtain additional information or clarification.

Title 15
Amend: 3268.1
Filed 08/21/2023
Effective 10/01/2023
Agency Contact: Dmitriy Kostyuk (916) 445-2276

Department of Veterans Affairs
File # 2023-0713-01
Nonveteran Continued Residency

In this resubmitted action, the Department adopts a regulation related to nonveteran continued residency. The regulation adds definitions and specifies when a nonveteran spouse may continue residency in the Veterans Home.

Title 12
Adopt: 505.13
Filed 08/23/2023
Effective 10/01/2023
Agency Contact: Phil McAllister (916) 653-1961

**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 oal.ca.gov.

