



California Regulatory Notice Register

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ADOPTION

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Real Journey Academies, Inc.

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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.

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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: North Coast Railroad Authority
 STATE AGENCY: Department of Financial Protection and Innovation

ADOPTION

MULTI-COUNTY: Eastern Sierra Council of Governments
 Pajaro Valley Health Care District Hospital Corporation
 Real Journey Academies, Inc.

A written comment period has been established commencing on December 22, 2023 and closing on February 5, 2024. 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 February 5, 2024. 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 2. STATE TREASURER'S
OFFICE**

**[UPDATED] NOTICE OF INTENTION TO
AMEND THE CONFLICT-OF-INTEREST
CODE OF THE CALIFORNIA STATE
TREASURER'S OFFICE**

NOTICE IS HEREBY GIVEN that the California State Treasurer's Office, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on December 22, 2023, and closing on February 5, 2024. All inquiries should be directed to the contact listed below.

The California State Treasurer's Office proposes to amend its conflict-of-interest code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict-of-interest code include:

Deletion of a multi-member body chaired by the State Treasurer

California Industrial Development Financing Advisory Commission is deleted because the Commission has been abolished by operation of statute.

Deletion of designated positions

Information Technology Specialist I, Information Technology Division, Data & Government Transparency, is deleted under the Office of the State Treasurer because the position no longer exists within the Office of the State Treasurer.

Commission Members is deleted under the California Industrial Development Financing Advisory Commission because the Commission has been abolished by operation of statute.

Executive Director is deleted under the California Industrial Development Financing Advisory Commission because the Commission has been abolished by operation of statute.

Treasury Program Manager (all levels) is deleted under the California Educational Facilities Authority because the classification no longer exists within the Authority.

Addition of a multi-member body chaired by the State Treasurer

California HOPE, Opportunity, Perseverance, and Empowerment for Children Trust Account Program Board is established because the Commission has been established by operation of statute.

CalAccount Blue Ribbon Commission, under the Office of the State Treasurer, is added because the Commission has been created by statute.

Addition of designated positions

Board Members is added under the California HOPE, Opportunity, Perseverance, and Empowerment for Children Trust Account Program Board because the Board has been established by operation of statute.

Executive Director is added under the California HOPE, Opportunity, Perseverance, and Empowerment for Children Trust Account Program Board because the Board has been established by operation of statute.

Staff Services Manager (all levels) is added under the California HOPE, Opportunity, Perseverance, and Empowerment for Children Trust Account Program Board because the Board has been established by operation of statute.

Staff Services Manager I (Specialist), Pension and Benefits, under the Office of the State Treasurer is added because the position is a designee of the State Treasurer on various State bodies.

Commission Members, CalAccount Blue Ribbon Commission, under the Office of the State Treasurer is added because the Commission has been created by statute.

Executive Director, CalAccount Blue Ribbon Commission, under the Office of the State Treasurer is added because the position has been created by operation of statute.

The proposed amendment also makes other technical changes.

The proposed amendment and explanation of the reasons can be obtained from the agency's contact.

WRITTEN COMMENT PERIOD

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than February 1, 2024, or at the conclusion of the public hearing, if requested, whichever

comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than January 17, 2024.

ALTERNATIVES CONSIDERED

The California State Treasurer’s Office has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

AGENCY CONTACT

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

California State Treasurer’s Office
 Attention: Spencer Walker, General Counsel
 901 P Street, Suite 411–B
 Sacramento, CA 94209
 (916) 653–2995
spencer.walker@treasurer.ca.gov

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

CESA CONSISTENCY DETERMINATION
 REQUEST FOR
 TISDALE WEIR REHABILITATION AND
 FISH PASSAGE PROJECT
 2080–2023–021–02
 SUTTER COUNTY

The California Department of Fish and Wildlife (CDFW) received a notice on December 6, 2023, that the Department of Water Resources (DWR) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a spe-

cies protected by the California Endangered Species Act (CESA). The proposed project involves will construct needed structural repairs to Tisdale Weir and will modify the weir to add new fish passage facilities to allow passage from behind the weir to the Sacramento River to decrease the incidence of stranding. Proposed activities will include, but are not limited to, dewatering and cofferdam construction, including pile driving. The proposed project will occur along the left bank of the Sacramento River at the Tisdale Bypass about 10 miles southeast of the town of Meridian in Sutter County.

The National Marine Fisheries Service (NMFS) issued a federal biological opinion (BO) (Ref. Number WCR–2023–0509) in a memorandum to the U.S. Army Corps of Engineers on November 1, 2023, which considered the effects of the proposed project on state and federally endangered Sacramento River winter–run Chinook salmon (*Oncorhynchus tshawytscha*) and state and federally threatened Central Valley spring–run Chinook salmon (*O. tshawytscha*).

Pursuant to California Fish and Game Code section 2080.1, DWR is requesting a determination that the Incidental Take Statement (ITS) and its associated BO are consistent with CESA for purposes of the proposed project. If CDFW determines the ITS and associated BO are consistent with CESA for the proposed project, DWR will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

DEPARTMENT OF FISH AND WILDLIFE

CESA CONSISTENCY DETERMINATION
 REQUEST FOR
 AGRICULTURAL ROAD CROSSING 4 AND
 UPPER SWANSTON RANCH FISH PASSAGE
 IMPROVEMENT PROJECT
 2080R–2023–022–02
 YOLO COUNTY

The California Department of Fish and Wildlife (CDFW) received a notice on December 8, 2023, that the California Department of Water Resources (DWR) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves replacing the current fish passage impediment, an earthen fill low–water road crossing, with a two–span bridge that provides unimpeded fish movement through the Tule Canal. Proposed activities will include, but are not limited to, site excavation, grading,

pile driving, and the installation of both prefabricated bridge sections and cast-in-place concrete pile caps and decking. The proposed project is located in the northern portion of the Yolo Bypass, near the Sacramento Bypass and between the towns of Davis and West Sacramento in Yolo County, California. The project area includes the Tule Canal north of Interstate 80 and Agricultural Road 4 which is approximately 13 miles south of Fremont Weir.

The National Marine Fisheries Service issued a federal programmatic biological opinion (PBO) (Ref. Number WCR–2017–8532) in a memorandum to the National Oceanic and Atmospheric Administration Restoration Center (NOAA RC), the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service on August 31, 2018, which considered the effects of the eligible restoration projects on multiple federally listed species. On October 11, 2022, NOAA RC determined that the Agricultural Road Crossing 4 and Upper Swanston Ranch Fish Passage Improvement fit within the scope of the PBO for the state and federally endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*) and state and federally threatened Central Valley spring-run Chinook salmon (*O. tshawytscha*).

Pursuant to California Fish and Game Code section 2080.1, DWR is requesting a determination that the Incidental Take Statement (ITS) and its associated BO are consistent with CESA for purposes of the proposed project. If CDFW determines the ITS and associated BO are consistent with CESA for the proposed project, DWR will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

DEPARTMENT OF FISH AND WILDLIFE

**CALIFORNIA ENDANGERED SPECIES ACT
FISH AND GAME CODE
SECTION 2080.3 CONCURRENCE
NUMBER 2080–2023–020–04**

Project: Implementation of the San Joaquin River Restoration Program and Accompanying Hatchery and Genetic Management Plan

Location: Butte, Napa, Yolo, and Fresno Counties

Applicant: U.S. Fish and Wildlife Service

Background

On September 12, 2018, the National Marine Fisheries Service (NMFS) issued Scientific Research and Enhancement Permit 20571 (Permit) to the United States Fish and Wildlife Service (USFWS), pursuant

to section 10, subdivision (a)(1)(A) of the federal Endangered Species Act (ESA). The Permit authorizes USFWS to take ESA-listed Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*) (spring-run Chinook salmon) from the Feather River Fish Hatchery (FRFH), Butte Creek, and the San Joaquin River for scientific research and enhancement activities associated with the San Joaquin River Restoration Program (SJRRP). The purpose of the hatchery program is to produce spring-run Chinook salmon for reintroduction in order to restore a self-sustaining population in the San Joaquin River below Friant Dam. The Permit authorizes collection of wild and hatchery eggs, juveniles, and adults for broodstock development and maintenance, releases of juvenile hatchery-origin spring-run Chinook salmon, and in-stream research, monitoring, and evaluation activities. Spring-run Chinook salmon is designated as 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)(2)(C).) On November 26, 2018, the California Department of Fish and Wildlife (CDFW) issued a determination (2080–2018–014–04) pursuant to Fish and Game Code section 2080.3 that the Permit would further the conservation of spring-run Chinook salmon. The Permit is effective for approximately five years and will expire December 31, 2023.

On February 14, 2023, USFWS applied with the NMFS to renew the Permit in accordance with section 10, subdivision (a)(1)(A) of the ESA, for reintroduction of spring-run Chinook salmon to the San Joaquin River, from the Merced River confluence to Friant Dam. Currently, NMFS is reviewing the renewal of the Permit (20571–2R), and USFWS anticipates that the processing time for the permit renewal will extend beyond the expiration date (i.e., December 31, 2023) identified in the Permit. CDFW received notification from USFWS on November 30, 2023, notifying CDFW that NMFS issued an extension for the Permit to USFWS on November 2, 2023, to be effective from January 1, 2024, to the date that NMFS approves or denies USFWS’ request for a new permit.

The Permit that is the subject of this determination, as well as the Permit’s associated Biological Opinion (BO), arise from the SJRRP. The SJRRP executes a legal settlement from the lawsuit, *NRDC et al. v. Kirk Rodgers et al.* In 1988, a coalition of environmental groups led by the Natural Resources Defense Council (NRDC) filed a lawsuit challenging the renewal of long-term water services contracts between the United States Department of Interior and the Central Valley Project Friant Division contractors. After more than 18 years of litigation, the Settling Parties reached a Stipulation Agreement (Settlement). The Settling Parties, including NRDC, Friant Water Users Author-

ity (now known as the Friant Water Authority), and the United States Departments of Interior and Commerce, agreed on the terms and conditions of the Settlement, which establishes two primary goals:

- Restoration Goal — To restore and maintain fish populations in “good condition” in the mainstem San Joaquin River below Friant Dam to the confluence with the Merced River, including naturally reproducing and self-sustaining populations of salmon and other fish.
- Water Management Goal — To reduce or avoid adverse water supply impacts to all of the Friant Division long-term contractors that may result from the Interim Flows and Restoration Flows provided in the Settlement.

Through a 2006 memorandum of understanding between CDFW and other state agencies and the Settling Parties, CDFW stated its intention to assist the Settling Parties in implementation of the Settlement consistent with CDFW’s authorities, resources, and broader regional resource strategies. Subsequently, President Obama signed the San Joaquin River Restoration Act on March 30, 2009, giving the Department of Interior full authority to implement the SJRRP. The implementing agencies, consisting of the Department of Interior, Bureau of Reclamation (Reclamation) and USFWS, NMFS, CDFW, and California Department of Water Resources (DWR) organized a Program Management Team and associated work groups to begin the Settlement implementation.

The Settlement requires the reintroduction of spring-run Chinook salmon into the San Joaquin River. To implement the Settlement, the SJRRP’s Hatchery and Genetics Management Plan (HGMP) (2016) proposes using a Conservation Facility (Interim Facility and future Salmon Conservation and Research Facility [SCARF]) and genetic management and conservation hatchery techniques to develop a self-sustaining population of spring-run Chinook salmon for the SJRRP. The Interim Facility, located in Friant, California, in Fresno County, and the SCARF, will rely on artificial propagation using broodstock to attain sufficient numbers of spring-run Chinook salmon for reintroduction.

Because the SJRRP is expected to result in take of a species designated as threatened under the federal ESA, USFWS consulted with NMFS as required by Section 7 of ESA. The timeline of relevant regulatory activities to date is as follows:

- October 11, 2012 — NMFS issued Enhancement of Survival Permit 14868 to USFWS, authorizing take of spring-run Chinook eggs or juveniles from FRFH to establish broodstock methodologies and begin studies associated with holding practices.

- December 18, 2013 — CDFW issued a concurrence (CDFW file Number 2080–2012–017–014) pursuant to Fish and Game Code section 2080.3 that Permit 14868 would further the conservation of spring-run Chinook salmon.
- December 31, 2013 — NMFS issued final regulations designating an experimental population of spring-run Chinook salmon under Section 1539, subdivision (j) of Title 16 of the United States Code and established take provisions for members of that population.
- March 18, 2014 — CDFW issued a determination (CDFW file Number 2080–2014–005–04) that the management restrictions, protective measures, prohibitions, and exceptions to prohibitions contained in the federal regulations meet the requirements in Fish and Game Code section 2080.4.
- March 21, 2014 — NMFS issued Enhancement of Survival Permit 17781 to USFWS, authorizing take of spring-run Chinook salmon for collection, rearing, and release.
- April 1, 2014 — CDFW issued a concurrence (CDFW file Number 2080–2014–006–04) pursuant to Fish and Game Code section 2080.3 that Permit 14868 would further the conservation of spring-run Chinook salmon.
- September 12, 2018 — NMFS issued Scientific Research and Enhancement Permit 20571 authorizing take of threatened spring-run Chinook salmon and threatened California Central Valley (CCV) steelhead (*O. mykiss*) associated with hatchery propagation, research, and enhancement activities.
- November 26, 2018 — CDFW issued a determination (CDFW file Number 2080–2018–014–04) pursuant to Fish and Game Code section 2080.3 that Permit 20571 would further the conservation of spring-run Chinook Salmon.
- February 14, 2023 — USFWS applied to NMFS to renew Permit 20571 in accordance with section 10(a)1(A) of the Endangered Species Act (16 U.S.C. 1531 et seq.) for Reintroduction of Spring-run Chinook Salmon to the San Joaquin River, from the Merced River confluence to Friant Dam.
- November 2, 2023 — NMFS issued an extension for Permit 20571 to USFWS, to be effective from January 1, 2024, until the date that NMFS approves or denies USFWS’ request for a new permit.

On November 30, 2023, the Director of CDFW received a letter from USFWS notifying CDFW pursuant to Fish and Game Code section 2080.3 that it had received an extension to the Permit authorizing

the taking of spring–run Chinook salmon in order to establish or maintain an experimental population in the San Joaquin River. USFWS’ notification requested that CDFW: (1) make a determination that the Permit will further the conservation of the species; and (2) publish the notification as required by Fish and Game Code section 2080.3, subdivision (a)(2).

Project Summary

The activities described in the Permit will incidentally take¹ spring–run Chinook salmon. Spring–run Chinook salmon will be intentionally taken at the FRFH, Butte Creek, and the San Joaquin River. The Permit authorizes take to include one or more of the following: harassment, capture, handling, collection, transport, holding, lethal spawning, biological sampling, tagging, and live release of marked spring–run Chinook salmon in excess of broodstock needs, unmarked spring–run Chinook salmon, and natural–origin steelhead, if encountered. The Permit authorizes take associated with hatchery propagation, research, and enhancement activities at the San Joaquin Conservation Hatchery Facilities, which include the SCARF near Friant Dam on the San Joaquin River, the Interim Facility, and a small Satellite Incubation and Rearing Facility (SIRF; referred to collectively as the Conservation Facilities), as cited in USFWS’ Permit application.

Two types of direct take will occur under the Permit: (1) take of spring–run Chinook salmon associated with broodstock collection, maintenance of fish held as captive broodstock, and juvenile rearing and release, and (2) take of spring–run Chinook salmon and CCV steelhead associated with research, monitoring, and evaluation (RM&E) activities.

SJRRP proposes to collect up to 5,470 eggs or juveniles from all sources, including 70 for pathology studies from each collection event. The total number of eggs or juveniles collected annually and the collection source will be constrained by the Interim Facility or SCARF capacity and donor stream conditions. If conditions are suitable, the SJRRP would prefer to collect equally from all three donor sources, with collection ratios dependent on acceptable take from each donor source.

Broodstock Collection: Broodstock collections, as with all hatchery activities, will occur pursuant to the associated HGMP (CDFW 2016) and include potential collections from Butte Creek (juvenile life stage),

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”).

FRFH (juvenile and/or egg life stage), and/or the San Joaquin River (adult, juvenile, and/or egg life stage).

Annual broodstock collections that were initially focused on spring–run Chinook salmon from the FRFH will expand to include collections from wild stocks in Butte Creek and the San Joaquin River beginning in 2018. The total number of broodstock collected from each source population over the course of the reintroduction will depend on the viability of those stocks and the effects of removal on the associated population risk factors. Depending on escapement numbers, returning adults and any adult spring–run Chinook salmon that enter the Restoration Area (defined as the San Joaquin River from Friant Dam near the town of Friant, California, to the confluence of the Merced River) from other rivers may also be available for use as broodstock beginning in 2018. Genetic analysis of these returns will inform fish crosses and reintroduction strategies. Broodstock collection from returns generally should not exceed 10 percent of the estimated in–river escapement unless river conditions preclude successful spawning. All broodstock used for spawning will be genotyped for parentage–base tagging and to prepare breeding matrices to maximize genetic diversity.

Feather River Fish Hatchery: If the FRFH is the only available donor source, the SJRRP will collect via hatchery operations a maximum of 5,470 individuals from the FRFH including collections for pathology. Actual collection numbers will depend on availability of fish from FRFH and other sources. Spring–run Chinook salmon broodstock collection protocols will follow methods described in the FRFH HGMP (Cavallo *et al.* 2012).

Butte Creek: The SJRRP proposes to collect via rotary screw trap (RST) a maximum of 2,910 juveniles annually from Butte Creek including collections for pathology (2,700 for broodstock, and 70 for pathology for up to 3 collection periods). The actual number collected will depend on the number of adult returns to Butte Creek who survive to spawn and the number of individuals collected from other broodstock sources. The SJRRP will collect juveniles from existing sampling occurring on Butte Creek to minimize additional handling and incidental mortality, control cost, and simplify logistics.

San Joaquin River: When spring–run Chinook salmon adults return to the Restoration Area, the SJRRP proposes to collect via redd extraction, emergence trap, RST, fykes or weirs, seine, and/or dip nets a maximum of 2,980 juveniles or eggs, including collections for pathology from the San Joaquin River. If adults are collected for broodstock spawning, the SJRRP proposes to collect a maximum of ten percent of returning adults, up to 250 individuals annually. The SJRRP may collect individuals at three different

life stages: eggs, juveniles, or adults. Each life stage has advantages and disadvantages for collection. The number collected in any given year will be determined by the number of adult returns to the Restoration Area and the number of individuals collected from other source stocks.

Broodstock Releases: The SJRRP may release hatchery-produced fish and ancillary broodstock at various life stages based on production targets, hatchery capacity, river conditions, and program needs. The vast majority of releases from the rearing facilities will be the progeny of SJRRP broodstock. Broodstock will also be released to the river for research and reintroduction purposes.

All spring-run Chinook salmon released by the SJRRP will be adipose fin clipped and tagged with a coded wire tag (CWT).

The SJRRP will transport juveniles and eggs collected from donor stocks to an approved quarantine facility and, after clearing a fish health assessment, transfer the juveniles and eggs to the Conservation Facilities. Fish will be reared under controlled hatchery conditions to sufficient age for spawning. Depending on the Conservation Facilities' capacities and production needs, the SJRRP may release a portion of the broodstock to the San Joaquin River as ancillary broodstock. After fish reach maturity at the Conservation Facilities, they will be spawned and their progeny reared at the facility from the egg stage to be released to the San Joaquin River at the juvenile stage. Once the juvenile spring-run Chinook salmon reach an appropriate size, they will be marked (adipose fin clipped), tagged (CWT), and released directly to the river. Pre-release health assessment requirements, as defined by CDFW pathologists, will be followed for juveniles. The SJRRP will euthanize up to 20 fish per tank or rearing system, but not more than a total of 100 fish, for fish health inspection. Additionally, up to 10 percent of juveniles may be held back and later released as yearlings.

The SJRRP will either release fish from the SCARF directly to the San Joaquin River using a volitional release channel or transport the fish to a release site using a standard fish transport tank. Fish will be released directly from the hatchery when there is adequate flow in the river side-channel and connectivity with the lower San Joaquin River outside the Restoration Area. However, additional release locations may be necessary based on the condition of the river. To minimize straying, juveniles will be released as far upstream as feasible based on river connectivity and expected survival out of the Restoration Area. Juveniles will be released into the San Joaquin River intermittently from October through April. However, most releases will take place between January and April depending on river conditions and fish size. Adult releases into the

San Joaquin River will take place intermittently from February through October.

The number of juveniles produced and released from the Conservation Facilities will increase over time as the facility reaches maximum production. However, actual production will vary year to year based on broodstock survival, fecundity, and other factors. Target releases are approximately 200,000 juveniles in 2018 and are authorized to reach maximum production of up to 1,250,000 juveniles. To appropriately manage the broodstock population, and in response to river conditions, releases may include up to 5,000 ancillary broodstock annually. Population monitoring and evaluation may include adult monitoring by video, acoustic tracking, visual surveys, and redd and spawning surveys. Adult escapement will be used as a measure for evaluating SJRRP success. Juvenile monitoring will consist of various outmigrant traps and fry emergence monitoring. To evaluate juvenile survival and abundance, RSTs will be used throughout the Restoration Area. Once established, RST site locations will remain fixed each year unless changes in river conditions warrant moving them or if new RST sites are necessary for long-term study purposes.

Indirect mortality of spring-run Chinook salmon may also occur. Indirect mortality may occur at all life stages from egg to adult. Indirect mortality may occur during permitted activities including collection (FRFH and Butte Creek), releases, and research, monitoring, and evaluation studies. The Permit requires implementation of measures to minimize indirect mortality and harm to ESA-listed fish during the general handling, broodstock collection and mating, juvenile rearing and release, fish culture, and research, monitoring, and evaluation.

Determination

CDFW has determined that the Permit will further the conservation of the species. Specifically, as authorized by Fish and Game Code 2080.3, CDFW finds that: (1) take of spring-run Chinook salmon is for the purpose of establishing or maintaining an experimental population in the San Joaquin River pursuant to Section 1539, subdivision (j) of Title 16 of the United States Code and the San Joaquin River Restoration Settlement Act; and (2) the measures identified in the 10(a)(1)(A) permit, as well as the accompanying BO and the HGMP, include methods and procedures which are necessary to bring spring-run Chinook salmon to the point at which the protections of CESA are no longer necessary.

The measures included in this determination pursuant to Fish and Game Code section 2080.3 are those in the 10(a)(1)(A) Permit. Those Permit conditions include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- 1) USFWS will apply measures to minimize harm to ESA-listed fish. These measures include but are not limited to: limits on the duration (hourly, daily, weekly) of trapping; limits on holding time before release; and allowance for free passage through trapping sites when those sites are not actively operated.
 - 2) USFWS will anesthetize each ESA-listed fish that is handled for the purpose of collecting biological samples. Anesthetized fish must be allowed to recover (e.g., in a recovery tank) before being released. Fish that are assessed without handling must remain in water but do not need to be anesthetized.
 - 3) USFWS and its agent are responsible for maintaining the biological samples collected from ESA-listed species as long as they are useful for research purposes. USFWS may not transfer biological samples to anyone not listed in the application without obtaining prior written approval from NMFS.
 - 4) During sampling and processing, USFWS must keep ESA-listed fish in water to the maximum extent possible. Adequate circulation and replenishment of water in holding units is required. When using methods that capture a mix of species, USFWS must process ESA-listed fish first. USFWS must conduct the transfer of ESA-listed fish using equipment that adequately holds water during transfer.
 - 5) USFWS must not handle ESA-listed fish when water temperature exceeds 22°C (71.6°F) at the capture site. Trap operation shall cease until either temperature drops below the threshold or pending further consultation with NMFS to determine if continued trap operation poses substantial risk to ESA-listed species. Under these conditions, USFWS may only identify and count ESA-listed fish.
 - 6) USFWS must use visual observation protocols instead of intrusive sampling methods whenever possible. This is especially appropriate when merely ascertaining the presence of anadromous fish.
 - 7) USFWS should complete a segregation protocol one year after issuance of the Permit and prior to volitional adult passage in the system, that identifies how, to the greatest extent possible, to prevent introgression between fall-run and spring-run Chinook. If there is an opportunity for fall-run Chinook salmon to superimpose spring-run Chinook salmon redds, USFWS should take measures to protect spring-run Chinook salmon redds and monitor and analyze introgression rates. An acceptable segregation protocol identifies how, to the greatest extent possible, to prevent introgression between fall-run and spring-run Chinook and measure introgression rates.
 - 8) If third-party research is to be conducted on ESA-listed fish in collaboration with USFWS, the third party should follow the guidelines set for research collaboration. Those guidelines should be provided to the third party by USFWS.
 - 9) The spring-run Chinook salmon broodstock collection target shall be limited to a maximum of 5,400 individuals annually from all potential sources (2,700 is the minimum needed to meet production targets). Sixty fish from each collection event will be sacrificed for pathology screening at the time of collection and another 10 from each collection event will be sacrificed for pathology screening near the end of the quarantine period. Therefore, a maximum of 5,470 spring-run Chinook salmon eggs or juveniles will be collected for broodstock across all collections, including 70 for pathology studies from each collection event.
 - 10) USFWS should make efforts to minimize the number of hatchery-origin spring-run Chinook salmon that are used as broodstock, to the extent possible, based on the estimated adult escapement and the presence of adequate spawning and rearing conditions in the natural origin broodstock collection locations (i.e., the San Joaquin River and Butte Creek).
 - 11) Each year the USFWS will submit a Donor Stock Collection Plan (DSCP) to NMFS. The DSCP will be prepared through a multi-agency technical team to describe the collection plan for each year. USFWS will submit the annual DSCP to NMFS and CDFW for review and will be developed prior to any collections from the FRFH, San Joaquin River, or Butte Creek. It will include all the expected collection actions and associated monitoring for the year. The criteria below will evaluate FRFH, San Joaquin River, and Butte Creek donor stock collections each year and the number of individuals targeted by life stage:
 - a. Interim Facility or SCARF status and capacity available to rear broodstock;
 - b. Resources available to collect donor stock;
 - c. Genetics;
 - d. Availability of donor stock.
- NMFS and CDFW will review the DSCP to ensure that any adverse effects of broodstock collection will not be substantial in the context of the overall population of each spring-run Chinook salmon donor stock.

- 12) USFWS shall ensure that 100 percent of the spring–run Chinook salmon released from the Conservation Facilities (and any fish subject to direct translocation) are marked (adipose fin–clipped) and tagged (using CWTs), providing a life–long indicator of origin. Alternative marking and tagging strategies approved by NMFS may be used if determined necessary.
- 13) Release of spring–run Chinook salmon will only occur within the nonessential experimental population area in the San Joaquin River as defined in 50 CFR 223.301, subdivision (b). USFWS will release spring–run Chinook salmon juveniles either volitionally or downstream of major passage barriers that prevent volitional migration and in the best conditions available.
- 14) USFWS shall develop a Pre–Release Report annually. The report will include information on the proposed number of spring–run Chinook salmon to be released, the release location, the tentative date(s) of release, and CWT data. Each year’s Pre–Release plan must be approved by NMFS, prior to its implementation.
- 15) USFWS will adaptively manage hatchery release strategies to improve homing fidelity of adult returns to the release site, minimize precocity rates of hatchery–origin fish, and minimize ecological interactions between hatchery– and natural–origin juveniles as described in the HGMP.
- 16) USFWS shall ensure that transport and quarantine of individuals will occur according to the protocols detailed the Permit application, and the associated HGMP.
- 17) In the event of an emergency, such as flooding, water loss to raceways, epizootic outbreak, or vandalism that necessitates early release of ESA–listed spring–run Chinook salmon to prevent catastrophic mortality, USFWS shall report any such release within 48 hours to NMFS.
- 18) NMFS recognizes the need for management flexibility. Therefore, changes in fish culture protocols consistent with best management practices, conforming to the intent of the hatchery program and having no substantial effects on the survival of any ESA–listed species beyond what is authorized in the Permit, may be implemented by USFWS and CDFW.
- 19) USFWS must submit to NMFS for approval, in writing, changes in any aspect of hatchery program implementation and operations, including broodstock collection protocols or numbers, juvenile release numbers, and marking, that could potentially result in increased amount of take, or alter the manner or effect of take of ESA–listed species covered in this permit.
- 20) Technical adjustments to the hatchery program, as described in the Permit, may be made, provided that such adjustments are consistent with the standards of section 10, subdivision (a)(1)(A) of the ESA, NMFS regulations governing ESA–listed species permits (50 CFR Parts 222–226), and the standards set forth in the Permit. Such program adjustments do not require modification of the Permit provided that they do not result in a level of direct or incidental take or impacts to the species in excess of that otherwise allowed by the Permit and by the incidental take statement (ITS). USFWS must submit requests for such program adjustments in writing to NMFS. NMFS will consult with CDFW and USFWS to review the request and determine whether the adjustment is warranted. If NMFS and CDFW determine that the amount or extent of take or impacts to the species would not be exceeded as a result of the proposed adjustment, USFWS will be notified that the adjustment is approved. Each year, USFWS will ensure that any approved adjustments are described within the Permit Annual Report on the Applications and Permits for Protected Species (APPS) website.
- 21) Annually, the Conservation Facilities will seek to achieve 85 percent survival from egg to hatching to match that experienced at FRFH in recent years, and 75 percent or better survival from egg to smolt stages over the duration of the program. The Conservation Facilities will aim to achieve greater than 49 percent survival from smolt to adulthood (as described in the associated HGMP).
- 22) Should NMFS determine that a sampling procedure provided for under the Permit is no longer acceptable, USFWS shall immediately cease the use of such a procedure until an acceptable replacement has been prescribed by NMFS.
- 23) Efforts should be made to prevent the spread of aquatic invasive species (AIS) such as New Zealand mudsnail (*Potamopygrus antipodarum*), quagga mussel (*Dreissena rostriformis bugensis*) and zebra mussel (*Dreissena polymorpha*). Guidelines presented in the *California Department of Fish And Wildlife Aquatic Invasive Species Decontamination Protocol* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=43333>) should be followed when working in aquatic habitats to prevent the spread of AIS.
- 24) USFWS is responsible for the actions of any individual operating under the authority of the Permit. Such actions include operation of adult traps and weirs for broodstock collection and capturing, handling, holding, transporting, releasing,

maintaining, and caring for any ESA-listed species authorized by the Permit.

Monitoring and Reporting Measures

- 1) Any activities or methodologies associated with RM&E including, but not limited to: PIT tagging, smolt trapping, spawning ground surveys, and redd surveys must be done according to the general guidelines for handling listed fish detailed above and within the direct take limits defined in Tables 1–6 of the Permit and the ITS.
- 2) USFWS must conduct surveys annually to determine the timing, abundance, and distribution of hatchery-origin spring-run Chinook salmon originating from the Conservation Facilities that emigrate from (juveniles) and spawn in (adults) the San Joaquin River.
- 3) If the authorized level of take is exceeded, USFWS must notify NMFS as soon as possible, but no later than two days after the authorized level of take is exceeded. USFWS must then submit a written report to NMFS describing the circumstances of the unauthorized take within two weeks of take exceedance. Pending review of these circumstances, NMFS may suspend or amend the Permit.

Though it is not a condition of the Permit, CDFW requests to be notified and to receive a copy of the written report described in the condition above.

- 4) USFWS will submit annual reports to NMFS on the APPS site by January 31. Although not a condition of the Permit, CDFW requests USFWS to provide annual reports to CDFW as well.

The annual report shall contain the following information:

- a. A detailed description of all adult ESA-listed salmon collection activities conducted under Permit 20571, including the number and composition of ESA listed fish captured and sampled for tissues, their sex/size/condition, the date of collection and disposition;
- b. The numbers, dates, average size at release, and tag/mark information of fish released into the San Joaquin River;
- c. Estimated survival rates of all life stages;
- d. Precocial maturation rate and disease occurrence;
- e. Any additional monitoring and evaluation activities occurring at the hatchery;
- f. Any problems that may have arisen during hatchery activities;

- g. A statement as to whether or not the activities had any unforeseen effects on ESA-listed fish.

Pursuant to Fish and Game Code section 2080.3, take authorization under CESA is not required for the hatchery program activities as described in the Permit for taking of spring-run Chinook salmon in order to establish or maintain an experimental population in the San Joaquin River, as identified in, and in accordance with the federal Permit and associated BO and HGMP. The timing and extent of take authorization under this concurrence is limited to the terms in the federal Permit and expires upon the expiration date the federal Permit. If there are any substantive changes to the hatchery program, including changes to the measures or conditions, or if the NMFS amends or replaces the Permit, BO, or associated HGMP, USFWS shall be required to obtain a new concurrence or a CESA permit for the hatchery program from CDFW. (See generally Fish & Game Code, § 2080.3.)

**AVAILABILITY OF
PRECEDENTIAL
DECISIONS INDEX**

BOARD OF PHARMACY

**ANNUAL NOTICE OF AVAILABILITY OF
PRECEDENTIAL DECISIONS INDEX**

NOTICE IS HEREBY GIVEN that the California State Board of Pharmacy (Board), pursuant to section 11425.60 of the Government Code, the Board maintains an index of precedential decisions, which is annually made available by the Board to the public by email subscription. To join the Board's email list, go to www.pharmacy.ca.gov. The index and the text of the precedent decisions are continuously available on the Board's website at <http://www.pharmacy.ca.gov/enforcement/precedential.shtml>.

For additional information, contact:

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California State Board of Pharmacy
2720 Gateway Oaks Drive, Suite 100
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Fax: (916) 574–8618
Email: PharmacyRulemaking@dca.ca.gov

**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.

Department of Food and Agriculture
File # 2023–1108–02
Japanese Beetle Eradication Area

In this rulemaking action, the Department of Food and Agriculture makes final its emergency rulemaking which added Marin County to the list of counties included in the Japanese Beetle Eradication Area.

Title 03
Amend: 3589
Filed 12/07/2023
Effective 12/07/2023
Agency Contact: Rachel Avila (916) 698–2947

California Conservation Corps
File # 2023–1121–03
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.

Title 02
Amend: 43000
Filed 12/13/2023
Effective 01/12/2024
Agency Contact: Tabatha Chavez (916) 341–3137

California Earthquake Authority
File # 2023–1128–01
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 Secretary of State and printing.

Title 02
Amend: 56800
Filed 12/12/2023
Effective 12/12/2023
Agency Contact:
Shannon McEuen (916) 813–0852

Department of Justice
File # 2023–1026–01
Department of Cannabis Control, Commercial
Cannabis Licensee Bond

This action by Department of Justice repeals commercial cannabis licensee surety bond forms for the Bureau of Cannabis Control, Department of Food and Agriculture, and Department of Public Health and adopts a new commercial cannabis licensee surety bond form for the Department of Cannabis Control.

Title 11
Adopt: 118.1
Repeal: 26.20, 80.4, 118.1
Filed 12/07/2023
Effective 12/07/2023
Agency Contact: Charles Tsai (213) 269–6444

Agricultural Labor Relations Board
File # 2023–1024–04
Cannabis: Labor Peace Agreements

This rulemaking action by the Agricultural Labor Relations Board (Board) establishes complaint, investigation, and decision–making criteria and procedures to implement Business and Professions Code section 26051.5(a)(5)(D), which requires commercial cannabis cultivation licensees with a stated minimum number of employees to enter into labor peace agreements and tasks the Board with investigating complaints alleging that a licensee has an agreement with a non–bona fide labor organization. This action is a resubmittal of OAL action number 2023–0802–02S.

Title 08
Adopt: 20951, 20952, 20953, 20954, 20955
Filed 12/07/2023
Effective 04/01/2024
Agency Contact:
Santiago Avila–Gomez (916) 894–6840

Department of Justice
File # 2023–1024–05
Check Cashier Permit Program

In this regular rulemaking, the Department of Justice is adopting, amending, and repealing regulations pertaining to the issuance and renewal of a per-

mit to conduct a check cashing business pursuant to Civil Code section 1789.37.

Title 11

Amend: 990, 990.1, 990.2, 991, 991.1, 991.2, 991.3, 991.4, 991.5, 992, 992.1, 992.2, 992.3, 992.4, 992.5, 992.6, 992.7, 992.8, 993, 993.1, 993.2, 993.3, 993.4

Repeal: 993.5, 993.6, 993.7

Filed 12/06/2023

Effective 01/01/2024

Agency Contact:

Marlon Martinez

(213) 269-6437

**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.