



California Regulatory Notice Register

REGISTER 2024, NUMBER 37-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

SEPTEMBER 13, 2024

PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict-of-Interest Code — Notice File Number Z2024-0903-02 1227

AMENDMENT

STATE AGENCY: Department of Rehabilitation
Department of State Hospitals

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Interest-Bearing Accounts — Notice File Number Z2024-0830-02 1228

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Apiary Fees — Notice File Number Z2024-0903-01 1229

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

Milestone Completion Credit Schedule (MCCS) — Notice File Number Z2024-0828-01 1232

TITLE 18. FRANCHISE TAX BOARD

Market-Based Rules — Notice File Number Z2024-0830-04 1235

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

*California State Safe Harbor Agreement Program Act Consistency Determination Number
2089-2024-002-05 Los Robles Ranch, Santa Barbara County* 1239

DEPARTMENT OF FISH AND WILDLIFE

*Habitat Restoration and Enhancement Act Consistency Determination Number
1653-2024-146-001-R2 Donner Creek Restoration Project, Nevada County* 1241

(Continued on next page)

*Time-
Dated
Material*

DEPARTMENT OF FISH AND WILDLIFE

Habitat Restoration and Enhancement Act Consistency Determination Number 1653–2024–145–001–R3

Willow Creek Stage 0 Low–Tech Habitat Enhancement Project, Sonoma County 1243

DEPARTMENT OF FISH AND WILDLIFE

Proposed Research on Fully Protected Species Concerning the Santa Cruz Long–Toed Salamander. 1246

SUMMARY OF REGULATORY ACTIONS

Regulations filed with Secretary of State 1246

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 \$338.00 (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

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

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT-OF-INTEREST CODES

AMENDMENT

STATE AGENCY: Department of Rehabilitation
Department of State Hospitals

A written comment period has been established commencing on September 13, 2024, and closing on October 28, 2024. Written comments should be directed to the Fair Political Practices Commission, Attention Belen Cisneros, 1102 Q Street, Suite 3050, 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 their review, unless any interested person or their 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 their 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 28, 2024, 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 Belen Cisneros, Fair Political Practices Commission, 1102 Q Street, Suite 3050, Sacramento, California 95811, or email bcisneros@fppc.ca.gov.

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 Belen Cisneros, Fair Political Practices Commission, 1102 Q Street,

Suite 3050, Sacramento, California 95811, or email bcisneros@fppc.ca.gov.

SCOPE

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the Act) by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **October 17, 2024**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3050, Sacramento, California, commencing at approximately **10:00 a.m.** Please submit written comments to the Commission offices by **5:00 p.m. on October 15, 2024**.

BACKGROUND/OVERVIEW

Section 85303 establishes contribution limits that apply to recipient committees active in state candidate elections. The statute establishes a cap on the amount such a committee may accept from a contributor for the purpose of making contributions to candidates for elective state office. The statute further provides that a person’s contributions to a committee cannot otherwise be limited, except regarding communications identifying state candidates. Therefore, under Section 85303, a situation may arise where a committee must track and limit contributions made for the purpose of contributing to candidates for elective office but may still accept contributions made for other purposes not subject to those limits.

In late 2006 (effective 2007), the Commission adopted Regulation 18534, which establishes a requirement that committees subject to Section 85303 set up two bank accounts to separate funds that may be used for the purpose of making contributions to candidates for elective state office (an “all purpose” account) from those that may not (“restricted use” account).

A separate statute requires candidate campaign committees to maintain a single bank account for each elective office the individual is campaigning for. Regulation 18524 clarifies that a candidate campaign committee does not violate this statute by temporarily transferring funds from that account to a higher interest-bearing account. Commission staff is now proposing making a similar clarification with respect to Section 85303 and Regulation 18534.

REGULATORY ACTION

Amend 2 Cal. Code Regs. Section 18534.

Commission staff is proposing amending Regulation 18534 to clarify that a committee subject to Section 85303 would not violate the statute or Regulation 18534 by temporarily transferring funds from their “all purpose” or “restricted use” standard bank account into a higher interest-bearing account, subject to requirements aimed at ensuring transparency and not interfering with an audit trail that contributes to the enforceability of the statute and regulation.

The Commission may consider amendments to all provisions of current Regulation 18534. The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues. At a minimum, Commission staff anticipates proposing the following:

Amend Regulation 18534

Commission staff proposes adding subdivision (g), which would expressly permit the temporary transfer of funds from an “all purpose” or “restricted use” account (defined earlier in the regulation) into higher interest-bearing accounts, such as certificates of deposit or money market accounts. The proposed subdivision would also establish requirements related to these temporary transfers, such as requiring the designation of accounts as “all purpose” or “restricted use,” prohibiting commingling of “all purpose” and “restricted use” funds, and requiring any funds be transferred back to the originating committee bank account before expenditure.

Non-substantive, “clean-up” amendments throughout the regulation are also proposed (e.g., replacing “Government Code section” with “Section” for consistency with other regulations).

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. None.

Fiscal Impact on State Government. None.

Fiscal Impact on Federal Funding of State Programs. None.

AUTHORITY

Section 83112, Government Code provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE

Government Code Section 85303.

CONTACT

Any inquiries should be made to Senior Counsel Kevin Cornwall, Legal Division, Fair Political Practices Commission, 1102 Q Street, Suite 3050, Sacramento, CA 95811; telephone (279) 237-5924. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

SECTIONS

- 2950 ASSESSMENT
- 2951 ASSESSMENT FEE
- 2952 PENALTIES
- 2953 FILING OF BUSINESS ADDRESS
- 2954 PAYMENT FORM

The Department of Food and Agriculture (Department) proposes to amend Title 3 of the California Code of Regulations (CCR) Sections 2950 Assessment, 2951 Assessment Fee, 2952 Penalties, 2953 Filing of Business Address, and 2954 Payment Form.

PUBLIC HEARING

A public hearing is not scheduled. However, a public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulations to the Department. Comments may be submitted by USPS, FAX or email. The written comment period closes on October 28, 2024. The Department will consider only comments received at the Department offices by that date or postmarked no later than October 28, 2024. Submit comments to:

Erin Lovig, Senior Environmental Scientist
 Supervisor
 California Department of Food and Agriculture
 Plant Health and Pest Prevention Services
 1220 N Street
 Sacramento, CA 95814
 (916) 403-6650
Permits@cdfa.ca.gov

Questions regarding the substance of the proposed regulation should be directed to Erin Lovig. In her absence, you may contact Rachel Avila at (916) 698-2947 or rachel.avila@cdfa.ca.gov.

AUTHORITY

The Department proposes to amend Sections 2950-2954 pursuant to the authority vested by Sections 407, 29040, 29042, 29043, 29044, 29045, and 29101 of the Food and Agricultural Code (FAC).

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 29044, 29301, and 29302 of the FAC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The current assessment fees for colonies in California, last amended in 1984, does not cover the costs associated with apiary registration, administration, and enforcement of the program. Due to this discrepancy, the industry supported the passage of Assembly Bill 719 (2023), which increased the amount allowed for the apiary registration fee from \$10 to a maximum \$250 annual fee. The Department, in consultation with the Department's Apiary Advisory Board, the California Association of Commissioners and Sealers Association, California State Beekeepers Association (industry) and the public, propose to change the existing fee from 0.15 cents per colony to the new fee structure shown below:

<i>Number of colonies</i>	<i>Fee</i>
1-9	\$10.00
10-24	\$100.00
25 + colonies	\$250.00
Broker	\$250.00

EXISTING LAWS AND REGULATIONS

Existing law, FAC Section 407 provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code that the Secretary is directed or authorized to administer or enforce.

Existing law, FAC Section 29040, provides that every person that is the owner, broker, or is in possession of an apiary that is located within the state, on the first day of January of each year, shall register the number of colonies in each apiary that is owned or possessed by the person and the location of each apiary. Every person required to register under this article, shall do

so on the first day of January of each year in which they maintain, possess, or are in possession of an apiary, or within 30 days thereafter, as prescribed in this article.

Existing law, FAC Section 29042, provides that every person who moves bees into the state or otherwise comes into possession of an apiary that is located within the state after the first day of January, shall register the name of the owner and the number and location of colonies moved into the state or so acquired within 30 days after coming into possession of the apiary.

Existing law, FAC Section 29043, provides that registration of an apiary shall be filed with the commissioner of the county in which the apiary is located, or with the director if there is no commissioner in the county. The director shall adopt a form of registration to be used statewide, which shall include a request for notification of use of pesticide in accordance with Section 29101. All commissioners shall use the same form.

Existing law, FAC Section 29044 provides that each beekeeper, apiary owner, apiary operator, broker, or person in possession of any apiary, shall pay, in addition to any other fees imposed under this chapter, an annual registration fee not to exceed two hundred fifty dollars (\$250) to the secretary on January 1 of each year, to cover the cost of apiary registration. The Secretary may adopt such regulations and update a schedule of registration fees.

Existing law, FAC Section 29045 provides that it is unlawful for a person to maintain any apiary that is not registered pursuant to this article. Each registration is valid until January 1 of the following year.

Existing law, FAC Section 29101 provides that each beekeeper shall report to the commissioner of the county in which the beekeeper's apiary is located, on a form approved by the secretary, each location of apiaries for which notification of pesticide usage is sought. This report for notification may be filed with and be part of the form used for registration pursuant to Article 4 (commencing with Section 29040), or shall be submitted in writing if notice of relocation is made as set forth in Section 29070 or 29070.5. Except for reports filed as part of an initial registration pursuant to Section 29040, each request shall be provided electronically or shall be mailed within 72 hours before locating an apiary, where feasible, but in no event later than 72 hours after locating an apiary.

Existing law, FAC Section 29301 provides that the director may make any regulations that are reasonable and necessary to carry out this chapter.

Existing law, FAC Section 29302 provides that unless otherwise stated, it shall be an infraction for any person to fail to comply with any requirement of this chapter, or regulations adopted pursuant to this chapter, after a warning notice of seven days is given.

ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT

The implementation of these amendments will allow for higher fees to be collected from some apiary owners. County agricultural commissioners will be able to enforce apiary registration. Registering apiaries allows the Department and county agricultural commissioners to know where these apiaries are and be in contact with apiary owners to notify them of pesticide releases that can affect the bees, leading to healthier apiaries overall.

There are no existing, comparable federal regulations or statute.

There will be benefits to worker safety or the health of California residents.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of Sections 2950 through 2954 and has determined that they are not inconsistent or incompatible with existing state regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Prior to conducting any action authorized by this regulation, the Department shall comply with the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 et seq. as amended) and the State CEQA Guidelines (Title 14 California Code of Regulations Section 15000 et seq.).

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district requiring reimbursement pursuant to Government Code section 17500 et seq. (Gov. Code sec. 11346.5(a)(6)): None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the State: None.

Cost impacts on a representative private person or business: The amendment will have an economic effect on business; however, there will be no increased costs to businesses with one to nine colonies as the historic rate remains the same for this group. The small fee charged to larger business will not be large enough

to affect business operations. The benefit of this fee to businesses will be notifications of pesticide applications and as well as theft prevention and recovery.

Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: The Department has determined that the proposed action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The Department’s determination there will be no increased costs to businesses with one to nine colonies as the historic rate remains the same for this group. The small fee charged to larger business will not be large enough to affect business operations.

Significant effect on housing costs: None.

Small business determination: The proposed action will not affect small business because the beginning tier of 1–9 represents the number designated in statute (Food and Agriculture Code 29044) as the number of hives that are designated as a hobbyist and qualify for a waiver. This amount remains at \$10 after consultation with hobbyists and other public members that were likely to be impacted by this fee.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Department has made an assessment that the amendment to these regulations would: (1) not create or eliminate jobs within California, (2) not create new business or eliminate existing businesses within California, (3) not affect the expansion of businesses currently doing business within California, (4) be expected to benefit the health and welfare of California residents, (5) be expected to benefit the state’s environment, and (6) be expected to benefit workers’ safety.

Health and welfare of California residents: The amendment of these regulations benefits the health and welfare of California residents. Pollinator health insures important pollination services to commercial agricultural crops as well as home gardens, providing a more secure food system, lower costs, less carbon emissions.

Environment: The amendment of these regulations benefits the state’s environment. Having more healthy pollinators will benefit all plants requiring pollination they interact with, both native and not.

Workers’ Safety: The amendment of these regulations benefits worker safety because the amendments assist with alerting workers to pesticide use in the surrounding area, which is a safely benefit.

CONSIDERATION OF ALTERNATIVES

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

The Department invites interested persons to present alternatives during the written comment period.

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

The Department has prepared an initial statement of reasons for the proposed action, and has made available all the information upon which its proposal is based and the express terms of the proposed action. The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdffa.ca.gov/plant/Regulations.html). A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the comment period and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which 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 the Department adopts the regulations as revised. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein. 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 agency officer named herein.

**TITLE 15. DEPARTMENT OF
CORRECTIONS AND
REHABILITATION**

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or department), proposes to amend Section 3043.3 in Title 15, Division 3, regarding the Milestone Completion Credit Schedule (MCCS).

PUBLIC COMMENT PERIOD

The public comment period begins on **September 13, 2024**, and closes on **October 30, 2024**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpbm@cdr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

CONTACT PERSONS

Primary Contact

S. Pollock
Telephone: (279) 223-2308
Regulation and Policy Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Back-Up

Y. Sun
Telephone: (279) 223-2316
Regulation and Policy Management Branch
P.O. Box 942883
Sacramento, CA 94283-0001

Program Contact

Niki Dhillon
Telephone: (279) 300-5873
Division of Rehabilitative Programs
P.O. Box 942883
Sacramento, CA 94283-0001

PUBLIC HEARING

Date and Time:

October 30, 2024 — 10:00 a.m. to 11:00 a.m.

Place:

Department of Corrections and Rehabilitation
Building G-1, Room 113
9272 Laguna Springs Dr.
Elk Grove, CA 95758

AUTHORITY AND REFERENCE

Government Code Section 12838.5 provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as Department of Corrections, Department of the Youth Authority, and Board of Corrections.

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations. **PC Section 5050** provides that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR. **PC Section 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR. **PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons. **PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the department require adoption, amendment, or repeal of regulation on an emergency basis.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

The proposed regulations expand program offerings to provide incarcerated individuals with work and skill development opportunities, aligning with the department's goal of facilitating the successful reintegration of these individuals into society. New Milestone Completion Credit (MCC) courses are added, and

some courses are removed due to the closure of the Division of Juvenile Justice, or due to their components being integrated into other courses. Some MCC courses are adjusted to achieve balance among programs with consideration to the academic rigor necessary for successful course completion. Career and Technical Education (CTE) courses are added, and align with Penal Code 2053.5, which provides that programs meet specific criteria to ensure the successful employment of incarcerated persons upon their release back into society. Additionally, the proposed regulations rectify problems with the Cognitive Behavioral Interventions (CBI) program, which did not allow hours to be transferred from different CBI programs to receive credit toward the 80-hour requirement for the MCC. CBI participants may now receive credit in any of the CBI programs towards the 80-hour requirement. The CBI program also now includes a CBI Aftercare program to help mitigate the potential relapse of CBI participants and provide continued support for CBI participants in active recovery.

This action will:

- Expand program offerings, adding new MCC courses to the MCCS to provide additional work and skill development opportunities for incarcerated individuals.
- Add Career Technical Education (CTE) courses, which align with Penal Code 2053.5.
- Adjust some MCC course values to achieve balance among programs with consideration to the academic rigor necessary for successful course completion.
- Provide for Cognitive Behavioral Interventions (CBI) program hours to be transferred between different CBI programs to allow for participants to receive credit in any CBI program and receive credit toward the 80-hour requirement.
- Remove some MCC courses due to their components being integrated into other courses; and with the closure of the Division of Juvenile Justice (DJJ), remove those DJJ related milestone descriptions and codes.
- Provide for a new CBI Aftercare Program, to help mitigate the potential relapse of CBI participants and provide continued support for CBI participants.
- Align MCC course titles with industry partners, including the United States Department of Labor, Workforce Innovation and Opportunity Act.
- Add two new courses to MCC Schedule 3, California Prison Industry Authority.
- Incorporate by reference, into Title 15, Division 3, the Milestone Completion Credit Schedule (MCCS) (REV. 05/24).

**DOCUMENTS INCORPORATED
BY REFERENCE**

Milestone Completion Credit Schedule (MCCS) (REV. 05/24).

**SPECIFIC BENEFITS ANTICIPATED BY
THE PROPOSED REGULATIONS**

These regulations will provide eligible incarcerated individuals greater opportunity to participate in programs and to earn MCC. In addition, newly added and enhanced rehabilitative programs will provide incarcerated individuals with productive and relevant work and skill development opportunities to better prepare them to find employment upon release, and thereby reduce recidivism. The changes to MCC courses align with industry standards and promote CDCR’s mission to facilitate the successful reintegration of individuals back to their communities equipped with the tools to be drug-free, healthy, and employable members of society by providing education, treatment, rehabilitative, and restorative justice programs. Additionally, the CBI Aftercare program will help to mitigate the potential relapse of CBI participants and provide continued support for CBI participants in active recovery.

**EVALUATION OF INCONSISTENCY/
INCOMPATIBILITY WITH EXISTING
LAWS AND REGULATIONS**

Pursuant to Government Code 11346.5(a)(3)(D), the department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the department has concluded that these are the only regulations that concern Milestone Completion Credits.

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500–17630.

FISCAL IMPACT STATEMENT

- Cost to any local agency or school district that is required to be reimbursed: *None*.
- Cost or savings to any state agency: *savings to state government (CDCR), related to Early Release, as follows:*
\$29,000 in Fiscal Year (FY) 2025–26, \$86,000 in FY 2026–27, \$191,000 in FY 2027–28, and \$279,000 in FY 2028–29.

Costs to local government for County Probation related to Post Release County Supervision, as follows: \$14,000 in FY 2025–26, \$27,000 in FY 2026–27, \$27,000 in FY 2027–28, and \$55,000 in FY 2028–29.

- Cost or savings in federal funding to the state: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*

EFFECT ON HOUSING COSTS

The department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The department 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 ON BUSINESS

The department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations place no obligations or requirements on any business.

EFFECT ON SMALL BUSINESSES

The department has determined that the proposed regulations will not affect small businesses. This action has no significant adverse economic impact on small business because they place no obligations or requirements on any business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The department has determined that the proposed regulation will have no effect on the state's environment or worker safety. The proposed regulations will benefit the health and welfare of California residents by increasing public safety due to better reintegration and reduced recid-

ivism of incarcerated persons upon their release into their communities.

CONSIDERATION OF ALTERNATIVES

The department must determine that no reasonable alternative considered by the department 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, would be as effective and less burdensome to affected private persons than the proposed regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the department's contact person. The proposed text, ISOR, and Notice of Proposed Regulations will also be made available on the department's website: www.cdcr.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the department may adopt the proposed regulations substantially as described in this Notice. If the department makes modifications which 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 the department adopts, amends, or repeals the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The department will accept written comments on the modified regulations for at

least 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

TITLE 18. FRANCHISE TAX BOARD

The Franchise Tax Board (“FTB” or “the Board”) proposes to adopt the regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period indicated below. The request should be submitted to the FTB officer named below. In addition, Government Code section 15702, subdivision (b) provides for consideration by the Board, itself, of any proposed regulatory action if any person makes such request in writing.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on October 31, 2024**. The Board will consider only comments received at the Board offices by that time. The Board encourages submission of comments in electronic form, rather than in paper form. Comments may be submitted by email to hanna.cho@ftb.ca.gov.

Comments in paper form may be submitted to:

Hanna Cho, Attorney
Legal Division MS A260
Franchise Tax Board
P.O. Box 1720
Rancho Cordova, CA 95741–1720
Fax: (916) 855–5786

AUTHORITY& REFERENCE

California Revenue and Taxation Code section (“RTC”) 19503 authorizes the Board to amend the proposed regulation. The proposed regulation implements and interprets, the provisions in RTC 25136 which the Board has specific statutory authority to prescribe regulations for carrying out the purposes of under RTC 25136(b).

This rulemaking action amends existing regulations for the assignment of sales under RTC 25136 which assigns sales, other than sales of tangible personal property, for purposes of apportioning business income.

Summary of Existing Laws and Effect of the Proposed Action:

RTC 25136, and California Code of Regulations, title 18, section (Regulation) 25136–2 apply to taxpayers that conduct business within and without California and sell something other than tangible personal property. The statute and regulation refer to such sales as: “sales, other than sales of tangible personal property.” The net income of such taxpayers includes both business income and non–business income. The amount of business income treated as California source income is determined by apportionment formula. For most taxpayers, the apportionment formula is based entirely on sales. Regulation 25136–2 provides rules for determining the correct amount of sales to be included in the sales factor numerator for sales, other than sales of tangible personal property, which includes: sales from services; sales from intangible property; sales from the sale, lease, rental, or license of real property; and sales from the rental, lease, or license of tangible personal property.

In the course of administering Regulation 25136–2 and since its initial promulgation in 2012 and subsequent amendment in 2016, FTB staff has learned that simplifying the rules, and creating specific rules for certain industries, is in the interests of both taxpayers and the department as it increases both compliance and administrability.

The regulatory amendment project seeks to improve compliance and administrability both through simplification of rules for assignment of sales and through creating specific rules for certain industries.

The proposed amendments to Regulation 25163–2, subsection (b) provide definitions to key terms used throughout the regulation. Subsection (c) clarifies existing rules of assignment for sales of services and adds new provisions for specific service industries. Subsection (d) provides clarifying amendments and examples for sales of intangible property. Subsection (e) provides new rules for sales that are a blend of services and intangible property. Subsection (f) provides, as amended, rules for the sales of marketable securities that have been clarified from the current rules. Subsections (g) and (h) as amended are existing provisions that have been re–lettered. Subsection (i) as amended provides clarification on existing key terms. Subsection (j) provides an applicability date for the proposed amendments.

Broad Objectives and Specific Benefits of the Proposed Action:

The broad objective of the proposed rulemaking action is to ensure that taxpayers, their representatives, and the state of California have more clarity in determining the correct amount of tax. The clarity from the proposed regulatory action will reduce uncertainty for taxpayers and tax practitioners, and will facilitate tax administration for the State of California.

The proposed action will benefit taxpayers, tax practitioners, and the state of California by providing clarity that does not currently exist for determining the correct amount of sales to be included in the sales factor numerator for sales, other than sales of tangible personal property. These benefits are the result of goals developed by the Board with input from interested parties and based on broad authority provided to the Board by RTC 25136(b).

Consistency and Compatibility with Existing State Regulations:

During the process of developing this regulation, the FTB, pursuant to Government Code Section 11346.5, subdivision (a)(3)(D), conducted a search of any similar state regulations and has concluded that this regulation is neither inconsistent nor incompatible with any existing state regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: Because this is a clarification for Regulation 25136-2, the FTB believes that proposed changes would have a nominal impact on state operations and could result in an insignificant cost savings.

Cost to any local agency or school district which must be reimbursed under Part 7, commencing with Government Code section 17500, of Division 4: None.

Other non-discretionary cost or savings imposed upon local agencies: None.

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

Effect on Housing Costs: None.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States: Based on the FTB's economic analysis of the proposed regulations, the FTB concludes that the impact on business, including the ability to compete, will not be significant or adverse.

The proposed amendments to Regulation 25136-2 are not expected to have any noteworthy adverse economic impact on California businesses. The proposed

changes are expected to provide clarity to businesses with sales, other than sales of tangible personal property. Since this regulation is currently in place, the amendments to this regulation may cause some initial short-term administrative adjustments for some taxpayers. However, in the long-term the proposed amendments would have the benefit of reducing confusion for taxpayers and tax practitioners currently applying this regulation to assign sales, other than sales of tangible personal property, that cross state lines. It is possible that for some taxpayers the improved clarity from the amendments for this regulation may result in changes in the amount of tax liability reported. These changes may be increases or decreases but are expected to be within the boundaries provided in the Standardized Regulatory Impact Assessment ("SRIA") for this proposed rulemaking.

SUMMARY OF DEPARTMENT OF FINANCE COMMENTS AND FTB RESPONSES TO DOF COMMENTS ON RESULTS OF THE STANDARDIZED REGULATORY IMPACT ASSESSMENT

As required by California Government Code section 11346.5(a)(10), the following contains a summary of Department of Finance ("DOF") comments on the SRIA for this proposed rulemaking concerning two areas where possible modifications to the SRIA were identified, and the FTB's response to same.

DOF Comment 1. "First, the SRIA must include two regulatory alternatives to the proposed regulation, not including the status quo in the absence of the regulation. While the public discussions did not yield any proposed alternatives, the SRIA must nonetheless provide a second alternative (along with the listed alternative that would nest the additional professional services rules within the existing regulation), such as implementing the proposed rules for professional services but not for financial services."

FTB's Response to DOF Comment 1. The SRIA has been revised to include an alternative to the proposed regulation considered other than the status quo.

DOF Comment 2. "Second, the SRIA must explain if and why this proposed regulation is not expected to have disparate impacts on different socioeconomic, geographic, age-specific, or ethnic populations."

FTB's Response to DOF Comment 2. The SRIA has been revised to include a new section titled "*Benefits to the Health, Safety, and Welfare of California Residents, Worker Safety, and the State's Environment and Quality of Life*" explaining why the regulation is not expected to have disparate impacts on different socioeconomic, geographic, age-specific, or ethnic populations.

RESULTS OF THE STANDARDIZED
REGULATORY IMPACT ASSESSMENT

Creation or Elimination of Jobs within the State

The proposed amendments may lead to the creation or elimination of a few hundred jobs within the State. The proposed amendments to this regulation are intended to provide clarity on how to assign sales, other than sales of tangible personal property. These clarifications could result in some taxpayers changing their method for assigning these sales which could, in turn, change the amount of taxes paid by some taxpayers. Because taxpayers do not currently report the method used to source sales, other than sales of tangible personal property, for the proposed changes to Regulation 25136–2, the FTB cannot determine whether the net impact of these changes will be an increase, decrease, or no change in state tax revenue. Any increase in taxes paid to California by affected taxpayers could result in the creation of new state government jobs or in private sector jobs funded through state programs. Any decrease in taxes paid to California could result in the elimination of existing government jobs or private sector jobs funded through state programs. It is also possible that there could be no net change in state revenue and thus no change in jobs. Any increase or decrease in state spending from the proposed amendments would also produce a corresponding increase or decrease in general economic activity that would increase or decrease the number of jobs in the state. The FTB estimates the impact of changes in economic activity resulting from changes in tax payments could range from the creation of up to 462 jobs to an elimination of up to 469 part–time and full–time jobs. The actual change in the number of jobs would likely be within the boundaries provided in the SRIA.

Creation of New Businesses or Elimination of Existing Businesses within the State

The proposed amendments to this regulation are intended to provide clarity on how to assign sales, other than sales of tangible personal property. The proposed changes may result in the creation or elimination of businesses within the state in the first year of implementation. Because taxpayers do not currently report the method used to source sales other than sales tangible personal property, the FTB cannot determine whether the proposed changes to the regulation will result in an increase, decrease, or no change in tax liability for affected taxpayers. To the extent that there is an increase, decrease, or no change in state tax revenues it is possible that the resulting changes in state spending could change the overall level of economic activity in the state, which could impact a small number of businesses doing business in this state but would likely be within the boundaries provided in the SRIA.

Competitive Advantages or Disadvantages for Businesses Currently Doing Business with the State:

The proposed amendments to Regulation 25136–2 could result in changes to the income tax liability of some businesses currently doing business within this State. An increase (decrease) in tax liability for any one business could create a disadvantage (advantage) for that business and a corresponding advantage (disadvantage) for its competitors currently doing business in the state. While there could be some shifting of business between firms, there should, in aggregate, be little to no impact on the competitiveness of this industry in the state.

Increase or Decrease of Investment in the State

This regulation does not mandate, require, or provide incentives for additional business investment in the state. The proposed regulation is intended to provide clarity on how to assign sales, other than sales of tangible personal property. Any resulting increase (decrease) in state revenue could result in an expansion (contraction) in state spending and an increase (decrease) in the overall size of the state economy, some of which would be in the form of increased (decreased) investment.

Incentives for Innovation in Products, Materials, or Processes

This regulation does not mandate, require, or provide incentives for additional innovation in products, materials, or processes. The proposed regulation is intended to provide clarity on how to assign sales, other than sales of tangible personal property. Any resulting increase (decrease) in state revenue could result in an expansion (contraction) in state spending on innovations. Any changes in spending for innovation would made would be consistent with the Governor’s budgetary priorities.

Benefits to the Health, Safety, and Welfare of California Residents, Worker Safety, and the State’s Environment and Quality of Life

The proposed amendments to this regulation are not expected to have an impact on the health, safety and welfare of California residents, worker safety, and the state’s environment and quality of life. The proposed amendments to this regulation seek to clarify the sourcing rules for sales, other than sales of tangible personal property and could result in an increase, a decrease, or no change in state revenues. However, due to the limited nature of the proposed amendments, they are not expected to have any disparate impacts on different socioeconomic, geographic, age–specific, or ethnic populations nor are they expected to impact any other populations.

Benefits

Adoption of the proposed amendments to Regulation 25136–2 for the sourcing of sales, other than sales of

tangible personal property, would provide clarity to taxpayers and tax practitioners on how to assign sales, other than sales of tangible personal property. This is expected to resolve any confusion taxpayers and tax practitioners have with the current regulation. However, these effects cannot be quantified.

Cost Impacts on a Representative Private Person or Business:

Regulation 25136-2 is the default rule for apportionment of sales and any taxpayer who does business both within and without California would be an apportioning corporation, pass-through entity, or sole proprietorship. The proposed amendments to this regulation are intended to provide clarity on how to assign sales, other than sales of tangible personal property. As such, the FTB believes that any additional cost impacts on a representative private person or business from the clarifications in this regulation would be de minimis.

Effect on Small Business:

The FTB has determined that the proposed regulation would primarily affect large corporations, but some small businesses with services sourced both within and without California could be affected by the regulation. Because sourcing methodology currently used by the taxpayer is not reported on their tax return, the amount of tax change from the proposed regulation is unknown, however the FTB expects any change in the tax liability of a small business to be minor.

CONSIDERATION OF ALTERNATIVES

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

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period or if a hearing is requested at the scheduled hearing.

CONTACT PERSONS

Inquiries concerning the proposed regulatory action may be directed to:

Hanna Cho — Attorney
Legal Division MS A260
Franchise Tax Board
P.O. Box 1720
Rancho Cordova, CA 95741-1720
Telephone: (916) 845-7298
Email: Hanna.Cho@ftb.ca.gov

The backup contact person for these inquiries is:

Jayson Gottman
Legal Division MS A260
Franchise Tax Board
P.O. Box 1720
Rancho Cordova, CA 95741-1720
Telephone: (916) 845-4576
Email: Jay.Gottman@ftb.ca.gov

Please direct requests for 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 Mr. Gottman at the above address or send the request by email to Jay.Gottman@ftb.ca.gov.

AVAILABILITY OF DOCUMENTS

Availability of Statement of Reasons, Text of Proposed Regulation, and Rulemaking File

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. 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. Copies can be obtained on the Board’s *website* at www.ftb.ca.gov or by contacting Mr. Gottman at the address, phone number or email address listed above.

Availability of Changed or Modified Text

After considering all timely and relevant comments received, after the close of the comment period, the Board may adopt the proposed regulations substantially as described in this Notice. If the Board makes substantive modifications sufficiently related to the proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Copies of the modifications will be published on the Board’s *website* at www.ftb.ca.gov and mailed to anyone who submitted written comments to the Board, and to anyone who has expressed an interest in receiving the modification information. Please send requests for copies of any modified regulations to the attention of Mr. Gottman at the address, phone number or email address indicated above. The Board

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 will be published on the Board’s *website* at www.ftb.ca.gov and may also be obtained by contacting Mr. Gottman using the contact information provided above.

Availability of Documents on the Internet

Copies of this Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulations can be accessed through the Board’s *website* at www.ftb.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

CALIFORNIA STATE SAFE HARBOR AGREEMENT PROGRAM ACT
CONSISTENCY DETERMINATION
NUMBER 2089–2024–002–05

Project: Los Robles Ranch
Permittee: Peter Nolan
Location: Santa Barbara County

Background

On July 15, 2024, the U.S. Fish and Wildlife Service (USFWS) and Peter Nolan (Permittee), owner of Los Robles Ranch (Enrolled Property), entered into a federal Safe Harbor Agreement (federal SHA) for a 30–year period for California tiger salamander (*Ambystoma californiense*) and western spadefoot (*Spea hammondi*). On July 17, 2024, USFWS issued a federal enhancement of survival permit (federal ESP) under section 10(a)(1)(A) of the federal Endangered Species Act (federal ESA) authorizing incidental take of California tiger salamander, and authorizing incidental take of western spadefoot contingent on future federal listing of this species, as described in and in accordance with the federal SHA. The purpose of the federal SHA is to maintain, and potentially increase, population numbers of the Santa Barbara County Distinct Population Segment (DPS) of California tiger salamander and western spadefoot, and to maintain, enhance, and restore habitat for the Santa Barbara County DPS of California tiger salamander and western spadefoot. California tiger salamander is designated as an endangered species pursuant to the federal ESA (16 U.S.C. § 1531 et seq.) and a threatened species pursuant to the

California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(3)(G).)

Enrolled Property

The Los Robles Ranch is a 5,334–acre working cattle ranch immediately adjacent to and south of the town of Los Alamos along Highway 101 (Enrolled Property, federal SHA Figure 1). The Enrolled Property occurs within the East Los Alamos Metapopulation area for the Santa Barbara County DPS of the California tiger salamander. Within the Enrolled Property, there are six pond features that are fed by rainfall and provide potential aquatic breeding habitat for the California tiger salamander. Four of the six pond features are historically known aquatic breeding habitat for the California tiger salamander. The remaining two pond features have the potential to support California tiger salamander breeding. The Enrolled Property also includes approximately 3,043–acres of upland habitat for the California tiger salamander.

Beneficial Management Activities

The federal SHA describes Beneficial Management Activities that will take place during the term of the federal SHA that would benefit California tiger salamanders because they would create, maintain, enhance, and/or restore habitat for this species. These include, but are not limited to:

- The Permittee will allow for the creation of two to six additional breeding ponds at the Enrolled Property. Newly created ponds are intended to serve as aquatic breeding habitat for California tiger salamanders to encourage an increase in the number and distribution of individuals at the Enrolled Property;
- The USFWS and/or the California Department of Fish and Wildlife (CDFW), and those assisting under their authorization, may manage existing ponds and new ponds within the Enrolled Property to benefit California tiger salamanders for the 30–year period of the federal SHA;
- The Permittee will allow USFWS or another agreed upon entity to maintain the identified California tiger salamander upland habitat on the Enrolled Property (excluding building envelopes identified for potential future development) for the 30–year period of the federal SHA;
- The Permittee will not intentionally disturb, alter, or destroy the existing known ponds and expected new ponds with California tiger salamander aquatic breeding habitat for the duration of the 30–year period of the federal SHA; and
- The Permittee will manage grazing in consideration of providing habitat for the California tiger salamander for the 30–year period of the federal SHA.

Net Conservation Benefit

California tiger salamanders have been observed and well documented on the Enrolled Property. The Enrolled Property supports four known California tiger salamander breeding ponds as well as two ponds with the potential to support California tiger salamander breeding. Much of the terrestrial upland habitat on the Enrolled Property is assumed to be occupied by the species. Under the federal SHA, incidental take¹ of California tiger salamander could occur as a result of the Beneficial Management Activities and the Other Management Activities described in Section 8 of the federal SHA. However, the federal SHA requires implementation of avoidance and minimization measures (described in more detail below) that are anticipated to reduce the likelihood that take will occur, and any take that occurs as a result of intentional reduction in the quality and/or quantity of the habitat below the established baseline on the Enrolled Property is not authorized. In addition, Beneficial Management Activities described in the federal SHA are expected to provide a net conservation benefit for California tiger salamander by:

- Creating additional aquatic breeding habitats for California tiger salamander in suitable habitats with sufficient upland habitat to support a minimum viable population of the species at the Enrolled Property, which is within the East Los Alamos metapopulation area for the Santa Barbara County DPS of California tiger salamander;
- Maintaining and supporting existing and additional habitats for California tiger salamander; and
- Allowing for opportunities for California tiger salamander to increase in population numbers or distribution, including by prohibiting the Permittee from intentionally disturbing, altering, or destroying the existing known ponds and the expected new ponds with California tiger salamander aquatic breeding habitat for the duration of the federal SHA.

Consistency Determination Request

On August 2, 2024, the Director of CDFW received a notice from the Permittee, requesting a determination pursuant to Fish and Game Code section 2089.22(a) that the federal SHA is consistent with California State Safe Harbor Agreement Program Act (CSSHAPA) for purposes of the Project and California

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”).

tiger salamander.² (Cal. Reg. Notice Register 2024, Number 33–Z, pp. 1068–1069.)

Determination

Pursuant to Fish and Game Code section 2089.22(a), CDFW has determined that the federal SHA with proposed incidental take of California tiger salamander is consistent with the CSSHAPA as to the activities described in the federal SHA at the Enrolled Property for California tiger salamander because the federal SHA is consistent with CSSHAPA issuance criteria, including conditions set forth in California Fish and Game Code section 2089.6 for authorizing incidental take of California tiger salamander. Specifically, CDFW finds that: (1) take of California tiger salamander will be incidental to an otherwise lawful activity; (2) implementation of the federal SHA is reasonably expected to provide a net conservation benefit to the California tiger salamander, and the federal SHA is of sufficient duration and has appropriate assurances to realize these benefits, including Beneficial Management Activities and avoidance and minimization measures; (3) the Project will not jeopardize the continued existence of California tiger salamander; (4) the Permittee has agreed, to the maximum extent practicable, to avoid or minimize any incidental take authorized by the federal SHA, including returning to baseline conditions; (5) the federal SHA includes a monitoring program approved by USFWS and CDFW that provides information for USFWS and CDFW to evaluate the effectiveness and efficiency of the agreement program, including whether net conservation benefits are being achieved and whether the Permittee is implementing the provisions of the federal SHA; (6) CDFW has determined that the federal SHA ensures sufficient funding to complete surveys on the property³ and there is sufficient funding to carry out management actions and monitoring for the duration of the federal SHA; and (7) implementation of the federal SHA is not in conflict with any CDFW–approved conservation or recovery programs for California tiger salamander.

² Although the federal SHA and federal ESP address western spadefoot, and the Permittee requested a consistency determination as to this species, CDFW cannot issue a consistency determination for this species with respect to this Project because the federal SHA and federal ESP only provide contingent take coverage that becomes effective if this species is federally listed in the future. If CDFW similarly grants contingent take coverage, that would constitute an unlawful regulatory assurance in violation of the California Supreme Court’s ruling in *Environmental Protection Information Center v. California Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459. For this reason, this consistency determination does not address western spadefoot, and the Permittee does not have state take coverage for this species.

³ USFWS has determined baseline conditions on the Enrolled Property as described in Section 5.0 of the federal SHA.

Avoidance and Minimization Measures

The avoidance and minimization measures in the federal SHA include, but are not limited to, the following:

- 1) The Permittee will follow grazing best management practices to prevent degradation of California tiger salamander habitats by limiting grazing activity to appropriate and sustainable levels.
- 2) The Permittee will avoid burrows larger than three inches in diameter during ground disturbance activities, as feasible.
- 3) The Permittee will not intentionally introduce fish species that could prey upon California tiger salamanders into any ponds.
- 4) To ensure that amphibian diseases are not conveyed between the Enrolled Property and other sites, any person conducting surveys within suitable aquatic habitat for California tiger salamander, and using equipment, clothing, and footwear that are not solely dedicated to use at the Enrolled Property, will at all times follow the fieldwork code of practice developed by the Declining Amphibian Populations Task Force (available at <https://www.fws.gov/media/declining-amphibian-task-force-fieldwork-code-practice>).

Monitoring and Reporting Measures

Monitoring and reporting measures included in the federal SHA include, but are not limited to, the following:

- 1) The USFWS will conduct surveys in the year following the signing of the federal SHA and then annually for the remainder of the Agreement, in consultation with the Permittee. The surveys will include aquatic larval sapling, visual observations, tissue collection, and habitat assessment monitoring of the baseline conditions for California tiger salamander, as well as photo stations of California tiger salamander habitat within the Enrolled Property.
- 2) If additional suitable habitat for California tiger salamander is established, surveys will be conducted in any such area, as described above.
- 3) The results of these surveys, including whether any California tiger salamanders were observed, will be reported by the USFWS, or other biologist authorized by the USFWS and CDFW, to the Permittee and CDFW.
- 4) The Permittee will report to the USFWS and CDFW any dead, injured, or ill specimens of California tiger salamander observed on the Enrolled Property within three working days of its finding.

Funding

The Permittee is committed to implementing the provisions of the federal SHA at the Enrolled Property, in-

cluding implementing several management activities, avoidance and minimization measures, and surveying and monitoring as described in the federal SHA. However, pond creation, maintenance, or other associated activities would not be funded by the Permittee, but rather would be funded by another outside source. Funding from CDFW Drought Resiliency funds was awarded to Dr. Brad Shaffer at the University of California, Los Angeles for the purposes of pond creation at Los Robles Ranch; therefore, the University of California, Los Angeles will provide funding to cover the design and implementation of any new pond creation and any costs associated with implementing pond maintenance at the Enrolled Property.

Incidental Take Authorization

Pursuant to Fish and Game Code section 2089.22(a), if a federal SHA has been approved pursuant to applicable provisions of federal law and the federal SHA includes species that are endangered, threatened, candidate, or declining or vulnerable species pursuant to CESA, no further authorization or approval under the CSSHAPA (Fish & Game Code, § 2089.2 et seq.) is required for any person authorized by that federal SHA to take the species identified in and in accordance with the federal SHA, provided that applicable procedural requirements in Fish and Game Code section 2080.1 are met and CDFW determines the federal SHA is consistent with CSSHAPA issuance criteria. Additionally, the Permittee must adhere to all measures contained in the approved federal SHA.

If there are any substantive changes or amendments to the federal SHA, the permittee shall be required to obtain a new consistency determination from CDFW (see generally Fish & Game Code, §§ 2089.22 and 2080.1). Any CDFW authorization pursuant to Fish and Game Code section 2089.22(a) to take species identified in the federal SHA shall terminate immediately upon the expiration or termination of the federal SHA.

DEPARTMENT OF FISH AND WILDLIFE

HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NUMBER
1653-2024-146-001-R2

Project: Donner Creek Restoration Project

Location: Nevada County

Applicant: Truckee River Watershed Council

Background

Project Location: The Donner Creek Restoration Project (Project) is located at four sites along Donner

Creek within one mile upstream of the confluence with the Middle Truckee River along Interstate 80 and State Route 89 in Truckee, Nevada County, at Assessor Parcel Numbers (APN) 018–660–040, 018–660–038, 018–660–58–000, and 018–560–020, centering on latitude 39.322788, longitude –120.210145, and affecting Donner Creek.

Project Description: Truckee River Watershed Council (Applicant) proposes to enhance or restore habitat within Donner Creek to provide a net conservation benefit for aquatic species such as Lahontan cutthroat trout (*Oncorhynchus clarkii henshawi*). The Project includes streambank stabilization, sediment control, and aquatic and wetland habitat enhancement.

The purpose of the Project is to improve in-stream and riparian habitat at four degraded sites along Donner Creek. Donner Creek was historically modified for urban development and construction of Interstate 80 within the Project area, resulting in a series of straightened reaches and 90-degree bends. This stretch of Donner Creek is currently a major sediment contributor to the Truckee River. The project will improve conditions by increasing habitat structural diversity, improving spawning conditions for fish, and improving water quality.

Work at Site 1 will focus on stabilizing a section of streambank to reduce erosion associated with an undersized railroad culvert crossing. Banks will be armored with rock, rootwads, vegetation, and erosion control blankets.

Work at Site 2 will also focus on reducing streambank erosion. Banks will be laid back and stabilized with rock and vegetation, and a side channel will be reactivated by removing accumulated gravel and installing rock bendway weirs in the main channel to redirect flows.

Work at Site 3 will address sedimentation from Interstate 80 and expand the existing wetland area by excavating historical fill in upland areas down to the level of groundwater. Additionally, a vegetated swale with rock check dams will be constructed to treat stormwater coming from Interstate 80 prior to discharge into wetlands.

Work at Site 4 will induce meanders into Donner Creek and improve stormwater treatment from Interstate 80. A series of alternating log bendway weirs on opposite sides of Donner Creek will encourage development of meanders in this straightened reach. Similar to Site 3, a vegetated swale with rock check dams will be constructed to treat runoff from Interstate 80 prior to discharging into Donner Creek.

Project Size: The total area of ground disturbance associated with the Project is approximately 4.6 acres and 425 linear feet. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical ex-

emption 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) soil, (2) rock rip-rap, (3) native vegetation, (4) rootwads, (5) erosion control materials, and (6) boulder bendway weirs.

Project Timeframes: Start date: September 2024.

Completion date: October 2024.

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and improve aquatic and wetland habitat, the Lahontan 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 6A292404006. 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 aquatic species.

Receiving Water: Donner Creek, tributary to the Truckee River.

Filled or Excavated Area: Permanent area impacted: none.

Temporary area impacted: 4.55 acres.

Length permanently impacted: none.

Length temporarily impacted: 425 linear feet.

Dredge Volume: None.

Discharge Volume: 544 cubic yards of rock rip-rap, 13,342 square feet of native vegetation, 43 rootwads, 447 square yards of erosion control materials, 57 cubic yards of boulder bendway weirs, and 20 cubic yards of soil.

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.).

On August 9, 2024, 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 August 14, 2024, for publishing in the General Public Interest section of

the California Regulatory Notice Register (Cal. Reg. Notice File Number Z2024–0814–02) on August 30, 2024. 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 meet 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, which contains measures in the following categories: (1) administrative, (2) avoidance and minimization, (3) biological resources, (4) revegetation and restoration, (5) erosion control, stabilization, and excavation, (6) avoid/minimize effects of equipment, (7) debris material and waste, and (8) reporting. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Measures to Protect Fish and Wildlife Resources*, prepared by the Truckee River Watershed Council.

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, *Monitoring Plan*, prepared by the Truckee River Watershed Council.

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 photographs were taken;

- name of the photographic site;
- WDID number indicated above; and
- 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. Applicant shall include the Project name and WDID 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: kaylee.griffith@wildlife.ca.gov, copy: R2LSA@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

HABITAT RESTORATION AND
ENHANCEMENT ACT CONSISTENCY
DETERMINATION NUMBER
1653–2024–145–001–R3

Project: Willow Creek Stage 0 Low–Tech Habitat Enhancement Project

Location: Sonoma County

Applicant: John Green, Gold Ridge Resource Conservation District

Background

Project Location: The Willow Creek Stage 0 Low–Tech Habitat Enhancement Project (Project) is located along Willow Creek, tributary to the Russian River within the RR Hydrologic Unit 114.11. The Project reach is located on property owned and operated by the

California Department of Parks and Recreation (State Parks). Willow Creek supports populations of Central California Coast (CCC) coho salmon (*Oncorhynchus kisutch*), and CCC steelhead (*Oncorhynchus mykiss*).

Project Description: Rapid sedimentation of the stream channel of lower Willow Creek and the evolution of the valley into a wetland complex has created an ecologically diverse environment that provides abundant foraging and refugia habitats for juvenile salmonids. However, the complex network of shallow channels in this young wetland is evolving annually, and numerous discontinuities paired with diminished surface flows in successive drought years, have hindered out-migration of juvenile salmonids.

John Green, representing the Gold Ridge Resource Conservation District (GRRCD, Applicant), proposes to enhance or restore habitat within lower Willow Creek to provide a net conservation benefit for CCC coho salmon (*Oncorhynchus kisutch*). Conservation benefits are proposed by improving continuity and duration of stream flow in this reach during the late winter and spring, particularly in dry years, thereby enhancing habitat for outmigration of coho salmon smolts. To address the lack of continuous channels through the treatment reach, the Project will employ low-tech approaches aimed at using fluvial geomorphic processes to create more defined, continuous, stable channels. Low-tech approaches include felling or tipping trees to create Temporary Wood Structures (TWS) that mimic debris jams to focus flow paths and scour channels, facilitating the evolution of the channel network to support juvenile outmigration. Ongoing monitoring will assess the effectiveness of the low-tech approach and inform adaptive management needs.

Four sites have been identified for treatment in 2024. Approximately 52 on-site alder trees will be cut with chain saws to provide logs needed for the TWS. Alder logs of various lengths and diameters will be used to construct approximately two-foot-tall structures comprised of about 7 logs averaging 25 feet in length and 9 inches in diameter. In addition, approximately 52 locally sourced live willow posts, averaging 5 feet in length and 4 to 6 inches in diameter will be driven into floodplain sediments with the use of hand auger or post pounder, or hydraulic post pounder. Each structure will be stabilized by 7 live willow posts, and alder logs will be locked in place using a combination of wedging logs against live tree trunks, as well as weaving and piling alder logs into complex interlocking TWS.

TWS are intended to be temporary and are expected to harness natural physical processes that will generate minor modification of natural conditions. Organic debris and sediment are expected to be deposited in and around the TWS. The alder logs will rot relatively quickly in this environment; therefore, the wood com-

ponents of the TWS are expected to decay within a few years. Willow posts used to help stabilize TWS will grow and form “live anchoring,” replacing the hydrologic and geomorphic function of larger logs in the TWS. Channel changes in response to this manipulation are expected to be consistent with natural geomorphic processes, where multiple secondary flow paths are gradually abandoned as erosion and deposition tend to establish dominant channels within this reach of Willow Creek.

Vehicle access will occur via Willow Creek Road with hand crews walking into the sites. No heavy equipment will be used and tool refueling will occur outside of the stream channel and floodplain.

Adaptive management may occur after the initial treatment and will include monitoring for at least one year to evaluate performance of the TWS. In addition, it may be necessary to treat other areas within the Project reach impacted by ongoing sediment accumulation and channel avulsion. An annual work plan will be submitted for agency review and approval prior to any adaptive management work implementation. Regional Water Board and CDFW staff will review, provide comments, and approve, if appropriate, the annual workplans within 30 days of receipt. Adaptive management actions may include repair or modification of the TWS using similar construction methods and materials to improve function; lateral extension of TWS to improve function at or near treatment sites; other methods to improve function of TWS that may be identified; or installation of additional TWS as hydrologic, geomorphic, and ecologic conditions continue to evolve in future years.

Project Size: The total area of ground disturbance associated with the Project is approximately 0.02 acres and 200 linear feet. Future phases of implementation or adaptive management actions may occur and shall not exceed five acres and 500 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 52 logs, and (2) approximately 52 willow posts. Additional materials utilized for future phases or for adaptive management will be identified in annual workplans.

Project Timeframes: Start date: September 2024.

Completion date: July 2029.

Work window: September 1 through October 15.

Water Quality Certification Background: Because the Project’s primary purpose is habitat restoration intended to improve the quality of waters in California

and improve fish passage, 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 1B24087WNSO, CW–895531 for the Project. The NOA describes the Project and requires the Applicant to comply with the terms of the Order. Additionally, the Applicant has provided a supplemental document *Biological Resources Evaluation* prepared by PCI Ecological, that sets forth measures to avoid and minimize impacts to CCC coho salmon, CCC steelhead, California giant salamander (*Dicamptodon ensatus*), California red-legged frog (*Rana draytonii*), foothill yellow-legged frog (*Rana boylei*), and northwestern pond turtle (*Actinemys marmorata*).

Receiving Water: Willow Creek, tributary to the Russian River.

Filled or Excavated Area: Temporary area impacted: 0.02 acres.

Length temporarily impacted: 200 linear feet.

Dredge Volume: None.

Discharge Volume: 52 alder logs and 52 willow posts.

Project Location: The Project reach upstream coordinates are Latitude 38.430811° and Longitude 123.069736°, and downstream coordinates are Latitude 38.435897° and Longitude 123.086310° (NAD 83).

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.).

On August 13, 2024, 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 August 13, 2024, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z–2024–0813–01) on August 23, 2024. 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 the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in attachments to the NOI, which contain the following categories: (1) General Protection Measures; (2) Water Quality Measures; (3) Vegetation Protection Measures; and (4) Species-specific Protection Measures. The specific avoidance and minimization requirements are found in two attachments to the NOI, *Biological Resources Evaluation* prepared by PCI Ecological and *Protection Measures for GRRCD Willow Creek Stage 0 Low-Tech Project* prepared by PCI Ecological.

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, *Low-Tech Habitat Enhancement Project Monitoring Plan, Willow Creek (Russian River) Stage 0 Reach* prepared by OEI for GRRCD.

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 1B24087WNSO, and CW–895531 numbers; and
- 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. Applicant shall include the project name, (WDID) Number 1B24087WNSO, and CW–895531 numbers

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: Mary.Olswang@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

**PROPOSED RESEARCH ON FULLY PROTECTED SPECIES
RESEARCH ON SANTA CRUZ LONG-TOED SALAMANDER**

The Department of Fish and Wildlife (Department) received a proposal from Kerstin Wasson of Elkhorn Slough Reserve requesting authorization to take the Santa Cruz long-toed Salamander (*Ambystoma macrodactylum croceum*; SCLTS), a Fully Protected amphibian, for scientific research and recovery purposes consistent with protection and recovery of the species. The SCLTS is listed as Endangered under the California Endangered Species Act and Endangered under the federal Endangered Species Act.

Kerstin Wasson is planning to conduct research on the SCLTS throughout Santa Cruz and Monterey counties, in accordance with methods approved by the Department and the U.S. Fish and Wildlife Service (Service). The proposed research activities include capturing or attempting to capture SCLTS with cover boards and via dip nets with standard aquatic nets, cast nets, seines, and umbrella seines. Tissue samples will be collected from a subset of SCLTS for genetic analyses necessary for recovery. Habitat

restoration activities necessary to recover SCLTS may be undertaken. If any SCLTS are found dead in good condition, they will be salvaged (including any parts thereof) and donated to a scientific institution open to the public, as designated by the Department and the Service. No adverse effects on individual SCLTS or SCLTS populations are expected.

The Department intends to issue a Memorandum of Understanding (MOU) to Kerstin Wasson that would authorize qualified professional wildlife researchers to carry out the proposed activities. The researchers are also required to have a valid federal recovery permit for SCLTS and a Scientific Collecting Permit to take other terrestrial species in California.

Pursuant to California Fish and Game Code (FGC) Section 5050(a)(1), the Department may authorize take of Fully Protected amphibian species after a 30 days’ notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 5050 for take of Fully Protected amphibians, it will issue the MOU on or after October 07, 2024, for an initial and renewable term of up to five years.

Contact: Laura Patterson, Laura.Patterson@wildlife.ca.gov, 916-618-3385.

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 Alternative Energy and Advanced Transportation Financing Authority
File # 2024-0719-04
GoGreen Home Energy Financing Program

This certificate of compliance action by the California Alternative Energy and Advanced Transportation Financing Authority makes permanent the changes adopted in OAL File Nos. 2023-121-02E, 2024-0403-02E, and 2024-0604-01EE, which updated requirements for the GoGreen Home Energy Financing Program.

Title 04

Adopt: 10091.7, 10091.17

Amend: 10091.1, 10091.2, 10091.5, 10091.6, 10091.7 [renumbered to 10091.8], 10091.8 [renumbered to 10091.9], 10091.9 [renumbered to 10091.10], 10091.10 [renumbered to 10091.11], 10091.11 [renumbered to 10091.12], 10091.12 [renumbered to 10091.13], 10091.13 [renumbered to 10091.14], 10091.14 [renumbered to 10091.15], 10091.15 [renumbered to 10091.16], 10091.16 [renumbered to 10091.17], 10091.17 [renumbered to 10091.18]

Filed 08/30/2024

Effective 08/30/2024

Agency Contact: Bill Heberger (916) 653–2511

Department of Cannabis Control

File # 2024–0823–01

Cultivation License Changes Pursuant to BPC section 26061.5

This emergency rulemaking action by the Department of Cannabis Control readopts OAL File Number 2024–0229–01E, which adopted new requirements for cultivation licensees to place a cultivation license in limited operations status or change a cultivation license type to reduce the size of the cultivation license, and adopted a procedure to execute a one–time modification of a cultivation license renewal date. This action is a deemed emergency pursuant to Business and Professions Code (BPC) section 26061.5(e).

Title 04

Adopt: 15020.1, 15020.2, 15020.3

Filed 09/03/2024

Effective 09/09/2024

Agency Contact: Kaila Fayne (916) 251–4544

Department of Fish and Wildlife

File # 2024–0826–02

Expand Retrieval of Commercial Dungeness Crab Traps

In this emergency readopt of OAL Matter Number 2024–0301–01E, the Department of Fish and Wildlife is amending regulations to allow permitted Dungeness crab vessels to retrieve an unlimited number of lost, damaged, abandoned, or otherwise derelict traps during a fishery closure pursuant to California Code of Regulations, title 14, section 132.8.

Title 14

Amend: 132.2

Filed 09/04/2024

Effective 09/05/2024

Agency Contact:

Chelle Temple–King (916) 902–9223

Occupational Safety and Health Standards Board
File # 2024–0819–02

Occupational Exposures to Respirable Crystalline Silica

This emergency rulemaking action by the California Occupational Safety and Health Standards Board re–adopts, with changes, regulations previously amended in OAL Matter Number 2023–1219–05E and readopted in OAL Matter Number 2024–0517–02, relating to occupational exposure to respirable crystalline silica.

Title 08

Amend: 5204

Filed 08/29/2024

Effective 09/26/2024

Agency Contact: Ruth Ibarra (916) 274–5721

Fish and Game Commission

File # 2024–0807–01

Milo Baker’s Lupine

In this file–and–print action, the Fish and Game Commission is adding *Lupinus milo–bakeri* (Milo Baker’s lupine) to the list of California native plants declared to be endangered. This action is exempt from the Administrative Procedure Act pursuant to Fish and Game Code section 2075.5, subdivision (e).

Title 14

Amend: 670.2

Filed 09/04/2024

Effective 09/04/2024

Agency Contact: Jennifer Bacon (916) 653–4899

Board of Pharmacy

File # 2024–0725–03

Disciplinary Guidelines

This action by the Board of Pharmacy amends disciplinary guidelines, which are incorporated by reference, to include the requirement to disclose respondent’s email address, use gender inclusive language, and clarify terms, categories of violations, and timeframes for when specific actions must be taken.

Title 16

Amend: 1760

Filed 09/04/2024

Effective 01/01/2025

Agency Contact: Lori Martinez (916) 244–6648

Commission on Peace Officer Standards and Training
File # 2024–0722–02

Commission Regulations 1001, 1004, 1005,
Procedure D–13 Field Training

This regular rulemaking action by the Commission on Peace Officer Standards and Training (POST) amends the requirements for field training programs

applicable to POST-participating law enforcement agencies. These amendments include changes to Commission Procedure D-13 and to the application form for requesting POST approval of a field training program, both of which are incorporated by reference within POST's regulations.

Title 11

Amend: 1001, 1004, 1005

Filed 08/29/2024

Effective 10/01/2024

Agency Contact: Sarah Wilhelm (916) 227-4254

Department of Social Services

File # 2024-0730-02

CalWORKs Photo Identification

Assembly Bill Number 135 (2021-2022 Reg. Sess.) authorized a California Work Opportunity and Responsibility to Kids applicant or recipient to provide proof of identity via videoconferencing or any other electronic means that allows for a visual interaction between the applicant or recipient and county eligibility staff. Verification conducted in this manner now satisfies any in-person identification requirement. In this regular rulemaking, the Department of Social Services is amending regulations to implement A.B. 135.

Title MPP

Amend: 40-105

Filed 09/04/2024

Effective 01/01/2025

Agency Contact: Everardo Vaca (916) 657-2363

Board of Barbering and Cosmetology

File # 2024-0719-03

SB 803 Clean Up

In this regular rulemaking, the Board of Barbering and Cosmetology ("BBC") is amending and repealing regulations primarily in response to the enactment of Senate Bill 803 (Ch. 648, Stats. of 2021) and Assembly Bill 2196 (Ch. 527, Stats. of 2022). S.B. 803, among other things, (1) reduced the number of hours required for courses in barbering and cosmetology to 1,000 hours; (2) codified in statute the minimum amount of instruction that must be included for various subjects in a course for barbering, cosmetology, hairstyling, skin care, and nail care; (3) repealed BBC's preapplication program for schools and apprenticeships; (4) added a new "hairstyling" license type; and (5) eliminated the requirement that an applicant for licensure pass a practical examination. With the enactment of A.B. 2196, electrolysis course curriculum requirements were similarly codified. Additionally, BBC is amending two documents incorporated by reference and adopting a third.

Title 16

Amend: 904, 909, 931, 932, 937, 962, 998

Repeal: 928, 934, 950.1, 950.2, 950.3, 950.4

Filed 08/28/2024

Effective 10/01/2024

Agency Contact: Jennifer Huetter (279) 278-5089

Bureau of Automotive Repair

File # 2024-0729-01

Consumer Assistance Program Incentive Increases

This resubmitted rulemaking action by the Bureau of Automotive Repair makes several changes relating to the consumer assistance payments an owner of a vehicle failing a smog check may be eligible to receive as incentive to either repair or retire the non-compliant vehicle. First, this action increases the maximum amount of the payments to account for inflation as measured by federal Consumer Price Index data. Second, this action establishes a procedure for future increases to the maximum amount of the payments based on measures of inflation, program participation, and appropriations. Third, this action eliminates an existing rule that prohibited a person from receiving repair assistance payments for the same vehicle more than once. Finally, this action revises what a person must provide when applying to receive these consumer assistance payments.

Title 16

Amend: 3394.3, 3394.4, 3394.6

Filed 09/04/2024

Effective 01/01/2025

Agency Contact: Holly Helsing (916) 403-8600

Department of Corrections and Rehabilitation

File # 2024-0718-01

Youth Offender Program

This action by the Department of Corrections and Rehabilitation ("CDCR") adopts regulatory provisions establishing definitions, programming curriculum, initial placement procedures, and subsequent evaluation processes for a program granted to individuals committed to CDCR who are under 26 years of age that is designed to provide these individuals priority placement in education assignments, program assignments, or both, to address their rehabilitative needs until they are no longer under 26 years of age.

Title 15

Adopt: 3040.4

Amend: 3000

Filed 08/28/2024

Effective 10/01/2024

Agency Contact: Josh Jugum (916) 798-1484

Department of Food and Agriculture

File # 2024-0719-02

Definitions, Industrial Hemp

This rulemaking action by the Department of Food and Agriculture amends the definition of “harvest” as it pertains to industrial hemp cultivation.

Title 03

Amend: 4890

Filed 08/29/2024

Effective 08/29/2024

Agency Contact: Rachel Avila (916) 698-2947

Department of Motor Vehicles

File # 2024-0802-02

Driver’s Licenses and Identification Cards: Gender Categories

In this resubmitted rulemaking action, the Department amends its regulation to delete a form incorporated by reference entitled Gender Category Request, form DL 329S (New 1/2019). Also, for non-REAL ID driver’s license or identification card, the amendment removes the requirement to be in-person to request a gender identity that differs from the sex or gender reflected on the applicant’s current California driver’s license or identification card.

Title 13

Amend: 20.05

Filed 08/30/2024

Effective 10/01/2024

Agency Contact: Randi Calkins (916) 282-7294

**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.

