



California Regulatory Notice Register

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PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict-of-Interest Code — Notice File Number Z2024-1015-04 1381

AMENDMENT

MULTI-COUNTY: Schools Alliance for Workers’ Compensation Excess — II Joint Powers Authority

STATE AGENCY: California Housing Finance Agency
Office of the Secretary of the California Environmental Protection Agency

TITLE 4. HORSE RACING BOARD

Confidentiality of Applications — Notice File Number Z2024-1015-01 1382

TITLE 14. FISH AND GAME COMMISSION

Importation Live Aquatic Plants and Animals — Notice File Number Z2024-1011-01 1384

TITLE 22. DEPARTMENT OF SOCIAL SERVICES

CalWORKs Home Visiting Program — Notice File Number Z2024-1015-02 1387

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

CESA Consistency Determination Request for Pescadero Marsh Habitat Restoration and Resiliency Project: North Marsh and North Pond 2080R-2024-017-03 Pescadero, San Mateo County, California 1390

DEPARTMENT OF FISH AND WILDLIFE

Consistency Determination Number 2080-2024-016-03, Well Wagenet 5 Restoration Project, Solano County. 1391

FISH AND GAME COMMISSION

Notice of Findings for Bear Lake Buckwheat (Eriogonum microtheca var. lacus-ursi). 1396

(Continued on next page)

Time-Dated Material

FISH AND GAME COMMISSION	
<i>Notice of Findings for Lime Ridge Eriastrum (Eriastrum ertterae)</i>	1397
FISH AND GAME COMMISSION	
<i>Notice of Findings for Western Burrowing Owl (Athene cunicularia hypugaea)</i>	1400
SUMMARY OF REGULATORY ACTIONS	
Regulations filed with Secretary of State	1400

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

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PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: Schools Alliance for Workers' Compensation Excess — II Joint Powers Authority

STATE AGENCY: California Housing Finance Agency
Office of the Secretary of the California Environmental Protection Agency

A written comment period has been established commencing on October 25, 2024, and closing on December 9, 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 , 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 December 9, 2024. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

Any inquiries concerning the proposed conflict-of-interest codes should be made to 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.

TITLE 4. HORSE RACING BOARD

RULE 1497. CONFIDENTIALITY OF APPLICATIONS

RULE 1548. RULINGS BY THE STEWARDS

The California Horse Racing Board (Board) proposes to amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Board Rule 1497, Confidentiality of Applications, to address unforeseen conflicts with disclosure statements contained in the Board’s occupational license application. “Section A: General Information” of the Board’s Application for License, CHRB–4, states that all information in that section, including address and phone number, is considered public record and may be disclosed pursuant to a Public Records Act request. Within Section A, applicants must list an address of record, which may be a P.O. Box, mail service box, business address, or other address of their choosing. There is also a separate area of the Application for License which is designated so that any information listed below will be kept confidential. This is where an applicant must list a personal/physical address if a P.O. Box or mail service box was listed in Section A. The section marked as confidential also asks for phone number, social security number or employer identification, and driver’s license number.

The Board frequently receives Public Records Act requests for licensee information. Questions often arise around the treatment of personal addresses and/or phone numbers that are listed in the public portion of the application. Technically release of that information conflicts with Board Rule 1497, which states that personal addresses and phone numbers are confidential and shall not be disclosed to the public. The proposed amendment would remove from Rule 1497 the blanket prohibition that personal addresses and phone numbers shall not be disclosed and instead state that information marked or otherwise identified as confidential on the application will not be disclosed. This amendment is meant to preserve the confidentiality of personal addresses and phone numbers when an applicant wishes to keep such information private but allow for that confidentiality to be waived if a personal address and/or phone number is listed in Section A, the public portion of the application. The amendments

would also make non–substantive, technical edits to this rule.

The Board proposes to amend Board Rule 1548, Rulings by the Stewards, to remove the requirement in subsection (a)(2) that rulings and orders issued by the stewards must include a licensee’s social security number. Stewards’ rulings and orders are public documents and social security numbers must be redacted pursuant to the Information Practices Act before they can be released or posted on the Board’s website. The inclusion of a licensee’s social security number in rulings or orders is unnecessary, and for the protection of the licensee’s information, the Board would prefer to remove the requirement that it be included altogether. The amendments would also change the wording of subsection (a)(2) to be consistent with the other subsections. The proposed amendment would reword subsection (a)(3) for clarity by requiring the ruling or order to include the rule or regulation violated, rather than the offense charged. Other non–substantive, technical edits would also be made.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes on **December 9, 2024**. The Board must receive all comments by that time. Submit comments to:

Mikayla Triffo, Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263–6008
Email: mntriffo@chrh.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440, and 19460, Business and Professions Code (BPC). Reference: Sections 19420, 19435, 19440, 19460 and 19466, BPC.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

The Information Practices Act of 1977 (IPA), Civil Code section 1798 et seq., protects privacy of individuals by providing limits on the collection, management, and dissemination of personal information by state agencies. Section 1798.61(a) of the IPA does not prohibit the release of names and addresses of licensees.

The Board proposes to amend Board Rule 1497, Confidentiality of Applications, to align with current Board practices regarding the confidentiality of information contained on an application and comply with the IPA. Board Rule 1497 currently states that personal addresses and phone numbers are confidential and shall not be disclosed to the public. However, when an applicant indicates a personal address or phone number on the license application, that information is considered public record according to the IPA and the notice in Section A of Application for License, CHR–4. The proposed amendment would remove personal addresses and phone numbers from the list of confidential information and add the stipulation that information marked or otherwise identified as confidential on the application not be disclosed. Other non-substantive, technical edits would also be made.

The Board proposes to amend Board Rule 1548, Rulings by the Stewards, to align with current Board practices regarding the confidentiality of information contained in rulings and orders issued by stewards by removing the requirement to include social security numbers. It would change the wording of subsection (a)(2) to be consistent with the other subsections. The proposed amendment would reword subsection (a)(3) for clarity by requiring the ruling or order to include the rule or regulation violated, rather than the offense charged. Other non-substantive, technical edits would also be made.

ANTICIPATED BENEFIT OF THE
PROPOSED REGULATION

The proposed regulatory action would align Board Rules 1497 and 1548 with current practices and the IPA to ensure confidentiality of private information. The proposed changes to Board Rule 1497 would also help prevent confusion among applicants regarding the information provided on their applications that is confidential.

CONSISTENCY EVALUATION

Evaluation of Consistency and Compatibility with Existing State Regulations: During the process of developing the proposed regulatory action, the Board

conducted a search of any similar regulations on the topic and concluded that Board Rule 1497 is the only regulation that sets forth the conditions under which information provided on an application is not considered confidential. Similarly, the Board concluded that Board Rule 1548 is the only regulation that specifies the contents of a ruling or order. Therefore, the proposed regulatory action is neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE
PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to local agencies and school districts that must be reimbursed in accordance with Government Code (GC) sections 17500 through 17630: none.

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

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

The Board has made an initial determination that the proposed regulatory action 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. The proposed regulatory action would align Board Rules 1497 and 1548 with current practices and the IPA to ensure confidentiality of private information.

The following studies/relevant data were relied upon in making the above determination: none.

Cost impact on representative private persons or businesses: none. The Board 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 effect on housing costs: none.

RESULTS OF THE ECONOMIC
IMPACT ANALYSIS

The adoption of the proposed regulatory action will not create or eliminate jobs within the state, will not create new businesses or eliminate existing businesses within the state, will not result in the expansion of businesses currently doing business with the state, and will not benefit the health and welfare of California residents, worker safety, or the state’s environment.

Effect on small business: none. The proposed regulatory action does not affect small business because small businesses are not legally required to comply with or enforce the regulation and neither derive a benefit nor incur a detriment from the enforcement of the regulation. The proposed regulatory action would align Board Rules 1497 and 1548 with current prac-

tices and the IPA to ensure confidentiality of private information.

CONSIDERATION OF ALTERNATIVES

In accordance with GC section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board 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 regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Mikayla Triffo, Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6008
Email: mntriffo@chrh.ca.gov

If the person named above is not available, interested parties may contact:

Sandra Shinn, Manager
Regulations and Industry Applications Unit
Telephone: (916) 869-3255
Email: skshinn@chrh.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices 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 regulation, and the initial statement of reasons. Copies of these documents, or any of the information upon which the proposed rulemak-

ing is based, may be obtained by contacting Mikayla Triffo or the alternative contact person at the address, phone number, or email address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made that are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Mikayla Triffo at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Mikayla Triffo at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its website. The rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. The Board's website address is www.chrb.ca.gov.

TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections **1050, 2118, 6401, 15004, 15600 and 15601** of the Fish and Game Code and to implement, interpret or make specific Sections **2116, 2190, 2270-2272, and 3201-3204** of said Code, proposes to **amend** Section 236, Title 14, California Code of Regulations, relating to **importation of live aquatic plants and animals for research purposes**.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

There is a biological and public trust need for scientific research to respond to the challenges presented

by diseases, pathogens, or parasites, and uncover solutions that can halt the deterioration and improve the condition of aquatic and other ecosystems. However, existing state regulations limit the scope of importation for research purposes. The goal of this proposed action is to allow the importation of live aquatic plants and animals into California by a registered aquaculturist for the purposes of research, including when a disease, pathogen, or parasite has been detected in a shipment prior to importation.

The proposed regulatory amendments would allow for importation of live aquatic plants and animals for the purpose of research, subject to approval and permit conditions specified by the Department of Fish and Wildlife (Department). The regulations would restrict importation to closed facilities that prevent release and with no intent to outplant or offer for sale. The registered aquaculturist will be required to maintain all aquatic plants or animals identified in the permit in a fully closed system that does not have an outlet into the waters of the state. The proposed changes will serve as an avenue for facilitating further research of diseases in controlled environments, and address inconsistencies with allowances for catastrophic or other disease types and to allow research under safe and prescribed conditions.

Proposed Amendments

In order to improve the permitting process and oversight of importation of live aquatic plants and animals for the purpose of research, the Department proposes amendment to Section 236 as follows:

- Amend Section 236(c)(2): to add “aquatic plants” to the existing exceptions that currently only apply to live aquatic animals to fully implement Fish and Game Code Section 15600 for both aquatic plants and animals.
- Amend Section 236(c)(5): to add the words “... except as otherwise provided in subsection 236(c)(6)...” which points to the new added subsection (c)(6), and would not require destruction or export from the state of aquatic plants and animals that have been found to be diseased, parasitized, or contain a species not authorized.
- Add Section 236(c)(6):
 - Establishes that a registered aquaculturist, solely for research purposes, may import aquatic plants or animals for which a disease or pathogen has been detected in the shipment prior to importation, subject to written approval and permit conditions specified by the department.
 - Requires the registered aquaculturist to maintain all aquatic plants or animals identified in the permit to be in a closed water system, for which an applicable definition

is referenced from subsection 671.7(a)(1) of Title 14, California Code of Regulations.

- Specifies that if a disease or pathogen listed in Section 245(c) of these regulations, not originally detected prior to importation, is identified by a fish pathologist, the registered aquaculturist shall comply with subdivision (c)(5) and Section 245 of these regulations.
- Amend Section 236(c)(7): Re-number and amend subsection 236(c)(7) to add “aquatic plants” to the existing exceptions that currently only apply to live aquatic animals to fully implement Fish and Game Code Section 15600 for both aquatic plants and animals.
- Re-number subsection 236(c)(7) to (c)(8), and (c)(8) to (c)(9).
- Add Section 236(d): establishes an enforcement clause for the terms and special conditions of an importation permit issued pursuant to Section 236.

Benefits of the regulations

Existing regulatory mechanisms regarding diseased aquatic plants seem to only encompass after-the-fact discoveries of diseases, but no mechanism currently exists to allow research to be conducted on aquatic plants and animals that are known to be infected. This proposed regulation is necessary for the interest of addressing inconsistencies with allowances made for catastrophic diseases (and other disease categories) and allowing research under prescribed conditions. This regulation provides potential indirect benefits to the state’s environment through increased control of importations, the containment of diseases or pathogens in research, and the benefits derived from disease or pathology research that may include improving diagnoses, preventative measures, and treatments. Overall, the goal of this proposed action is to allow the importation of live aquatic plants and animals into California by a registered aquaculturist for the purposes of research, including when a disease or pathogen has been detected in the shipment prior to importation.

Evaluation of incompatibility with existing regulations

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to adopt regulations governing aspects of importation of live aquatic plants and animals by a registered aquaculturist (California Fish and Game Code Section 15600), an authority that no other state agency has. The Commission has reviewed its own regulations

and finds that the proposed regulations are consistent with other live aquatic plant and animal importation regulations in Title 14, California Code of Regulations, and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

PUBLIC PARTICIPATION

COMMENTS SUBMITTED BY MAIL OR EMAIL

It is requested, but not required, that written comments be submitted on or before **November 27, 2024** at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received on **December 9, 2024**. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244–2090.

MEETINGS

NOTICE IS HEREBY GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the **Natural Resources Headquarters Building, 715 P Street, Sacramento, California**, which will commence at **8:30 a.m. on December 11, 2024**, and may continue at **8:30 a.m., on December 12, 2024**. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916–653–4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

AVAILABILITY OF DOCUMENTS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller–Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Melissa Miller–Henson or **Da-**

vid Haug at FGC@fgc.ca.gov or at the preceding address or phone number. **Samara Maxey, Marine Region Program Manager, Department of Fish and Wildlife, samara.maxey@wildlife.ca.gov, has been designated to respond to questions on the substance of the proposed regulations.**

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

IMPACT OF REGULATORY ACTION/ RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The Commission does not anticipate that the proposed action will have significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed change will remove the competitive disadvantages for businesses currently operating within the state that are currently unable to import species without this regulatory change.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment:

The Commission does not anticipate adverse impacts on the creation or elimination of jobs within the state. The Commission does not anticipate adverse impacts on the creation of new business, the elimination of existing businesses, or the expansion of businesses in California. The proposed changes are to allow for a more streamlined and efficient process for importa-

tion of live aquatic plants and animals for the purpose of research and limit the use of importation to closed facilities that prevent release and with no intent to out-plant or offer for sale. Under the proposed action a registered aquaculturist will be required to maintain all aquatic plants or animals identified in the permit in a fully closed system that does not have an outlet into the waters of the state in order to prevent the specified pathogen or disease from entering the environment. The Commission expects at least one aquaculturist to begin operating in the state as a result of the proposed regulations but does not expect demand for goods and services related to the aquaculture industry to significantly change. The Commission does not anticipate that the proposed regulation will negatively impact the demand for labor, nor induce the elimination nor the expansion of businesses in California. The Commission does not anticipate any benefits to the health and welfare of California residents or to worker safety. The Commission anticipates benefits to the State’s environment indirectly through increased control of importations, which may prevent the introduction of pathogens into the state.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission anticipates that the proposed regulatory action will have minor economic impacts on businesses and small businesses that operate as aquaculturists and seek to import specimens with non-catastrophic diseases or pathogens; however, these are not new costs imposed by the proposed regulatory action but rather the current cost of compliance that aquaculturists seeking to import specimens already face as part of the permitting process. The proposed regulatory action removes a prohibition on the importation of species identified as being infected with non-catastrophic diseases or pathogens to allow the research of diseased aquatic plants under safe and prescribed conditions. The costs for diagnostics & testing services for pathogens required by applicants for an importation license under current regulations is approximately \$4,000–\$10,000 depending on the need for repeated testing, with a median cost of \$8,000. Currently most aquaculturists happen to qualify as small businesses, but the sector is not limited to small businesses in terms of who may enter the market. In 2024 there are approximately 130 registered aquaculture facilities in the state, with some of those facilities operated by the same company. Only a fraction of them will likely conduct the kind of research being contemplated for approval under the proposed regulatory action, and the Commission expects the percentage of affected aquaculturists to be 15–20%, which would create an approximate annual cost of \$156,000–\$208,000 based on the median testing cost of \$8,000. However, this testing cost is the same cost that all oth-

er importers face when importing a species into the state and does not represent a new cost created or imposed by these regulations.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

(h) Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, 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.

TITLE 22. DEPARTMENT OF SOCIAL SERVICES

ORD #0324–02

SUBJECT: CALWORKS HOME VISITING PROGRAM

The California Department of Social Services (CDSS) hereby gives notice of the proposed regulatory action(s) described below. A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the public comment period, any interested person, or his or her authorized representative, may make a written request for a pub-

lic hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be sent to:

California Department of Social Services
Office of Regulations Development
744 P Street, MS 8–4–192
Sacramento, CA 95814
Telephone: (916) 657–2856, Fax: (916) 653–7395
Email: ord@dss.ca.gov

Statements or arguments relating to the proposals may be submitted in writing, email, or by facsimile to the address/number listed above. All comments must be received by December 11, 2024.

Following the public comment period, CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. Except for nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed above. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at *Regulations in Process* [<https://www.cdss.ca.gov/inforesources/letters-regulations/legislation-and-regulations/regulations-home-page/regulations-in-process>]. Additionally, all the information that CDSS considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading at the address listed above. Following the public comment period, copies of the Final Statement of Reasons will be available at the above address.

CHAPTERS

Manual of Policies and Procedures (MPP) 40–100 General; 51–000 CalWORKs HVP; and 51–100 Administration of the CalWORKs HVP.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Human Services Omnibus bill of 2018 (Assembly Bill 1811, Chapter 35, Statutes of 2018) established the CalWORKs Home Visiting Initiative (HVI) Program effective January 1, 2019. The Human Service Omnibus of 2019 (Senate Bill 80, Chapter 27, Statutes of 2019) changed the name to the CalWORKs Home

Visiting Program (HVP) and changed eligibility requirements of the program.

The purpose of the HVP is to support positive health, development and well-being outcomes for pregnant and parenting women, families and infants born into poverty. The HVP will expand opportunities for future education, economic and financial capability for participants, improving the likelihood they will exit poverty. The program will improve family engagement practices, support healthy development of young children living in poverty, and prepare parents for employment.

Leveraging home visiting services into the CalWORKs program presents a unique opportunity to promote two-generation policies that meet the needs of parents and their children.

Home visiting is an evidence-based, culturally competent, voluntary program model that pairs new parents with a nurse or other trained professional who makes regular visits to the participant's home to provide guidance, coaching, access to prenatal and postnatal care, and other health and social services.

The HVP supports and resources will include but not be limited to: (1) prenatal, infant and toddler care; (2) infant and child nutrition; (3) child developmental screening; (4) parent education, and training in parent/child interaction; (5) child development and child care; (6) job readiness and barrier removal; (7) domestic violence and sexual assault services; and (8) mental health and substance abuse treatment and support.

Home visitors will encourage participants to enroll their child in high-quality early learning settings or participate in playgroups or other child enrichment activities. Parent participation in early learning settings will count towards allowable activities under a welfare-to-work plan.

Counties may establish processes, in coordination with home visitors and CalWORKs staff, to provide one-time, as-needed funding not to exceed \$1000 for the purchase of material goods for a participant's household related to care, health, and safety of the child and family.

To be eligible for home visiting services an individual must be either a member of a CalWORKs assistance unit; a parent or caretaker relative for a child-only case; or an individual who is apparently eligible. The individual must also be pregnant or a parent or caretaker relative of a child less than 24 months of age at the time the individual enrolls in the program.

A county may serve additional individuals not described above with department approval. Participation is optional for CalWORKs clients. Participation does not affect a family's application for aid or eligibility for any other CalWORKs benefits, supports or services such as welfare-to-work exemptions.

A member of the assistance unit need not be eligible for, nor is required to participate in, the Welfare-to-Work program to receive home visiting services.

Incorporated by Reference: There are no documents to be incorporated by reference for this action.

Benefits: The benefits anticipated from the regulatory action for the HVP aims to support positive health, development, and well-being outcomes for pregnant and parenting individuals, families, and infants born into poverty. The HVP will expand opportunities for future education, economic and financial capability for participants, improving the likelihood they will exit poverty. The program will improve family engagement practices support healthy development of young children living in poverty and prepare parents for employment which will have a positive impact in their environment. The HVP strongly promotes fairness, social equity, openness, and transparency with services and resources the home visitors provides to each participant. There are no anticipated effects to worker safety or the state’s environment.

COST ESTIMATE

1. Costs or Savings to State Agencies: No fiscal impact beyond what is already budgeted and enacted in statute. The 2024–25 Governor’s Budget includes \$4,978,000 for visits, \$225,000 for employment services, \$750,000 for administration, and \$804,000 for early learning setting in FY 2023–24 and includes \$5,005,000 for visits, \$237,000 for employment services, \$764,000 for administration, and \$809,000 for early learning setting in FY 2024–25 for the CalWORKs Home Visiting Program.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance with Government Code Sections 17500–17630: N/A
3. Nondiscretionary Costs or Savings to Local Agencies: N/A
4. Federal Funding to State Agencies: No fiscal impact beyond what is already budgeted and enacted in statute. The 2024–25 Governor’s Budget includes \$92,757,000 for visits, \$4,197,000 for employment services, \$1,938,000 for administration, and \$1,848,000 for early learning setting in FY 2023–24 and includes \$93,274,000 for visits, \$4,410,000 for employment services, \$1,939,000 for administration, and \$1,858,000 for early learning setting in FY 2024–25 for the CalWORKs Home Visiting Program.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate upon local agencies or school districts. There are no state-

mandated local costs that require reimbursement under the laws of California.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on this program may lead to increased job opportunities for home visitors and other personnel needed to operate public and private home visiting agencies.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small business as a result of filing these regulations because these regulations are only applicable to state and county agencies.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed regulation change may create jobs in the State of California. Home visitors such as nurses or other trained professionals will make regular visits to the HVP participant’s home to provide guidance, coaching, access to prenatal and postnatal care, and other health and social services. It will not result in the elimination of existing businesses or create or expand businesses in the State of California. The program may result in the expansion of existing home visiting agencies if additional personnel are needed to operate the HVP program.

Benefits: The benefits anticipated from the regulatory action for the HVP aims to support positive health, development, and well-being outcomes for pregnant and parenting individuals, families, and infants born into poverty. The HVP will expand opportunities for future education, economic and financial capability for participants, improving the likelihood they will exit poverty. The program will improve family engagement practices support healthy development of young children living in poverty and prepare parents

for employment which will have a positive impact in their environment. The HVP strongly promotes fairness, social equity, openness, and transparency with services and resources the home visitors provides to each participant. There are no anticipated effects to worker safety or the state's environment.

**STATEMENT OF EFFECT ON
HOUSING COSTS**

The proposed regulatory action will have no effect on housing costs.

**STATEMENT OF
ALTERNATIVES CONSIDERED**

In developing the regulatory action, the Department considered the following alternatives with the following results: No alternatives have been presented to CDSS.

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

**AUTHORITY AND
REFERENCE CITATIONS**

CDSS adopts these regulations under the authority granted in Sections 10553 and 10554 of the Welfare and Institutions Code and reference of Sections 11330.6 through 11330.9 of the Welfare and Institutions Code.

**DEPARTMENT REPRESENTATIVE
REGARDING THE RULEMAKING
PROCESS OF THE
PROPOSED REGULATION**

Contact Person: Kenneth Jennings

Contact Number: (916) 657-2586.

Backup Contact: Oliver Chu

Contact Number: (916) 657-2586.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF FISH AND
WILDLIFE**

**CESA CONSISTENCY DETERMINATION
REQUEST FOR PESCADERO MARSH
HABITAT RESTORATION AND
RESILIENCY PROJECT:
NORTH MARSH AND NORTH POND
2080R-2024-017-03
PESCADERO, SAN MATEO
COUNTY, CALIFORNIA**

The California Department of Fish and Wildlife (CDFW) received a notice on October 8, 2024, that the California Department of Parks and Recreation (State Parks) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves restoring the ecologic, geomorphic, and hydraulic processes acting on the North Marsh North Pond complex. Proposed activities will include, but are not limited to, partial removal of an existing levee, removal of culverts associated with drainage channels, partial filling of the relic drainage channels that increase tidal inundation/salinity, removal of approximately 50 eucalyptus, removal of invasive dune species and revegetation to restore dune habitat; and possible control of water levels at the creek mouth to facilitate aquatic species relocation. The proposed project will occur at the Pescadero Marsh Natural Preserve, near the town of Pescadero, County of San Mateo, California.

The National Marine Fisheries Service issued a federal programmatic biological opinion (PBO) (Service Ref. Number WCR-2015-3755) in a memorandum to the National Oceanic and Atmospheric Administration Restoration Center (NOAA RC) and the U.S. Army Corps of Engineers on June 14, 2016, which considered the effects of the eligible restoration projects on multiple federally listed species. On January 29, 2024, State Parks applied to NOAA RC for inclusion of the proposed project under the PBO for state endangered and federally endangered California Central Coast coho salmon (*Oncorhynchus kisutch*). On April 24, 2024, NOAA RC determined that the project fits within the scope of the PBO.

Pursuant to California Fish and Game Code section 2080.1, State Parks is requesting a determination that the Incidental Take Statement (ITS) and its associated PBO are consistent with CESA for purposes of the proposed project. If CDFW determines the ITS and

associated PBO are consistent with CESA for the proposed project, State Parks will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

DEPARTMENT OF FISH AND WILDLIFE

CALIFORNIA ENDANGERED SPECIES ACT CONSISTENCY DETERMINATION NUMBER 2080–2024–016–03

Project: Well Wagenet 5 Restoration Project

Location: Solano County

Applicant: Lodi Gas Storage, LLC

Background

Lodi Gas Storage, LLC (Applicant) proposes to remove approximately 2,328 cubic yards of fill and materials for the purpose of restoring an oil observation well and associated access road to pre-project conditions. The Well Wagenet 5 Restoration Project (Project) first involves installing a turbidity curtain around the entire work site during a low-tide cycle to protect aquatic resources and minimize the risk of protected fish species entering the work area. Subsequently, the fill and materials will be excavated and stockpiled in the upland non-native annual grassland areas to dry. Once dry, these materials will be removed to a contractor’s disposal pit offsite. Once all fill and materials are removed from the access road and well pad site, the soil onsite will be loosened to a depth of 18 inches before recontouring the area to match the adjacent grade. The well chamber will be capped with concrete with the top of the cap being approximately 12 feet below the floor of the tidal marsh. Lastly, the Applicant will conduct seeding and planting to restore the wetland and upland grassland habitat onsite. The Project is located north of Kirby Hill near Nurse Slough, approximately 1.5 miles west of Shiloh Road and 0.75 mile south of Little Honker Bay in an unincorporated area of Solano County, California. The Project falls within the U.S. Geological Survey (USGS) Denverton 7.5-minute quadrangle, which is within Sections 25 and 30, Township 4N, Ranges 1W and 1E.

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

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

The Project activities described above are also expected to incidentally take Chinook salmon (*Oncorhynchus tshawytscha*), of the Sacramento River winter-run evolutionary significant unit (SR winter-run Chinook salmon) where those activities take place within aquatic habitat. SR winter-run Chinook salmon is designated as an endangered species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and a threatened species pursuant to the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (a)(2)(M).) The Project activities described above are also expected to incidentally take Chinook salmon (*O. tshawytscha*) of the Central Valley spring-run (CV spring-run Chinook salmon) where those activities take place within aquatic habitat. CV spring-run Chinook salmon is designated as a threatened species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and a threatened species pursuant to the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(2)(C). CV spring-run and SR winter-run Chinook salmon may be incidentally taken as a result of in-water fill excavation work.

CTS individuals are documented as present approximately 2 miles from the Project site and there is suitable CTS habitat within and adjacent to the Project site. Because of the proximity of the nearest documented CTS, dispersal patterns of CTS, and the presence of suitable CTS habitat within the Project site, the United States Fish & Wildlife Service (USFWS) determined that CTS is reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of CTS. SR winter-run Chinook salmon are documented as present approximately 5 miles from the Project site and CV spring-run Chinook salmon are document approximately 9.75 miles from the Project site. Because of the proximity of the nearest documented Chinook salmon and the presence of suitable Chinook salmon hab-

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

itat within the Project site, the National Marine Fisheries Service (NMFS) determined that SR winter–run Chinook salmon and CV spring–run Chinook salmon are reasonably certain to occur within the Project site and that Project activities are expected to result in incidental take.

According to the USFWS and NMFS, the Project will result in the temporary loss of 1.497 acres of upland CTS habitat and 0.213 acres of aquatic SR winter–run Chinook salmon and CV spring–run Chinook salmon habitat, totaling 1.71 acres of temporary Chinook salmon and CTS habitat loss.

Because the Project is expected to result in take of species designated as threatened and endangered under the federal ESA, NMFS and USFWS consulted with the United States Army Corp of Engineers (ACE) as required by the ESA. On August 31, 2022, USFWS issued a programmatic biological opinion (file Number 2022–0005149–S7) (CTS PBO) to the ACE for CTS. Previously, on August 31, 2018, NMFS issued a programmatic biological opinion (file Number WCR–2017–8532) (Chinook salmon PBO) to the ACE for SR winter–run Chinook salmon and CV spring–run Chinook salmon. The PBOs describe the Project, require the Applicant to comply with terms of the PBOs and their incidental take statements (ITS), and incorporate additional measures.

On September 11, 2024, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from Gregory Clark, on behalf of the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the CTS ITS and Chinook salmon ITS, and accompanying CTS PBO and Chinook salmon ITS are consistent with CESA for purposes of the Project and CTS, SR winter–run Evolutionary Significant Unit (ESU) and Central Valley spring–run ESU Chinook salmon. (Cal. Reg. Notice Register 2024, Number 39–Z, page 1288.)²

Determination

CDFW has determined that the CTS ITS and Chinook salmon ITS, and accompanying CTS PBO and Chinook salmon ITS, are consistent with CESA as to the Project and because the mitigation measures con-

tained in the CTS ITS and Chinook salmon ITS, and accompanying CTS PBO and Chinook salmon ITS meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA–listed species. Specifically, CDFW finds that: (1) take of CTS, SR winter–run Chinook salmon, and CV spring–run Chinook salmon will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the CTS ITS and Chinook salmon ITS, and accompanying CTS PBO and Chinook salmon ITS will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures (AMMs) and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of CTS, SR winter–run Chinook salmon, and CV spring–run Chinook salmon. The mitigation measures in the CTS ITS and Chinook salmon ITS, and accompanying CTS PBO and Chinook salmon ITS include, but are not limited to, the following:

USFWS AMMs — CTS

Avoidance, Minimization, and Mitigation Measures

- 1) **Qualifications of the Qualified Biologist and USFWS–Approved Biologist:** The Applicant shall submit to CDFW for approval, the name, qualifications, business address, and contact information of the Qualified Biologist and the USFWS–Approved Biologist at least 15 days before starting Project activities. Permittee shall ensure that the Qualified Biologist and the USFWS–Approved Biologist are knowledgeable and experienced in the biology, natural history, collecting, and handling of CTS. The Qualified Biologist and the USFWS–Approved Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual CTS and to minimize disturbance of CTS habitat. *Although not a condition of the CTS PBO, CDFW requests resumes also be provided to CDFW for review.*
- 2) **Preconstruction Surveys:** A Qualified Biologist will conduct visual preconstruction surveys and implement additional protection measures within five days prior to beginning work to protect the species and habitat from avoidable construction–related disturbance. The intent of the survey is to assess current species habitat and species use locations in the Project area immediately prior to construction. The preconstruction survey is not intended to be a presence/absence or protocol–level survey; the potential for species presence will have already been evaluated prior to project approval. Pre–construction surveys may be

² The USFWS’s PBO addresses the potential for take under ESA for salt–marsh harvest mouse (*Reithrodontomys raviventris*), a species designated as endangered under the ESA, and fully protected under CESA. (See Fish & Game Code, § 2050 et seq.; Cal. Code Regs., title 14, § 670.5, subdivision (a)(6)(F); and Fish & Game Code, § 4700). This species is known to occur within the Project site. USFWS determined in the ITS and accompanying PBO that, for purposes of the ESA, mortality or injury to individual salt–marsh harvest mouse would not occur, but that take in the form of harm or harassment could occur. The USFWS authorized such take under the ESA, requiring the Applicant to implement avoidance and minimization measures for the species. The Applicant is aware that, for purposes of CESA, take of salt–marsh harvest mouse as defined by state law is prohibited and is not authorized or permitted by this consistency determination.

phased across a construction site if construction in different areas will occur at different times; only areas where disturbance is imminent need be surveyed. If construction activities at a given location cease for more than 5 consecutive days, and there is potential for CTS to reoccupy habitat at that site, the Qualified Biologist will resurvey the Project area prior to resuming construction and implement applicable protection measures.

- 3) **Work Window:** Project activities in uplands will be confined to May 1 through October 31, unless there is a rain event forecast likely to generate measurable fall, rain of 1 inch or greater, at which time work will cease for the fall season. For project activities in occupied aquatic CTS breeding habitat, grading and other disturbance will avoid the breeding season and will be limited to between July 1 and October 31, unless preconstruction surveys and monitoring demonstrate that young-of-year (recently metamorphosed) CTS have dispersed from the breeding habitat. In that case, based on the recommendation of the USFWS–Approved Biologist, and with written approval from the USFWS (e.g., email), the Applicant may proceed with work in aquatic breeding habitat prior to July 1. Work in a pool or wetland may also begin before July 1 if the pool or wetland has been dry for a minimum of 30 days before initiating work.
- 4) **Rain Event Limitations:** To the maximum extent practicable, construction activities will be restricted to periods of low rainfall (less than 0.5 inch per 24-hour period) and periods of dry weather (with less than a 50 percent chance of rain). During these restricted periods, no construction activities will occur between 30 minutes prior to sunset and 30 minutes after sunrise (no night work during rain events). If rain exceeds 0.5 inch during a 24-hour period, work will cease until no further rain is forecast. Construction activities halted due to precipitation may resume when precipitation ceases and the National Weather Service 72-hour weather forecast indicates less than a 50 percent chance of 0.5 inch of rain or less during a 24-hour period. Before construction activities resume, a Qualified Biologist will inspect the project area and all equipment/materials for the presence of CTS.
- 5) **Encounter with Species:** Each encounter with CTS will be treated on a case-by-case basis. If any life stage of CTS is found and these individuals may potentially be killed or injured by work activities, the following will apply:
 - a. If a CTS is detected in the Project area, work activities within 50 feet of the individual that may potentially be harmed, injured, or killed will cease immediately, and the USFWS–Approved Biologist will be notified. Based on the professional judgment of the USFWS–Approved Biologist, if Project activities can be conducted without harming or injuring the species, it may be left at the location of discovery and monitored by the USFWS–Approved Biologist. All Project personnel will be notified of the finding, and at no time will work occur within 50 feet of a CTS without a USFWS–Approved Biologist present.
 - b. Contact with the CTS will be avoided, and it will be allowed to move out of the potentially hazardous situation of its own volition. Allowing a CTS to move out of the potentially hazardous situation of its own volition may not be appropriate for multi-day projects because CTS could stay or move back into the Project site. If there is an immediate hazard or if there is no suitable, accessible habitat nearby to which the CTS may relocate, the CTS will be moved following approved handling protocol (see CTS PBO *Species Observations and Handling Protocol*).
 - c. The Applicant shall ensure no more than 20 adults or juveniles are injured or killed annually and no more than 10 individuals per USFWS Field Office; no more than 5 percent of larval captures may be injured or killed annually.
- 6) **Species Observations and Handling Protocol:** If a CTS does not or cannot leave the work area and handling CTS is required, a capture and relocation plan shall be submitted to USFWS for review and approval. Capture and relocation will be conducted by a USFWS–Approved Biologist. Prior to handling and relocation, the USFWS–Approved Biologist will take precautions to prevent the introduction of amphibian diseases, in accordance with the *Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the CTS* (USFWS 2003) and the CTS PBO *Practices to Prevent Pathogen Contamination; and Clearing and Grubbing Vegetation* (which refers to CDFW [2016] decontamination protocols).
- 7) **Lighting:** Artificial lighting at a project site will be prohibited to the maximum extent practicable during the hours of darkness, except when necessary for driver or pedestrian safety.
- 8) **Exclusion fencing:** Prior to the start of construction, the Applicant will install wildlife exclusion fencing (WEF) at the edge of the Project footprint

in all areas where CTS could enter the construction area. The Applicant shall submit a conceptual fencing plan to the USFWS for review and approval prior to WEF installation. The location, fencing materials, installation specifications, maintenance, and monitoring and repair criteria shall be approved by the USFWS prior to start of construction. WEF with exit ramps, funnels, and cover boards may be required for one full rainy season to allow any CTS onsite to move into an adjacent habitat offsite and will be determined on a case-by-case basis. The location of the fencing shall be determined by the onsite project manager and the USFWS-approved biologist in cooperation with the USFWS prior to the start of staging or surface disturbing activities. The WEF shall remain in place throughout the duration of the Project and shall be inspected weekly and fully maintained. The Applicant shall make repairs to the WEF within 24 hours of discovery. Upon project completion, the Applicant shall completely remove the WEF, clean the area of debris and trash, and return the area to natural conditions. If installation will result in ground disturbance, and the duration of work activities is very short (e.g., three days or less) and during the dry season, then the boundaries and access areas and sensitive habitats shall be staked and flagged by the biological monitor prior to disturbance and species monitoring will occur during all Project activities at that site.

- 9) **Revegetate Disturbed Areas:** All temporarily disturbed areas will be de-compacted and seeded/planted with an assemblage of native riparian, wetland, and/or upland plant species suitable for the area. The Applicant will develop a revegetation plan. Plants for revegetation will come primarily from active seeding and planting, or from natural recruitment where applicable. Plants imported to the restoration areas will come from local stock. Certified weed-free native mixes and mulch will be used for any restoration planting or seeding. Revegetation activities in and adjacent to waterbodies and other aquatic habitat suitable for CTS will commence after construction activities at a site are complete.
- 10) **Bank Credit Purchase:** Prior to any earthmoving activities, the Applicant will purchase 0.40 acres of CTS habitat credits. Credits will be from one or more conservation banks approved by USFWS and CDFW. The Applicant will obtain written confirmation from USFWS and CDFW that the conservation bank(s) is in good standing prior to purchasing the credits. In the event that credits are not available for purchase, partly or entirely, prior to the start of ground disturb-

ing activities, credits that are available will be purchased prior to the start of ground disturbing activities and a performance security will be established equivalent to the amount needed to purchase the remaining credits.

MONITORING AND REPORTING MEASURES

- 1) **Onsite Monitoring during Project Activities:** A Qualified Biologist(s) will perform site clearance at the beginning of each day and will monitor construction activities throughout the day in, or immediately adjacent to, sensitive resources and/or CTS habitat (including critical habitat as applicable). The Qualified Biologist will confirm that all applicable protection measures are implemented during project construction. The Qualified Biologist or biological monitor shall monitor regularly throughout the workday when construction activities are occurring that may displace, injure, or kill CTS through contact with workers, vehicles, and equipment. The Qualified Biologist shall also coordinate with USFWS and CDFW for further guidance if work is stopped because permit requirements are not fully implemented or if it is deemed necessary to protect CTS.
- 2) **Revegetation Monitoring and Reporting:** All revegetated areas will be maintained and monitored by the Applicant for 5 years after replanting is complete, or until success criteria are met, to ensure that the revegetation effort is successful. The standard for success is 60 percent cover compared to pre-project conditions at the Project site or at least 60 percent cover compared to an intact, local reference site. The Applicant will prepare a summary report of the monitoring results and recommendations on December 1 each year.

Although not a condition of the CTS PBO, CDFW requests a copy of the Onsite Monitoring Report and Revegetation Monitoring Report. The CDFW contacts are Mia Bianchi at mia.bianchi@wildlife.ca.gov and AskBDR@wildlife.ca.gov.

NMFS AMMs — SR winter-run Chinook salmon, and CV spring-run Chinook salmon

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES

- 1) **Work window:** The Project in-water work window will be from August 1 through October 31. This work window varies slightly from the work windows shown in Table 1-1 of the Chinook salmon PBO reference number WCR-2017-8532 and was approved in writing by NOAA Fisher-

ies based on project schedule needs and because salmonids are not historically known to be using the habitat in the area during the Project timing, established through direct communications with NOAA Fisheries staff and.

- 2) **Fish relocation:** The work area shall be isolated and all flowing water shall be temporarily diverted around the work site to maintain downstream flows during construction. Fish shall be excluded from occupying the work area by blocking the stream channel above and below the work area with fine-meshed net or screens. Mesh will be no greater than one eighth inch diameter. The bottom of a seine must be completely secured to the channel bed. Screens must be checked twice daily and cleaned of debris to permit free flow of water. Block nets shall be placed and maintained throughout the dewatering period at the upper and lower extent of the areas where fish will be removed. Block net mesh shall be sized to ensure Chinook salmon upstream or downstream do not enter the areas proposed for dewatering between passes with the electrofisher or seine.
- 3) **Injury:** Any injuries or mortality from a project-specific fish relocation site that exceeds three percent of captured fish for any listed species shall be reported to the nearest NMFS office within 48 hours and relocation activities shall cease until a NOAA RC biologist is on site to supervise the remainder of relocation activities. If any SR winter-run Chinook salmon, and CV spring-run Chinook salmon are killed during Project activities the Applicant shall retain all Chinook salmon mortalities and they shall be placed in an appropriately sized whirl-pak or zip-lock bag, labeled with the date and time of collection, fork length, location of capture, and frozen as soon as possible. Frozen samples must be retained until specific instructions are provided by NMFS.
- 4) **Instream Construction:** Debris, soil, silt, excessive bark, rubbish, creosote-treated wood, raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil or entering waters of the United States. Any of these materials, placed within or where they may enter a stream or lake, by the applicant or any party working under contract, or with permission of the applicant, shall be removed immediately. During Project activities, all trash that may attract potential salmonid predators will be properly contained, removed from the work site, and disposed of daily. Poured con-

crete shall be excluded from the wetted channel for a period of 30 days after it is poured. During that time the poured concrete shall be kept moist, and runoff from the concrete shall not be allowed to enter a live stream. Commercial sealants may be applied to the poured concrete surface where difficulty in excluding water flow for a long period may occur. If sealant is used, water shall be excluded from the site until the sealant is dry and fully cured according to the manufacturer's specifications.

- 5) **Restoration Plan:** The Applicant shall provide a restoration plan to NMFS to revegetate the disturbed and compacted areas within the Project area within 30 days of project completion for review and acceptance. Active restoration shall include planting native plugs and seeds within the tidal marsh and seasonal wetlands, for a total of approximately 0.056 acres of restoration planting. If removal of vegetation is required within project access or staging areas, the disturbed areas shall be replanted with native species, and the area will be maintained and monitored for a period of five years after replanting is complete to ensure the revegetation effort is successful. The standard for success is 80 percent survival of plantings or 80 percent ground cover for broadcast planting of seed, after a period of five years. If at the end of five years, the vegetation has not successfully been re-established, the Applicant will be responsible for replacement planting, additional watering, weeding, invasive exotic eradication, or any other practice, to achieve these requirements. *Although not a condition of the Chinook salmon PBO, CDFW requests the restoration plan also be provided to CDFW for review.*
- 6) **Onsite Restoration:** Prior to earthmoving activities, the Applicant will provide a security in the form of a Letter of Credit (LOC) to CDFW in the amount of \$14,000 to conduct onsite restoration, including wetland planting and monitoring per the Chinook salmon PBO, to benefit SR winter-run Chinook salmon, and CV spring-run Chinook salmon.

MONITORING AND REPORTING MEASURES

- 1) The Applicants must annually submit to NMFS a report of the previous year's restoration activities. The annual report shall include a summary of the specific type and location of the project including,
 - The length of streambank (feet) stabilized or planted with riparian species.
 - The distance (feet) of aquatic habitat

disturbed at each project site.

- 2) Following construction, the Applicant will submit a post–construction and implementation report to the NOAA RC. Submittal requirements will include plans describing post implementation conditions and photo documentation of project implementation taken before, during, and after construction. For fish relocation activities, the report will include all fisheries data collected by a qualified biologist including the number of listed Chinook salmon killed or injured during the proposed action, the number and size (in millimeters) of listed Chinook salmon captured and removed and any effects of the proposed action on listed Chinook salmon not previously considered. The Applicant will work with the NOAA RC to update the NOAA database used for tracking Chinook salmon killed or injured during a proposed action.

Although not a condition of the Chinook salmon PBO, CDFW requests a copy of the annual restoration report and the post–construction and implementation report.

FINANCIAL SECURITY

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of CTS, SR winter–run Chinook salmon, and CV spring–run Chinook salmon, provided the Applicant implements the Project as described in the CTS PBO and Chinook salmon PBO, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the CTS ITS and Chinook salmon ITS and accompanying PBOs. If there are any substantive changes to the Project, including changes to the mitigation measures, or if USFWS or NMFS amends or replaces any ITS or accompanying PBO, the Applicant shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See generally Fish & Game Code, §§ 2080.1, 2081, subdivisions (b) and (c)).

- 1) **Financial Assurances for CTS:** Prior to any earthmoving activities, the Applicant will purchase 0.40 acres of CTS habitat credits. Credits will be from one or more conservation banks approved by USFWS and CDFW. The Applicant will obtain written confirmation from USFWS and CDFW that the conservation bank(s) is in good standing prior to purchasing the credits. In the event that credits are not available for purchase, partly or entirely, prior to the start of ground disturbing activities, credits that are available will be purchased prior to the start of ground disturbing activities and a performance security will be

established equivalent to the amount needed to purchase the remaining credits. The security will be held in the form of an irrevocable Letter of Credit (LOC) issued to CDFW to execute the purchase of the remaining needed credits based on the estimated cost of \$240,000 per acre (\$96,000 for 0.40 acres). The LOC will be held by CDFW.

- 2) **Financial Assurances for Chinook salmon:** Prior to earthmoving activities, the Applicant will provide a security in the form of a Letter of Credit (LOC) to CDFW in the amount of \$14,000 to conduct onsite restoration, including wetland planting and monitoring per the NMFS PBO AMMs, to benefit SR winter–run Chinook salmon, and CV spring–run Chinook salmon. The LOC will be held by CDFW.

CONCLUSION

CDFW’s determination that the USFWS CTS ITS and accompanying CTS PBO and the NMFS Chinook salmon ITS and accompanying Chinook salmon PBO are consistent with CESA and limited to CTS, Sacramento River winter–run ESU Chinook salmon, and Central Valley spring–run ESU Chinook salmon.

FISH AND GAME COMMISSION

NOTICE OF FINDINGS

BEAR LAKE BUCKWHEAT

(Eriogonum microtheca var. lacus–ursi)

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the California Fish and Game Code (Fish and Game Code), the California Fish and Game Commission (Commission), at its October 9–10, 2024 meeting, accepted for consideration the petition submitted to list Bear Lake buckwheat (*Eriogonum microtheca var. lacus–ursi*) as endangered under the California Endangered Species Act.

Pursuant to subdivision (e)(2) of Section 2074.2 of the Fish and Game Code, the Commission determined that the amount of information contained in the California Department of Fish and Wildlife’s (Department) petition, the comments received, and the remainder of the administrative record, would lead a reasonable person to conclude there is a substantial possibility the requested listing could occur.

Based on that finding and the acceptance of the petition, the Commission is also providing notice that Bear Lake buckwheat is a candidate species as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department shall submit a written report, pursuant to Section 2074.6 of the Fish and

Game Code, indicating whether the petitioned action is warranted. Copies of the petition and minutes of the October 9–10, 2024 Commission meeting are on file and available for public review on the Commission’s website at fgc.ca.gov. If you would prefer to view the documents at the Commission’s office, please make an appointment by phone at (916) 653–4899 or by sending an email to fgc@fgc.ca.gov.

Written comments or data related to the petitioned action should be directed to the California Department of Fish and Wildlife, Habitat Conservation Planning Branch, Attn: Native Plant Program Specialist, Kristi Lazar or email nativeplants@wildlife.ca.gov with “Bear Lake buckwheat” in the subject line. Alternatively, comments or data may be submitted by mail to P.O. Box 944209, Sacramento, CA 94244–2090. Submission of information via email is preferred.

FISH AND GAME COMMISSION

NOTICE OF FINDINGS FOR LIME RIDGE ERIASTRUM (*Eriastrum erterae*) SEPTEMBER 18, 2024

NOTICE IS HEREBY GIVEN that the California Fish and Game Commission (Commission), at a meeting on October 11–12, 2023, found pursuant to California Fish and Game Code Section 2075.5, that the information contained in the petition to list the species Lime Ridge eriastrum (*Eriastrum erterae*) and other information in the record before the Commission, warrants adding Lime Ridge eriastrum to the list of endangered species under the California Endangered Species Act (CESA; Fish and Game Code, Section 2050 et seq.). (See also California Code of Regulations, Title 14, Section 670.1, subsection (i))

NOTICE IS ALSO GIVEN that, at its October 9–10, 2024, meeting, the Commission adopted the findings herein outlining the reasons for its determination.

I. Background and Procedural History

Petition History

On July 6, 2021, Christopher McCarron submitted a petition to the Commission to list Lime Ridge eriastrum as endangered under CESA. The Commission reviewed the petition for completeness, and pursuant to Section 2073 of the California Fish and Game Code, referred the petition to the California Department of Fish and Wildlife (Department) on July 15, 2021 for evaluation. The Commission gave public notice of receipt of the petition on August 6, 2021 (California Regulatory Notice Register 2021, Number 32–Z, page 1022). The Department transmitted to the Commission the Department’s petition evaluation on November 10, 2021 and, on December 15, 2021, the Commis-

sion publicly received the Department’s petition evaluation as part of its meeting materials.

At its February 16–17, 2022 meeting, the Commission determined that listing may be warranted, and subsequently provided notice regarding the Lime Ridge eriastrum’s status as a candidate species (California Regulatory Notice Register 2022, Number 9–Z, page 237).

Status Review Overview

The Commission’s action, designating Lime Ridge eriastrum as a candidate species, triggered the Department’s process for conducting a status review to inform the Commission’s decision on whether to list the species.

On June 28, 2023, the Department transmitted to the Commission the Department’s report to the Commission, *Status Review of Lime Ridge eriastrum (Eriastrum erterae) Report to the Fish and Game Commission*, dated August 2023. The Commission publicly identified receipt of the Department’s status review report as part of the Commission’s August 22–23, 2023 meeting materials. On October 11, 2023, the Commission found that the information contained in the petition to list Lime Ridge eriastrum and other information in the record before the Commission warranted listing Lime Ridge eriastrum as an endangered species under CESA.

Species Description

Lime Ridge eriastrum is an inconspicuous slender annual herb in the phlox family. Lime Ridge eriastrum typically grows between 1.5 and 20 cm (0.6–7.9 in) tall, but sometimes grows as tall as 25 cm (9.8 in). The stems and leaves of Lime Ridge eriastrum are light green with a surface of soft woolly hairs, but the stems can become reddish–brown with age as the hairs wear away. The leaves often have a reddish tip. The range of Lime Ridge eriastrum is very small. It is only found within Lime Ridge Open Space, which is a 496–ha (1,226–acre) park within the City of Walnut Creek in Contra Costa County, California. Lime Ridge eriastrum’s distribution consists of five small groupings of plants (colonies) within Lime Ridge Open Space. The combined area of these colonies is approximately 47 m² (500 ft²), which is an area that is smaller than four average vehicle parking spaces.

II. Statutory and Legal Framework

The Commission, as established by the California State Constitution, has exclusive statutory authority under California law to designate endangered, threatened, and candidate species under CESA (California Constitution, Article IV, Section 20, subdivision (b); Fish and Game Code Section 2070). The CESA listing process for this species began in the present case with a petition submitted to the Commission. The regulatory and legal process that ensued is described in

some detail in the preceding section, along with related references to the Fish and Game Code and controlling regulations. The CESA listing process generally is also described in some detail in published appellate case law in California, including:

- *Natural Resources Defense Council v. California Fish and Game Commission* (1994) 28 Cal.App.4th 1104;
- *Mountain Lion Foundation v. California Fish and Game Commission* (1997) 16 Cal.4th 105;
- *California Forestry Association v. California Fish and Game Commission* (2007) 156 Cal.App.4th 1535;
- *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4th 597;
- *Central Coast Forest Association v. California Fish and Game Commission* (2017) 2 Cal.5th 594;
- *Central Coast Forest Association v. California Fish and Game Commission* (2018) 18 Cal.App.5th 1191; and
- *Almond Alliance of California v. California Fish and Game Commission* (2022) 79 Cal.App.5th 337.

The “is warranted” determination stems from Commission obligations established by Fish and Game Code Section 2075.5. Under the provision, the Commission is required to make one of two findings for a candidate species at the end of the CESA listing process; namely, whether listing a species is warranted or is not warranted. Here, the Commission made the finding under Section 2075.5, subdivision (e)(2) that listing is warranted.

The Commission was guided in making its determinations by statutory provisions and other controlling law. The Fish and Game Code, for example, defines an endangered species under CESA as “a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease” (Section 2062). Similarly, the Fish and Game Code defines a threatened species under CESA as “a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter” (Section 2067).

The Commission also considered California Code of Regulations, Title 14, Section 670.1, subsection (i)(1)(A), in making its determination. The provision provides, in pertinent part, that the Commission will

list the species or subspecies as endangered or threatened under CESA if the Commission determines that its continued existence is in serious danger or is threatened by any one or any combination of six factors:

1. Present or threatened modification or destruction of its habitat,
2. overexploitation,
3. predation,
4. competition,
5. disease, or
6. other natural occurrences or human-related activities.

Fish and Game Code Section 2070 provides similar guidance, providing that the Commission shall add or remove species from the list of endangered and threatened species under CESA only upon receipt of sufficient scientific information that the action is warranted. Similarly, CESA provides that it is the policy of the state, not specific to the Commission per se, that all state agencies, boards, and commissions shall seek to conserve endangered and threatened species and shall utilize their authority in furtherance of the purposes of CESA (Fish and Game Code Section 2055). The statutory guidance does not compel a particular determination by the Commission in the CESA listing context. Nevertheless, “[l]aws providing for the conservation of natural resources’ such as the CESA are of great remedial and public importance and thus should be construed liberally.” (*California Forestry Association v. California Fish and Game Commission*, supra, 156 Cal.App.4th at pages 1545–1546, citing *San Bernardino Valley Audubon Society v. City of Moreno Valley* (1996) 44 Cal.App.4th 593, 601; Fish and Game Code sections 2051 and 2052.)

Finally, in considering the six identified factors, CESA and controlling regulations require the Commission to actively seek and consider related input from the public and any interested party (see, e.g., Fish and Game Code, sections 2071, 2074.4 and 2078; California Code of Regulations, Title 14, Section 670.1, subsection (h)). The related notice obligations and public hearing opportunities before the Commission are also considerable (Fish and Game Code sections 2073.3, 2074, 2074.2, 2075, 2075.5 and 2078; California Code of Regulations, Title 14, Section 670.1, subsection (c), (e), (g) and (i); see also California Government Code Section 11120 et seq.). The referenced obligations are in addition to the requirements prescribed for the Department in the CESA listing process, including an initial evaluation of the petition, a related recommendation regarding candidacy, and a review of the candidate species’ status, culminating with a report and recommendation to the Commission as to whether listing is warranted based on the best available science (Fish and Game Code sections 2073.4,

2073.5, 2074.4 and 2074.6; California Code of Regulations, Title 14, Section 670.1, subsections (d), (f) and (h)).

III. Factual and Scientific Bases for the Commission’s Final Determination

The factual and scientific bases for the Commission’s determination that designating Lime Ridge eriastrum as an endangered species under CESA is warranted are set forth in detail in the Commission’s record of proceedings, including the petition; the Department’s petition evaluation report; the Department’s status review report; written and oral comments received from members of the public, the regulated community, tribal entities, and the scientific community; and other evidence included in the Commission’s record of proceedings, which is incorporated herein by reference.

The Commission determines that the continued existence of Lime Ridge eriastrum in the state of California is in serious danger or threatened by one or a combination of six factors as required by California Code of Regulations, Title 14, Section 670.1, subsection (i)(1)(A):

1. Present or threatened modification or destruction of its habitat,
2. overexploitation,
3. predation,
4. competition,
5. disease, or
6. other natural occurrences or human-related activities.

The Commission also determines that the information in the Commission’s record constitutes the best scientific information available and establishes that designating Lime Ridge eriastrum as an endangered species under CESA is warranted. Similarly, the Commission determines that Lime Ridge eriastrum is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease.

The items highlighted here and detailed in the following threats section represent only a portion of the complex issues aired and considered by the Commission during the CESA listing process for Lime Ridge eriastrum. Similarly, the issues addressed in these findings represent some, but not all, of the evidence, issues, and considerations affecting the Commission’s final determination. Other issues aired before and considered by the Commission are addressed in detail in the record before the Commission.

Background

The Commission bases its “is warranted” finding for Lime Ridge eriastrum most fundamentally on its rarity. Lime Ridge eriastrum’s small range and low

abundance is a significant factor influencing the ability of the species to survive and reproduce.

Threats

Lime Ridge eriastrum is endangered due to:

- Present or threatened modification or destruction of its habitat (see, e.g., Department’s status review report at page 32 and references cited therein) including impacts associated with the following:
 - Recreational use of the public land where Lime Ridge eriastrum occurs (see, e.g., Department’s status review report at pages 21–23, 32, and 34, and references cited therein);
 - Wildfire response activities (see, e.g., Department’s status review report at pages 23, 32, and 34, and references cited therein); and
 - Utility right-of-way management (see, e.g., Department’s status review report at pages 23–24, 32, and 34, and references cited therein).
- Competition and other impacts from invasive and non-native plants (see, e.g., Department’s status review report at page 24–26, 32 and 34, and references cited therein).
- Other natural occurrences or human-related activities. In particular, natural occurrences or human-related activities of significance include:
 - Small population size (see, e.g., Department’s status review report at pages 20–21 and 34, and references cited therein); and
 - Climate change (see, e.g., Department’s status review report at pages 26–28, 32, and 34, and references cited therein).

The Commission finds these factors to result in a significant threat to the continued existence of Lime Ridge eriastrum as explained in the Department’s status review report. This finding and the Department’s explanation are supported by the whole of the record before the Commission.

IV. Final Determination by the Commission

The Commission has weighed and evaluated the information for and against designating Lime Ridge eriastrum as a threatened or endangered species under CESA, including scientific and other general evidence in the petition; the Department’s petition evaluation report; the Department’s status review report; the Department’s related recommendations; written and oral comments received from members of the public, the regulated community, various public agencies, and the scientific community; and other evidence included in the Commission’s record of proceedings.

Based upon the evidence in the record, the Commission has determined that the best scientific infor-

mation available indicates the continued existence of Lime Ridge eriastrum is in serious danger or threatened by modification or destruction of the species' habitat, competition, or other natural occurrences or human-related activities, where such factors are considered individually or in combination (see, generally, California Code of Regulations, Title 14, Section 670.1, subsection (i)(1)(A); Fish and Game Code sections 2062 and 2067).

The Commission determines that there is sufficient scientific information to indicate that designating Lime Ridge eriastrum as an endangered species under CESA is warranted, and that, with adoption and publication of these findings, Lime Ridge eriastrum shall be listed as endangered for purposes of its legal status under CESA.

FISH AND GAME COMMISSION

**NOTICE OF FINDINGS
WESTERN BURROWING OWL
(*Athene cunicularia hypugaea*)**

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the California Fish and Game Code (Fish and Game Code), the California Fish and Game Commission (Commission), at its October 9–10, 2024 meeting, accepted for consideration the petition submitted to list western burrowing owl (*Athene cunicularia hypugaea*) as threatened or endangered under the California Endangered Species Act.

Pursuant to subdivision (e)(2) of Section 2074.2 of the Fish and Game Code, the Commission determined that the amount of information contained in the petition, when considered in light of the California Department of Fish and Wildlife (Department) written evaluation report, the comments received, and the remainder of the administrative record, would lead a reasonable person to conclude there is a substantial possibility the requested listing could occur.

Based on its determination and acceptance of the petition, the Commission is also providing notice that western burrowing owl is a candidate species as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition and minutes of the October 9–10, 2024 Commission meeting are on file and available for public review on the Commission's website at fgc.ca.gov. If you would prefer to view the documents at the Commission's office, please make an

appointment by phone at (916) 653–4899 or by sending an email to fgc@fgc.ca.gov.

Written comments or data related to the petitioned action should be directed to the California Department of Fish and Wildlife, Wildlife Diversity Program, Attn: Endangered Species Listing Coordinator, Anne Hilborn via email at wildlifemgt@wildlife.ca.gov with "western burrowing owl" in the subject line. Alternatively, comments or data may be submitted by mail to P.O. Box 944209, Sacramento, CA 94244–2090. Submitting information via email is preferred.

**SUMMARY OF
REGULATORY ACTIONS**

**REGULATIONS FILED WITH THE
SECRETARY OF STATE**

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

Department of Corrections and Rehabilitation
File # 2024–0924–02
Sex Offender Treatment

This rulemaking action adopts Section 3574 into California Code of Regulations, Title 15 (CCR 3574). Pursuant to Penal Code (PC) Section 3008(d), sex offender supervised persons must participate in a sex offender treatment program for no less than one year, up to the entire period of parole. CCR 3574 defines the various phases of the sex offender treatment program and establishes a review process which facilitates the completion or continuation of that treatment.

Title 15
Adopt: 3574
Filed 10/14/2024
Effective 10/14/2024
Agency Contact:
Dmitriy Kostyuk (916) 445–2276

California State University
File # 2024–0905–01
Doctoral Programs

This action by the Board of Trustees of the California State University adopts, amends, and repeals regulations regarding doctoral programs. This action is exempt from the Administrative Procedure Act and takes effect upon filing with the Secretary of State pur-

suant to Education Code sections 89030 and 89030.1, respectively, and is submitted to the Office of Administrative Law for courtesy filing with the Secretary of State and for printing in the California Code of Regulations

Title 05
 Adopt: 40511, 40512, 41020, 41021, 41022, 41023
 Amend: 40050, 40100
 Repeal: 40050.1, 40050.2, 40050.3, 40050.4, 40050.5, 40511, 40512, 40512, 40514, 40515, 40516, 40517, 40518, 40519, 40519.1, 40519.2, 40519.3, 41020, 41021, 41022, 41023, 41024, 40125
 Filed 10/10/2024
 Effective 10/10/2024
 Agency Contact: Jason Taylor (562) 951–4500

Department of Insurance
 File # 2024–0924–03
 California Automobile Assigned Risk Plan Simplified Rules and Rates Manual

This rulemaking action by the Department of Insurance amends section 2498.5 of Title 10 of the California Code of Regulations and amends Rules 50 and 56 of the “California Automobile Assigned Risk Plan Manual” which is incorporated by reference thereto. This action is exempt from the Administrative Procedure Act pursuant to Insurance Code section 11620(c).

Title 10
 Amend: 2498.5
 Filed 10/10/2024
 Effective 10/10/2024
 Agency Contact: Michael Riordan (415) 538–4226

Bureau of Real Estate Appraisers
 File # 2024–1001–03
 Bureau Address Change

This action without regulatory effect amends the revision date of “A Manual of Disciplinary Guidelines and Model Disciplinary Orders” which is incorporated by reference within Title 10 section 3733 of the California Code of Regulations to correspond to the date of the most recent amendments to the document. This action further amends said document by updating the Bureau’s current physical address, removing gendered pronouns, updating the document’s revision date throughout, and correcting minor grammar and formatting.

Title 10
 Amend: 3733
 Filed 10/10/2024
 Agency Contact: Shelley Ganaway (916) 574–8222

California Department of Tax and Fee Administration
 File # 2024–0827–01
 Permits

This action without regulatory effect by the California Department of Tax and Fee Administration (“Department”) amends section 1699 and 1699 appendix A of title 18 of the California Code of Regulations (“CCR”). Specifically, this action amends a category of persons, “qualified purchasers,” who are required to register with the Department and pay an annual use tax in response to amendments to Revenue and Taxation Code (“RTC”) section 6225 made by Assembly Bill 1097 (Stats. 1097, chapter 355) (“AB 1097”); amends existing references to the Board of Equalization (“BOE”) to now reflect the Department, consistent with Government Code (“GC”) sections 15570.22 and 15570.24; and replaces gendered pronouns with gender neutral terms.

Title 18
 Amend: 1699, 1699 Appendix A
 Filed 10/09/2024
 Agency Contact: Kim DeArte (916) 309–5227

Department of Corrections and Rehabilitation
 File # 2024–0917–02
 Non–Substantive Changes — Community Based Programs

This rulemaking action makes non–substantive changes to sections 3078.3; 3078.4; 3078.8; 3078.9; 2078.10; 3078.11; 3078.12; and 3078.12. Specifically, the changes would update proper terminology, and reflect the current revision dates for forms incorporated by reference within those sections.

Title 15
 Amend: 3078.3, 3078.4, 3078.7, 3078.8, 3078.9, 3078.10, 3078.11, 3078.12, 3078.13
 Filed 10/16/2024
 Agency Contact: Alison Colavita (916) 322–8344

Department of Fish and Wildlife
 File # 2024–0930–01
 Fees for Lake and Streambed Alteration Agreements

As changes without regulatory effect, the Department of Fish and Wildlife (the “Department”) is amending fees for lake and streambed alteration agreements. Annual changes to the fees are required by Fish & Game Code § 1609 by applying the index to determine an increase or decrease in the fees as specified in Fish & Game Code § 713. The amended fees will become effective on January 1, 2025.

Title 14
Amend: 699.5
Filed 10/16/2024
Agency Contact: Angela Baker (916) 207-6718

Division of Workers' Compensation
File # 2024-0903-02
The Qualified Medical Evaluator Panel Selection Instruction Form

In this change without regulatory effect, the Division amends its regulation to update the phone number listed for the Division of Workers' Compensation Information and Assistance Unit.

Title 08
Amend: 108
Filed 10/09/2024
Agency Contact: Maureen Gray (510) 286-0676

Board of Behavioral Sciences
File # 2024-0829-02
Unprofessional Conduct

In this rulemaking action, the Board of Behavioral Sciences (BBS) repeals regulations which duplicate newly adopted statutory requirements, adds language which accounts for the requirements of the Confidentiality of Medical Information Act, amends language to be gender neutral, and makes changes to the syntax of existing regulatory requirements.

Title 16
Amend: 1845, 1858, 1881, 1886.30 and 1886.40
Filed 10/09/2024
Effective 01/01/2025
Agency Contact: Christy Berger (916) 574-7995

Board of Optometry
File # 2024-0827-04
Mobile Optometric Office Program

This regular rulemaking action by the California State Board of Optometry establishes registration fees, registration procedures, and operational standards pertaining to mobile optometric offices.

Title 16
Adopt: 1583, 1584, 1584.5, 1585, 1586, 1587
Amend: 1505, 1524
Filed 10/09/2024
Effective 10/09/2024
Agency Contact: Gregory Pruden (916) 574-7808

Cemetery and Funeral Bureau
File # 2024-0905-02
Crematory: Change in Ownership

This rulemaking action by the Cemetery and Funeral Bureau amends regulations relating to the applications for and assignment of a crematory license.

Title 16
Adopt: 2326.01
Amend: 2326
Filed 10/16/2024
Effective 01/01/2025
Agency Contact:
Carolina Sammons (916) 574-7876

Department of Financial Protection and Innovation

File # 2024-0829-01

California Consumer Financial Protection Law
Regulation

In this resubmitted rulemaking action, the Department adopts regulations to establish registration fees and registration requirements for persons engaged in the business of offering to provide or providing consumer financial products or services, such as debt settlement, student debt relief, education financing, and income-based advances. The regulations also provide exemptions to the registration requirement. The adoptions further set forth annual reporting requirements and procedures for the revocation of a registration.

Title 10
Adopt: 1000, 1001, 1002, 1003, 1004, 1010, 1011, 1012, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1030, 1031, 1032, 1033, 1034, 1040, 1041, 1042, 1043, 1044, 1045, 1048, 1050, 1051, 1052, 1053, 1430.1, 1461, 1462.5, 1465, 1466, 1467, 2030.5, 2044.1
Filed 10/11/2024
Effective 02/15/2025
Agency Contact: DeEtte Phelps (916) 477-9095

**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.