

# REGIONAL CONSERVATION INVESTMENT STRATEGIES PROGRAM GUIDELINES

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# **REGIONAL CONSERVATION INVESTMENT STRATEGIES PROGRAM GUIDELINES**

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## 1.1 Introduction

On September 22, 2016, Assembly Bill (AB) 2087 was signed into law ([Fish and Game Code sections 1850 et seq.](#)) and went into effect on January 1, 2017, officially creating the California Department of Fish and Wildlife's (CDFW) Regional Conservation Investment Strategies Program (Program). On September 22, 2022, AB 2805 was signed into law to amend the Program and took effect January 1, 2023. These guidelines reflect the AB 2805 amendments.

The purpose of the Program is to promote the voluntary conservation of natural resources and to enhance resiliency to climate change and other threats.<sup>1</sup> The Program is non-regulatory and promotes science-based conservation by providing mechanisms to guide investments in conservation, infrastructure, and **compensatory mitigation** for impacts to natural resources, including impacts to species, natural communities, ecological processes, and wildlife connectivity.<sup>2</sup> The Program's three components include: **Regional Conservation Assessment (RCA)**, **Regional Conservation Investment Strategy (RCIS)**, and **Mitigation Credit Agreement (MCA)**.

An RCA is an assessment at the **ecoregional** scale that provides an overview of the **RCA area**'s existing conditions, including ecological resources and the threats affecting those resources. Information in an RCA is based on the best available scientific information and includes, but is not limited to, areas of current and foreseeable development as well as areas with the greatest probability for long-term ecosystem conservation success. RCAs may be developed by any public agency. Once approved, an RCA is available to the public for use by anyone. An RCAs may be used to provide context at an ecoregional scale to assist with infrastructure or conservation planning. RCAs can support the development of RCISs, but are not required to prepare an RCIS.

An RCIS is an assessment of the **RCIS area**'s existing conditions along with a conservation strategy, which are based on the best available scientific

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<sup>1</sup> Fish & G. Code, § 1850, subdivision (b)

<sup>2</sup> Fish & G. Code, § 1850, subdivision (d)

information. The assessment includes, but is not limited to, areas of current and foreseeable development as well as information regarding **sensitive species** and natural resources within the RCIS area. The strategy includes **goals, objectives**, actions, and **priorities** for the species and resources with conservation and/or mitigation needs and can be used to guide effective and efficient conservation. RCISs may be developed by any public agency or federally recognized tribe. Once approved, an RCIS is available to the public for use and implemented by anyone for 10 years unless extended. The actions listed in an RCIS strategy may be implemented as either **conservation investments** or **advance mitigation**.

An MCA is an agreement that establish advance mitigation **credits** to be used to fulfill compensatory mitigation requirements under any state or federal environmental law, as determined by the applicable local, state, or federal regulatory agency, including the California Endangered Species Act (CESA),<sup>3</sup> Lake and Streambed Alteration (LSA)<sup>4</sup> Agreements, or the California Environmental Quality Act (CEQA).<sup>5</sup> Where there is an approved RCIS, an MCA can be developed by anyone and can include one or more sites. MCAs provide advance compensatory mitigation that supports regional conservation priorities by implementing the RCIS's actions prior to project impacts. MCAs benefit public agencies and other entities by allowing the creation of advance mitigation credits for infrastructure, development, and other project needs in the RCIS area.

Additionally, Senate Bill 790 became effective on January 1, 2022, and is codified as [Fish and Game Code section 1955 et seq.](#), titled "Wildlife Connectivity Actions." This new statute reinforces the values and importance of wildlife habitat connectivity and authorizes CDFW's ability to create credits for a wildlife connectivity action through an MCA and Banking programs. Guidelines associated with this Fish and Game Code section will be in a separate document and relate to credits associated with a wildlife connectivity action.

Consultation, review, and approval of RCAs, RCISs, and MCAs is led by CDFW's Habitat Conservation Planning Branch (HCPB) in the headquarters office.

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<sup>3</sup> Fish & G. Code, §§ 2080 – 2085

<sup>4</sup> Fish & G. Code, §§ 1600 – 1617

<sup>5</sup> Pub. Resources Code, §§ 21000 – 21189

## 1.2 Purpose and Use of Guidelines

CDFW is providing these Regional Conservation Investment Strategies Program Guidelines (Guidelines) to implement [Fish and Game Code section 1850 et seq.](#)<sup>6</sup> These Guidelines incorporate all relevant documents and Program guidance and apply to all RCAs, RCISs, and MCAs submitted as of the date of these Guidelines, except as otherwise stated (see Sections 1.3 and 5.1).<sup>7</sup> These Guidelines are intended to assist state and local public agencies, private entities, the public, and CDFW staff in implementing the Program and instruction on how to submit individual Program documents.

CDFW intends that these Guidelines will be a “living document” available on [CDFW’s RCIS Program web page](#). CDFW, in coordination with interested entities, may update these Guidelines as additional relevant information becomes available.

CDFW intends for these Guidelines to provide **RCA proponents**, **RCIS proponents**, and **MCA sponsors** direction in preparing documents to achieve high-quality comprehensive conservation outcomes based on ecological principles and the best available science. The Guidelines are structured as follows: the words “shall” and “must” are used for provisions that are required, while the terms “may” or “should” indicate recommendations.

CDFW strongly recommends early and ongoing coordination and collaboration with CDFW’s headquarters staff and relevant regional staff when developing RCAs, RCISs, and MCAs. Doing so will allow early feedback on the various components (e.g., geographic area, **conservation elements**, level of detail needed) and more efficient approvals.

The RCA, RCIS, and MCA chapters below outline the public engagement requirements and suggestions. CDFW recommends including a public or stakeholder engagement process in the development of all RCIS Program submittals. Including a broad array of stakeholders can foster collaborative engagement with individuals and entities with relevant experience and expertise. Including a technical review team knowledgeable of ecological information and conservation needs can help to ensure best available science in developing conservation elements, and associated goals, objectives, and actions. CDFW also recommends early and ongoing

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<sup>6</sup> In the event of any inconsistency between Fish and Game Code sections 1850-1860 and these Guidelines, the provisions of the Fish and Game Code govern the interpretation of these Guidelines.

<sup>7</sup> Fish & G. Code, § 1858, subdivision (a)

consultation among RCA and RCIS proponents, MCA sponsors, and developers of other conservation plans in the same or adjacent geographic areas (note that RCISs cannot overlap).

Additionally, RCIS proponents should engage with infrastructure agencies early to anticipate local requirements, potential needs for MCA credits and/or to participate in the development of the RCIS. Overall, coordination with CDFW and collaborative engagement will generally result in fewer major changes needed during CDFW's completeness and substantive review phases, saving the proponents or sponsors both time and money.

Terms, abbreviations, and acronyms, defined in Section 2 (Standard Terminology) are bolded with their first mention in each major section of the Guidelines. The remainder of these Guidelines is divided into three main sections: Section 3 (Regional Conservation Assessments), Section 4 (Regional Conservation Investment Strategies), and Section 5 (Mitigation Credit Agreements).

## 1.3 Fees

Fish and Game Code section 1857 authorizes CDFW to collect fees or other compensation to pay for all or a portion of CDFW's costs relating to an RCA, RCIS, or MCA. The applicable [RCIS Program Fees](#) must be paid in full prior to CDFW's review of any component of an RCA, RCIS, or MCA that requires fees. The fee schedule for the Program's components is posted on [CDFW's RCIS Program web page](#) and is incorporated into these Guidelines by this reference as if it was fully set forth herein.

## 1.4 Program Contacts

CDFW's RCIS program is implemented through CDFW's Habitat Conservation Planning Branch (HCPB), in the West Sacramento headquarters office. General inquiries and notifications of a proponent's intent to develop an RCA, RCIS, or MCA should be sent to HCPB at [RCIS@wildlife.ca.gov](mailto:RCIS@wildlife.ca.gov).

Both CDFW HCPB staff and regional staff should be included in consultations during the development of RCAs, RCISs, and MCAs. CDFW region may be notified either by requesting region contacts from HCPB or by contacting established Habitat Conservation Planning contacts within the applicable CDFW region.

Information about the Program can be found on [CDFW's RCIS Program web page](#). Requests to be added to CDFW's RCIS Program Notifications List should be sent to [RCIS@wildlife.ca.gov](mailto:RCIS@wildlife.ca.gov).

## 1.5 Accessibility

CDFW follows the [Web Content Accessibility Guidelines \(WCAG\)](#) per [California Government Code sections 7405](#) and [California Government Code section 11135](#). Since the public draft and the approved final versions of RCAs, RCISs, and MCAs must be posted on one of CDFW's RCIS Program web pages, RCA and RCIS proponents and MCA sponsors shall provide CDFW with PDF files of the applicable documents that comply with the WCAG and are no larger than 100 megabytes. Documents larger than 100 megabytes will need to be divided into two or more smaller documents.

The most efficient way to develop an accessible PDF is to incorporate accessible formatting into the Word document during document development. [Seven Steps to Creating an Accessible Word Document](#) are as follows:

- a. Use appropriate font style and size;
- b. Use color appropriately;
- c. Add alternative texts and captions;
- d. Specify column header rows in tables;
- e. Use meaningful hyperlink text;
- f. Use built-in formatting styles; and
- g. Use Word accessibility checker.

For guidance on compliance with these standards and for assistance with development of an accessible PDF, please refer to the following resources:

- a. [WCAG requirements](#);
- b. [Seven Steps to Creating an Accessible Word Document](#);
- c. [U.S. Department of Health and Human Services Accessibility Conformance Checklists](#), pursuant to the Rehabilitation Act of 1973;
- d. [California Department of Rehabilitation Disability Access Services website](#).

RCA and RCIS proponents and MCA sponsors should plan to conduct a manual accessibility review and remediation of any PDF document that must be posted on one of CDFW's RCIS Program web pages. Reliance on built-in accessibility checkers is insufficient as they are unable to identify many common accessibility issues. The California Department of Rehabilitation offers several document accessibility courses that may be helpful in training staff to develop accessible Word documents and to review and remediate PDF documents.

Prior to posting any RCA, RCIS, or MCA document to its web pages, CDFW will conduct an accessibility review. If issues of accessibility are identified, CDFW may require the RCA or RCIS proponent or the MCA sponsor to remediate any remaining accessibility issues before CDFW is able to post the document for public availability.

## 2.1 Terms, Abbreviations, Acronyms, and Definitions

<b>Term/Acronym/Abbreviation</b>	<b>Definition</b>
ACE—Areas of Conservation Emphasis	The biodiversity analysis completed by CDFW in 2010, or the latest update of that analysis. <sup>8</sup>
advance mitigation	Compensatory mitigation for impacts on ecological resources (species and/or habitats) and other natural resources that is implemented prior to impacts occurring.
approved MCA	An MCA is deemed to be approved on the date that all parties, including CDFW as the regulatory agency, have signed the MCA. See also “MCA establishment.”
CDFW	California Department of Fish and Wildlife
CEHC—California Essential Habitat Connectivity Project: A Strategy for Conserving a Connected California	A statewide assessment of essential habitat connectivity completed by consultants and commissioned by CDFW and Caltrans; the assessment used the best available science, datasets, and spatial analysis and modeling techniques to identify large remaining blocks of intact habitat or natural landscape and model linkages between them that need to be maintained, particularly as corridors for wildlife.
CEQA	California Environmental Quality Act (California Public Resources Code, section 21000, et seq.)
CESA	California Endangered Species Act (Fish and Game Code, section 2050, et seq.)
CNDDDB – California Natural Diversity Database	An inventory of the status and locations of rare plants and animals in California.
compensatory mitigation	Actions taken to fulfill, in whole or in part, mitigation requirements under state or federal law, including regulatory permits, or a court mandate. <sup>9</sup>

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<sup>8</sup> Fish & G. Code, § 1851, subdivision (a)

<sup>9</sup> Fish & G. Code, § 1851, subdivision (b)

<b>Term/Acronym/ Abbreviation</b>	<b>Definition</b>
conservation action	An action to preserve or to restore ecological resources, including habitat, natural communities, ecological processes, and wildlife corridors, to protect those resources permanently, and to provide for their perpetual management, so as to help to achieve one or more biological goals and objectives for one or more focal species. Conservation actions may include, but are not limited to, actions to offset impacts to focal species. <sup>10</sup>  Compare to “habitat enhancement action.”
Conservation Easement (CE)	A perpetual Conservation Easement that complies with Civil Code 815 <i>et seq.</i> <sup>11</sup>
Conservation Easement (CE) grantee	The entity that holds the CE for the MCA site. The CE grantee must be eligible to hold a CE pursuant to California Civil Code § 815.3, authorized to hold the CE by Government Code §§ 65966 and 65967, and approved by CDFW.
conservation element	A species, natural resource, or ecological process that is identified and analyzed in an RCIS that will benefit from actions listed in the RCIS. Conservation elements include focal species and other conservation elements. See “other conservation element” and “focal species.”
conservation investment	RCIS actions that are implemented, but not for the purpose of creating credits. Conservation investments are typically funded by public agencies (e.g., grants) and nonprofit or other philanthropic organizations.
Construction Security	The financial security required by the MCA, in a form acceptable to CDFW, to be provided by the MCA Sponsor to guarantee the completion of construction and planting intended to establish habitat through creation, enhancement or restoration within the MCA site in accordance with the Development Plan.
Compliance Security	The financial security required by the MCA, in a form acceptable to CDFW, to be provided by the MCA Sponsor to guarantee their obligations under this MCA through MCA closure, including any remedial actions needed.

<sup>10</sup> Fish & G. Code, § 1851, subdivision (c)

<sup>11</sup> Fish & G. Code, § 1851, subdivision (d)

<b>Term/Acronym/ Abbreviation</b>	<b>Definition</b>
create, creation	A manipulation of the physical, chemical, or biological characteristics of a site to develop ecological value and ecosystem processes that did not previously exist at the site. Creation results in a gain in ecological resource area and function. See “establishment.” Compare to “enhancement,” “preservation,” and “restoration.”
credit	The unit of measure representing the accrual, attainment, or protection of focal species, non-focal species, or other conservation elements on the MCA site.
credit release	An action by CDFW over specified credits created, pursuant to the MCA, that makes the credits available for sale or use. Credits are released as set forth in the credit release schedule of the MCA after meeting the performance-based milestones and/or the performance standards associated with the release.
credit sale	The sale of credits by the MCA sponsor to another entity through a credit purchase as noted in a Credit Receipt.  Previously, or in other programs, may have been referred to as “advance credit purchase”, “credit sale without transfer” or “bulk credit purchase”. See also “credit use.”
credit use	The use, or application of credits to a permit or project in order to satisfy compensatory mitigation requirements. Considered ‘transfer of credits’ in conservation and mitigation banking. Compare to “credit sale.”
CWHR—California Wildlife Habitat Relationships	System that contains the life history, geographic range, habitat relationships, and management information for over 700 regularly occurring species of amphibians, reptiles, birds, and mammals in the state; allows users to produce queries to generate lists of species by geographic location or habitat type and provides information on expert opinion–based habitat suitability ranks for each species within each habitat type.
Development Plan	The document attached to the MCA Template as an exhibit that is the overall plan governing construction and habitat establishment, which includes creation, restoration, and enhancement activities. Where preservation credits are proposed in an MCA, may not be necessary depending on site specific conditions and initial activities.

<b>Term/Acronym/ Abbreviation</b>	<b>Definition</b>
draft Natural Community Conservation Plan (NCCP)	A substantially complete draft of a Natural Community Conservation Plan (NCCP) that is released after January 1, 2016, to the general public, plan participants, and CDFW. <sup>12</sup>
ecoregion(al), sub-ecoregion(al)	As used in this document, ecoregion means a U.S. Department of Agriculture (USDA) section and sub-ecoregion means a portion of the USDA section or USGS Hydrological Units (assigned hydrological unit codes; HUC). USDA describes four geographic levels of detail in a hierarchy of regional ecosystems including domains, divisions, provinces, and sections. Sections are subdivisions of provinces based on major terrain features, such as a desert, plateau, valley, mountain range, or a combination thereof. May also be referred to as 'regional level.'
ecosystem process	The interactions between physical, chemical, and biological components of the ecosystem, such as dynamic river meander, tidal fluctuations, bank erosion, and sediment deposition. May also be referred to as 'ecosystem function.'
ecosystem services	The beneficial outcomes to humans from the natural environment such as supplying of oxygen; sequestering of carbon; moderating climate change effects; supporting the food chain; harvesting of animals or plants; providing clean water; recharging groundwater; abating storm, fire, and flood damage; pollinating and fertilizing for agriculture; and providing scenic views.

<sup>12</sup> Fish & G. Code, § 1851, subdivision (e)

<b>Term/Acronym/ Abbreviation</b>	<b>Definition</b>
endowment fund	A financial account held in trust for the benefit of the long-term stewardship of the MCA site. The endowment fund shall be maintained and managed in accordance with Government Code §§ 65965-69568, Probate Code §§ 18501-18510, the MCA, and, to the extent they do not conflict with the foregoing, the endowment agreement. The endowment fund shall be invested in accordance with an investment policy statement that is designed to generate earnings and appreciate in value over the long-term. The amount of funds to be deposited are included in the Endowment Fund Analysis exhibit. The endowment fund shall be used to pay for the management, maintenance, monitoring, and reporting pursuant to the Long-term Management and Monitoring Plan. The term "endowment fund" as used in this MCA shall include the endowment deposits and all interest, dividends, gains, other earnings, additions and appreciation.
endowment holder	An entity qualified to hold the endowment pursuant to Government Code §§ 65965-65968. See "endowment fund."
enhance, enhancement	A manipulation of the physical, chemical, or biological characteristics to heighten, intensify, or improve an existing resource. Enhancement results in a gain in ecological function but may also lead to a decline in other ecological functions. Enhancement does not result in a gain in ecological resource area. See "establishment." Compare to "creation," "preservation," and "restoration."
established bank	A conservation or mitigation bank (bank) is considered established when the bank has met the bank establishment date criteria required in the banking program and the bank may begin selling or transferring credits. Also referred to as an 'approved conservation and mitigation bank'.
establish, establishment	The manipulation of the physical, chemical, or biological characteristics to develop or improve the ecological value and/or ecosystem processes on a site. Establishment may include creation, restoration and/or enhancement. See "creation," "enhancement," and "restoration." Compare to "preservation."

<b>Term/Acronym/ Abbreviation</b>	<b>Definition</b>
extraordinary circumstances	An event or circumstance that has a material and detrimental impact on the MCA site or on the ability of MCA sponsor to attain performance standards and: (1) was neither foreseen nor foreseeable by the MCA sponsor, property owner, or CDFW; and (2) neither the MCA sponsor nor the property owner (or anyone acting on behalf or under the control of either of them) caused or could have prevented; and (3) prevents the MCA sponsor or property owner from achieving an objective or undertaking an action required under the MCA. Extraordinary circumstances exclude mere economic hardship.
focal species	Sensitive species identified and analyzed within an RCIS that will benefit from conservation actions and/or habitat enhancement actions set forth in the RCIS. <sup>13</sup>  In practice, focal species have also included common species beyond sensitive species that would benefit from conservation actions and habitat enhancement actions. See also, "sensitive species" and "non-focal species".
goal	A broad, guiding principle that describes a desired future condition for a focal species or other conservation element. Each goal is supported by one or more objectives with one or more actions. May also be referred to as 'conservation goal' or 'biological goal.'
habitat enhancement action	An action identified in an RCIS to improve the quality of wildlife habitat, or to address risks or stressors to wildlife, that has long-term durability but does not involve land acquisition or the permanent protection of habitat, such as improving in-stream flows to benefit fish species, enhancing habitat connectivity, or invasive species control or eradication. <sup>14</sup>  Compare to "conservation action".

<sup>13</sup> Fish & G. Code, § 1851, subdivision (f)

<sup>14</sup> Fish & G. Code, § 1851, subdivision (g)

<b>Term/Acronym/ Abbreviation</b>	<b>Definition</b>
HCP – Habitat Conservation Plan	Habitat Conservation Plan. A federal planning document that is required as part of an application for an incidental take permit under the federal Endangered Species Act. HCPs describe the anticipated effects of the proposed taking, how those impacts will be minimized or mitigated, and how the HCP is to be funded.
HUC	Hydrologic Unit Code
implementing entity	The organization designated in an NCCP and associated implementing agreement that is responsible for implementing the NCCP. Implementing entities can be non-profit organizations, joint-powers authorities, local governments (such as cities or counties), or others.
Interim Management and Monitoring Plan	The document attached to the MCA Template as an exhibit that describes the adaptive management, monitoring, reporting, and other activities to be implemented by the MCA sponsor during the interim management period.
interim management period	The period between MCA establishment and the point where performance-based milestones and performance standards have been met and the full funding of the appropriate financial instrument has occurred.
Interim Management Security	The financial security required by the MCA, in a form acceptable to CDFW, to be provided by the MCA sponsor, when credits are released prior to fully funding the endowment for three years. This security is based on the estimated cost to implement three years of interim management (as described in the Interim Management and Monitoring Plan).
LOC – letter of credit	A guarantee, issued by a bank, that serves as financial security to ensure performance of the MCA sponsor's obligations under the MCA and that allows CDFW, as the beneficiary of the letter of credit, to draw upon the security if CDFW determines, in its sole and absolute discretion, that the MCA sponsor or property owner is in default with respect to one or more of the obligations of the MCA.
Long-term Management and Monitoring Plan	The document attached to the MCA Template as an exhibit that provides measures intended to ensure the MCA site is managed, monitored, and maintained during the long-term management period to conserve and protect the focal species, non-focal species and/or other conservation elements covered by the MCA in perpetuity.

<b>Term/Acronym/ Abbreviation</b>	<b>Definition</b>
long-term management period	The period beginning upon conclusion of the interim management period and continuing in perpetuity, or for the duration of the habitat enhancement action, during which the MCA site is to be managed, monitored, and maintained pursuant to the Long-term Management and Monitoring Plan.
LSA Agreement	A Lake and Streambed Alteration Agreement (Fish and Game Code sections 1600, et seq.)
MCA—Mitigation Credit Agreement	An agreement between CDFW and the MCA sponsor to implement one or more conservation actions and/or habitat enhancement actions to create credits. An MCA includes the terms and conditions under which the MCA sponsor may use or sell credits in accordance with the MCA that have been released by CDFW.
MCA closure	MCA closure shall occur upon written approval by CDFW, and all requirements described in the MCA Site Closure Plan have been met. At MCA closure no further credit sales, or returns shall occur.
MCA establishment	MCA establishment shall occur upon written approval by CDFW, when all MCA establishment requirements described in the MCA have been met. The sale or use of credits may begin only after MCA establishment.
MCA site	The geographic location upon which conservation actions or habitat enhancement actions are implemented in order to create credits under an MCA. An MCA site may be composed of multiple APNs and multiple non-contiguous sites.
MCA package	An MCA package includes the draft MCA, including all of the applicable exhibits, the MCA Checklist, fees, and any necessary letters.
MCA sponsor	The person(s) or entity(ies) responsible for preparing, establishing, and operating an MCA or framework.
metric	The ecologically based units of area and habitat quality by which the net ecological benefit can be measured.
NCCP—Natural Community Conservation Plan	A plan developed pursuant to the Natural Community Conservation Planning Act (Fish and Game Code section 2800, et seq.) which identifies and provides for the regional conservation and management of covered species, while allowing compatible and appropriate economic activity. An NCCP allows for take of species listed under CESA, fully protected species, as well as other, non-listed species.
NOAA Fisheries	National Oceanic and Atmospheric Administration Fisheries

<b>Term/Acronym/ Abbreviation</b>	<b>Definition</b>
non-focal species	Non-focal species are species that are associated with a focal species or other conservation element in an RCIS due to shared ecological needs and requirements and could benefit from implementation of conservation actions and or habitat enhancement actions for the associated focal species or other conservation element. Non-focal species do not have their own unique goals, objectives, actions, and priorities. May also be referred to as 'associated species.' See "focal species."
objective	A concise statement of a target outcome for a focal species or other conservation element. Objectives must be measurable by using standard ecologically based metrics that includes both area and quality of habitat.
other conservation element	The important resources and processes within the RCIS area, including important natural communities, habitat, habitat connectivity, ecosystem processes, and water resources. Other conservation elements are not species. See "conservation element."
party/parties	CDFW, the MCA sponsor, and the MCA site(s) property owner(s) are referred to collectively as the "parties" and individually as a "Party." All parties must sign the MCA.
performance-based milestones	Specifically identified steps in the implementation of a conservation action or habitat enhancement action, such as site protection, initiating implementation, completing implementation, or achieving performance standards. <sup>15</sup> See "performance standards."
Performance Security	The financial security required by the MCA, to be provided by the MCA sponsor, in a form acceptable to CDFW, to guarantee the MCA sponsor's obligations to meet performance-based milestones and performance standards in the MCA, Development Plan, and/or the Interim Management and Monitoring Plan.
performance standards	Observable or measurable physical or biological attributes that are used to determine if a conservation action or habitat enhancement action has met its objectives. <sup>16</sup> May have previously or in other programs been referred to as 'success criteria.' "See performance-based milestones."

<sup>15</sup> Fish & G. Code, § 1851, subdivision (h)

<sup>16</sup> Fish & G. Code, § 1851, subsection (i)

<b>Term/Acronym/ Abbreviation</b>	<b>Definition</b>
permanently protect	Permanent protection means both: (1) recording a CE, in a form approved in advance in writing by CDFW, or establishing perpetual protection of land in a manner consistent with an overlapping draft or approved NCCP that prevents development, prohibits inconsistent uses, and ensures that habitat for focal species is maintained, and (2) providing secure, perpetual funding for management of the land, monitoring, legal enforcement, and defense. <sup>17</sup>
preserve, preservation	The removal of a threat to, or preventing the decline of, ecological resources by an action in or near those ecological resources. Preservation includes activities commonly associated with the protection and maintenance of ecological resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of resource area or functions. Credits for preservation must include permanently protected land. Compare to "creation," "enhancement," "establishment," and "restoration."
pressure	A pressure is an anthropogenic (human-induced) or natural driver that could result in changing the ecological conditions of a focal species or other conservation element. Pressures can be positive or negative depending on intensity, timing, and duration. Negative or positive, the influence of a pressure to the target focal species or other conservation elements is likely to be significant. Compare to "stressor".
priority	A list of actions (e.g., land acquisition, preservation, or habitat establishment) or locations that are identified in an RCIS as important for benefiting and contributing to the conservation of focal species and other conservation elements within an RCIS area. May also be referred to as 'conservation priority' or 'biological priority.'
Property Assessment and Warranty (PAW)	The written property evaluation that provides a summary and explanation of each recorded and unrecorded lien or encumbrance on, or that has interest in, the MCA site, including each exception listed in the preliminary title report covering the MCA site.

<sup>17</sup> Fish & G. Code, § 1851, subdivision (j)

<b>Term/Acronym/ Abbreviation</b>	<b>Definition</b>
RCA—Regional Conservation Assessment	Information and analyses that document the important species, ecosystems, ecosystem processes, protected areas, and linkages within an ecoregion to provide the appropriate context for nonbinding, voluntary conservation strategies and actions. Those assessments include information for the identification of areas with the greatest probability for long-term ecosystem conservation success incorporating co-benefits of ecosystem services, such as the benefits of carbon cycling, water, and agricultural lands. An RCA may be used to provide context at an ecoregional or sub-ecoregional scale to assist with the development of an RCIS. An RCA is nonbinding, voluntary, and does not create, modify, or impose regulatory requirements or standards, regulate the use of land, establish land use designations or affect the land use authority of, or the exercise of discretion by, any public agency. The preparation of an RCA is voluntary. <sup>18</sup>
RCA or RCIS area	The geographic area encompassed by an RCA or RCIS.
RCA or RCIS proponent	The public agency or group of public agencies developing an RCA or RCIS for review and approval by CDFW and who is responsible for the technical and administrative updates of an RCA or RCIS. RCIS proponents may additionally include federally recognized tribes.

<sup>18</sup> Fish & G. Code, § 1851, subdivision (k)

<b>Term/Acronym/ Abbreviation</b>	<b>Definition</b>
RCIS—Regional Conservation Investment Strategy	Information and analyses to inform nonbinding and voluntary conservation actions and habitat enhancement actions that would advance the conservation of focal species, habitat, and other natural resources, including other conservation elements and non-focal species, and to provide nonbinding, voluntary guidance for the identification of wildlife and habitat conservation priorities, investments in ecological resource conservation, or identification of locations for compensatory mitigation for impacts to species and natural resources. RCISs are intended to provide scientific information for the consideration of public agencies, are voluntary, and do not create, modify, or impose regulatory requirements or standards, regulate the use of land, establish land use designations, or affect the land use authority of or exercise of discretion by, any public agency. The preparation and use of regional conservation investment strategies for this guidance is voluntary. <sup>19</sup>
recovery plan	A document published by USFWS, NOAA Fisheries, or CDFW that describes the status of a listed species and the actions necessary to recover the species so that it can be removed from either the federal or the California list of endangered or threatened species.
remedial action	Any measures needed to remedy any failure to achieve the performance standards or any injury or adverse impact to the MCA site.
restore, restoration	A manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural and historic functions to a former or degraded resource. Restoration results in a gain in resource area. See “establishment.” Compare with “creation,” “enhancement,” and “preservation.”
sensitive species	Any special-status species identified by a state or federal agency. <sup>20</sup> See also, “focal species” and “non-focal species.”
service area	The geographic area(s) where impacts species or habitats covered by an MCA or bank may be mitigated by credits from that MCA or bank.
SCV	Survey of California Vegetation

<sup>19</sup> Fish & G. Code, § 1851, subdivision (l)

<sup>20</sup> Fish & G. Code, § 1851, subdivision (n)

<b>Term/Acronym/ Abbreviation</b>	<b>Definition</b>
SGCN – species of greatest conservation need	Species of greatest conservation need are selected, for each state, to indicate the status of biological diversity in the state, specifying at-risk species that have the greatest need for conservation. The latest SGCN list for the state of California is found in the California State Wildlife Action Plan 2015 Update, or most current version.
species of special concern	Species of special concern is an administrative designation and carries no formal legal status. The intent of designating species of special concern (SSCs) is to: 1) focus attention on animals considered potentially at conservation risk by CDFW, other state, local and federal governmental entities, regulators, land managers, planners, consulting biologists, and others; 2) stimulate research on poorly known species; and 3) achieve conservation and recovery of these animals before they meet CESA criteria for listing as threatened or endangered.
stressor	Stressor is a degraded ecological condition of a focal species or other conservation element that resulted directly or indirectly from a negative impact of pressures, such as habitat fragmentation. Compare to “pressure”.
sub-ecoregion	See “ecoregion, sub-ecoregion.”
SWAP– California State Wildlife Action Plan	The California State Wildlife Action Plan (SWAP) is a CDFW publication developed to address the highest conservation priorities of the state, providing a blueprint for actions necessary to sustain the integrity of California’s diverse ecosystems. Companion plans are considered part of the SWAP.
USDA	U.S. Department of Agriculture
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
VegCAMP – Vegetation Classification and Mapping Program	The CDFW Vegetation Classification and Mapping Program that develops and maintains California’s expression of the National Vegetation Classification System.

## Section 3

# Regional Conservation Assessments

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## 3.1 Introduction

This section provides an overview of the required information to develop a **Regional Conservation Assessment (RCA)**, an optional tool that can provide valuable context for **Regional Conservation Investment Strategies (RCISs)**. An RCA is not required for submitting an RCIS to CDFW for review and approval.<sup>21</sup> However, if an RCA that has been approved by CDFW encompasses or overlaps with the area of a proposed RCIS, the RCIS shall explain how and to what extent it has incorporated the RCA information and analysis.<sup>22</sup>

At an **ecoregional** scale, RCAs will identify areas with the greatest probability for long-term ecosystem conservation success with co-benefits of **ecosystem services** such as carbon sequestration, protection against flood damage and other risks, support of the food supply chain and agricultural benefits, water quality, and scenic views. An RCA includes information and analyses that document species, ecosystems, **ecosystem processes**, protected and conserved lands, and wildlife corridors and linkages within an ecoregion. RCAs are expected to conform to ecoregional geographic areas.<sup>23</sup> RCAs will serve as a valuable tool for assessing conservation values in an ecoregional area.

Using existing, readily available geospatial information for species, the distribution of natural communities, standard vegetation classifications, and other standardized data, RCAs will identify and summarize relevant regional conservation values, **pressures**, and **stressors** including, but not limited to, conservation areas, habitat connectivity values, and climate change vulnerability. The RCA will consider existing conservation plans such as the current version of the **California State Wildlife Action Plan (SWAP)** and approved or **draft Natural Community Conservation Plans (NCCPs)**.

Approved RCAs may be used to provide context at an ecoregional scale to

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<sup>21</sup> Fish & G. Code, § 1853, subdivision (a)

<sup>22</sup> Fish & G. Code, § 1853, subdivision (b)

<sup>23</sup> Fish & G. Code, § 1851, subdivision (k)

assist with the development of subsequent, finer-scale regional RCISs and **Mitigation Credit Agreements (MCAs)**.

RCAs shall include provisions ensuring compliance with all applicable state and local requirements. As a non-regulatory document, an RCA cannot preempt the authority of local agencies to implement infrastructure and urban development in local general plans. An RCA will not create, modify, or impose regulatory requirements or standards, nor regulate the use of land, establish land use designations, or affect the land use authority or the exercise of discretion by any public agency. An RCA may be proposed by CDFW or any other public agency and is approved by CDFW.<sup>24</sup> The public agency proposing and developing the RCA shall notify CDFW of its intent to develop an RCA by sending an email to [RCIS@wildlife.ca.gov](mailto:RCIS@wildlife.ca.gov).

As stated in Section 1.2, the terms “shall” and “must” are used to indicate requirements, while the terms “should” and “may” indicate recommendations. See Section 1.2 for recommendations for collaboration and coordination during development of the RCA.

## 3.2 Required Components of an RCA

The RCA shall identify and summarize the species, ecosystems, ecosystem processes, protected areas, conservation areas, and habitat connectivity relevant to the conservation assessment. It shall also identify and summarize the relevant regional pressures and stressors, including climate change vulnerability. An RCA shall be prepared using information from the current version of SWAP (and the companion plans), approved NCCPs that overlap the RCA, CDFW's [Biogeographic Information and Observation System \(BIOS\)](#), approved RCISs that overlap with the RCA, and other information available from CDFW.

An RCA shall use the best available scientific information including, but not limited to, peer-reviewed literature and datasets identified in this section. Maps of elements included in the assessment are encouraged but not required.

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<sup>24</sup> Fish & G. Code, § 1853, subdivision (a)

### 3.2.1 Description of the RCA Area

The RCA shall include a concise description of: 1) the RCA's geographic area; 2) the rationale for why it was selected; and 3) the surrounding ecoregion(s) and any adjacent protected habitat areas or linkages that provide relevant context and rationale for the RCA's development.

The RCA shall use the following ecoregional classifications for terrestrial and aquatic data to enable and promote consistency among RCAs throughout California:

- a. U.S. Department of Agriculture (USDA) Ecoregion sections — one or more [USDA Ecoregion Sections](#).
- b. U.S. Geological Survey ([USGS](#)) [Hydrologic Unit](#) Codes (HUCs) — four-digit (HUC-4) or eight-digit (HUC-8) units.

### 3.2.2 Species and Natural Communities Information

The RCA shall identify the best available scientific information and analyses, including geospatial information regarding the distribution of species and natural communities.<sup>25</sup>

The RCA must use standard or prevalent vegetation classifications to enable and promote consistency among RCAs throughout California.<sup>26</sup> The standard vegetation classification system for California is [CDFW's Natural Communities List](#), which is based on [A Manual of California Vegetation Online](#) and is the California expression of the [U.S. National Vegetation Classification](#). CDFW's Natural Community List is developed and maintained by CDFW's **Vegetation Classification and Mapping Program (VegCAMP)** and supersedes all other lists of terrestrial natural communities and vegetation types previously developed for the **California Natural Diversity Database (CNDDDB)**.

The RCA shall include lists of rare natural communities or other high-priority natural communities that occur within the **RCA area**. Information on the distribution and mapped locations of rare or other high-priority natural communities is available through, but not limited to, Survey of California Vegetation ([SCV](#)) [vegetation maps](#) and survey points, [CNDDDB](#), and the [Areas of Conservation Emphasis \(ACE\)](#) Significant Habitats dataset.

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<sup>25</sup> Fish & G. Code, § 1853, subdivision (c)(2)

<sup>26</sup> Fish & G. Code, § 1853, subdivision (c)(4)

Any vegetation information, including maps, developed for an RCA shall use the VegCAMP classification system and follow [SCV standards](#). If the RCA area has not been mapped to SCV standards, [contact VegCAMP](#) to determine the best readily available alternative vegetation map and associated descriptions.

If another prevalent vegetation classification is commonly used in the RCA area, the **RCA proponent** may choose to use it as the primary vegetation classification for the RCA. For example, if an approved NCCP overlaps the RCA, the RCA proponent may use that NCCP's vegetation classification system. However, if the RCA incorporates a vegetation classification that differs from the Manual of California Vegetation Online, the RCA shall include a crosswalk between the classifications to help ensure consistency between the RCAs throughout California.

RCA proponents may add or emphasize species or taxonomic groups and their distribution information if those species or taxonomic groups add additional conservation values in the RCA area that are not already considered in the ACE datasets as indicated in Section 3.2.3 (Biodiversity Information and Analysis). RCA proponents shall indicate the reason for adding or emphasizing each of those species or taxonomic groups. RCA proponents should consider the information in the following list, as practicable.

- a. Covered species information from NCCPs that overlap the RCA area.
- b. When available, existing species or habitat distribution models published by CDFW or in peer-reviewed literature. If new models are developed for an RCA, the RCA shall include a description of methods and data sources used and shall report model confidence as outlined in [NatureServe's Habitat Model Standard](#). The assessment of model confidence may include both statistical measures and species expert review, and the results of the model confidence assessment shall support use of the model in the RCA (refer to the Habitat Model Standard, Section 3.3 – Assignment of Confidence Scores).
- c. Lists of wildlife species found in the RCA area using the [Complete List of Amphibian, Reptile, Bird, and Mammal Species in California](#); the list of [Species of Greatest Conservation Need \(SGCN\)](#) as defined in the current version of SWAP; and lists of special-status species. Special-status species lists may include plant and animal species that are: federal Endangered Species Act threatened and endangered species, California Endangered

Species Act ([CESA](#)) [threatened and endangered species](#), CDFW [Species of Special Concern](#), [California Fully Protected Animals](#), and additional special-status species identified by the [CNDDDB Special Plants List](#) and [CNDDDB Special Animals List](#). In addition, lists of terrestrial vertebrates can be generated by queries of the [California Wildlife Habitat Relationships \(CWHR\)](#). The CWHR contains life history, geographic range, and habitat suitability information for regularly occurring species of amphibians, reptiles, birds, and mammals in the state. The CWHR allows users to produce queries to generate lists of species by geographic location (e.g., ecoregion, HUC) and/or by habitat type, and provides information on expert opinion-based habitat suitability ranks for each species within each habitat type. Lists of species can also be generated by ACE hexagon with the [ACE Terrestrial Species List](#) and the [ACE Aquatic Species List](#).

- d. Geospatial information on special-status species and their habitats in the RCA area. Reported information on the distribution of many of these species is available through, but not limited to, [CNDDDB](#) and [BIOS Viewer](#) from CDFW's Biogeographic Data Branch. The CNDDDB is an inventory of GIS-mapped occurrence locations of special species in California. The BIOS spatial data catalog<sup>27</sup> includes additional geospatial information on the distributions of wildlife species (e.g., occurrence location data and species distribution models).

### 3.2.3 Biodiversity Information and Analysis

The RCA shall identify and summarize areas of high biological value within an RCA area using information from the most recent version of [ACE](#).<sup>28</sup> ACE is a compilation and analysis of the best available statewide spatial information on California's biological richness, including species diversity, rarity, and endemism. In addition to ACE, RCA proponents may use other local or regional resources, as available. The ACE datasets identify and map the following relative to biodiversity:

- a. Native species richness, which represents overall native diversity of all species in the state, both common and rare;
- b. Rare species richness, which represents diversity of rare species;
- c. Irreplaceability, which is a weighted measure of endemism.

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<sup>27</sup> The BIOS spatial data catalog can be searched by species name or searched spatially by location.

<sup>28</sup> Fish & G. Code, § 1853, subdivision (c)(1)(B)

ACE also provides a list of the species by hexagon that were used to develop the richness metrics listed above.

### 3.2.4 Habitat Connectivity Values

The RCA shall identify and summarize existing analyses designed to identify areas for habitat connectivity.<sup>29</sup> Habitat connectivity is important to maintaining viable ecosystem processes, healthy wildlife populations, and gene flow. Habitat connectivity is a critical consideration when evaluating the location and association of protected lands within an RCA, and when determining how to provide for wildlife movement at different scales. Wildlife movement entails searches for food, shelter, and mates; dispersal as young find new territories; seasonal migration; and shifts to new ranges, when feasible, in response to climate change. Habitat connectivity and wildlife movement are also important to maintaining healthy gene flow of plants through pollination and seed dispersal. RCA proponents shall use habitat connectivity data and information including, but not limited to:

- a. The [California Essential Habitat Connectivity Project \(CEHC\)](#), a statewide assessment of essential habitat connectivity. The project identified large remaining blocks of intact, contiguous natural habitat (natural landscape blocks) and modeled linkages (essential connectivity areas) between them to best maintain habitat connectivity across the landscape. CEHC data is included in [ACE](#).
  - Natural Landscape Blocks identify remaining intact lands across the state, independent of ownership. These lands contribute to habitat connectivity and are expected to have high conservation and climate resilience value because of their size, intactness, and connectedness with other natural habitats. Although the CEHC only used large natural landscape blocks (greater than 2,000 acres) due to the statewide nature of its analysis, smaller landscape blocks were identified and should be used for evaluating connectivity at a regional scale.<sup>30</sup>
  - Modeled Linkages, or Essential Connectivity Areas, represent coarse scale, generalized habitat connections between natural landscape blocks. These connections provide a broad-scale view of habitat connectivity needs at the statewide scale, but they should be

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<sup>29</sup> Fish & G. Code, § 1853, subdivision (c)(1)(C)

<sup>30</sup> This data is available in BIOS as two layers: "Natural Landscape Blocks" shows blocks that are more than 2,000 acres in size, and "Natural Areas Small" shows blocks that are less than 2,000 acres in size.

- supplemented with, or superseded by, fine-scale connectivity analyses at a regional scale, when available.
- b. [ACE Terrestrial Connectivity](#), which is a spatial evaluation of the relative contribution of an area to terrestrial connectivity.
  - c. Regional, fine-scale connectivity analyses include refinements of the CEHC at a regional scale using finer-scale datasets and based on species movement needs. They may also include different methods applied regionally. Regional, fine-scale connectivity analyses have been or may in the future be completed for several ecoregions in the state. When such scientifically based regional connectivity analyses are readily available, these spatial datasets (available in [BIOS](#)) and project reports (available on [CDFW's Connectivity web page](#)) should be used in preparing an RCA. These datasets can be used to identify overall fine-scale habitat connections within or through an ecoregion, as well as critical movement corridors for individual species that may be of high priority for conservation. Some regional analyses are included in ACE.
  - d. CDFW's [Guidance for Fine-Scale Wildlife Connectivity Analysis](#) is a report that provides guidance to complete a fine-scale wildlife connectivity analysis that meets CDFW standards. The report includes information on species selection criteria and landscape block identification and details the model development process using examples from CDFW's case study analysis of wildlife connectivity across the northern Sierra Nevada foothills that was conducted after the completion of the CEHC project. RCA proponents are not required to develop a fine-scale connectivity analysis; however, if RCA proponents choose to develop this type of analysis, CDFW's guidance should be used. RCA proponents must submit a description of the modeling process, methods, and metadata that meet CDFW's minimum metadata standards, and model reviews by recognized species experts (see Section 3.3 – Data Management, Sharing, and Access).
  - e. [Fish Passage Assessment Database](#) and/or CDFW Fisheries Branch [Fish Passage Priorities](#).<sup>31</sup> The Fish Passage Assessment Database is an ongoing inventory of known and potential barriers to anadromous fish in California. It compiles currently available fish passage information from more than two hundred data sources and allows past and future barrier assessments

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<sup>31</sup> Currently, the most recent list is from 2021. For future updates to this list, enter "Fish Passage Priorities" into the BIOS search bar.

to be standardized and stored in one place. The inventory may be used to identify barriers suitable for removal or modification to restore access to spawning and rearing habitat. Contact CDFW Fisheries Branch for their list of priority fish barriers in the RCA area.

- f. CDFW's Wildlife Movement Barrier Priorities Dataset depicts segments of linear infrastructure (roads, railroads, canals, etc.) that have been identified as high priority barriers to terrestrial wildlife movement by biologists in CDFW Regions 1-6 and includes a list of high-priority species for each segment. The barrier priorities dataset is updated on a regular basis to reflect shifts in regional priorities as remediation efforts are implemented and new barriers are identified.

Links to spatial data associated with many of the datasets described above can also be found in CDFW's [Habitat Connectivity Viewer](#).

### 3.2.5 Existing Conservation Areas

The RCA shall identify existing protected areas<sup>32</sup> within and adjacent to the RCA area and include an explanation of the criteria, data, and methods used to identify them. Protected areas may include lands with a **Conservation Easement (CE)**; federal, state, or local public agency owned lands with conservation value; Marine Protected Areas; reserve networks within an NCCP; designated park and open space; etc. Data sources that may be used to identify protected lands include, but are not limited to the following:

- a. The California Protected Areas Database ([CPAD](#));
- b. Protected Areas Database of the United States ([PAD-US](#));
- c. California Conservation Easement Database ([CCED](#));
- d. National Conservation Easement Database ([NCED](#));
- e. Records of CEs and Notices of CE, which can be requested from each county within the RCIS area;
- f. Local land use plans;
- g. Knowledge from local stakeholders, including land trusts;
- h. Knowledge from local tribes.

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<sup>32</sup> Fish & G. Code, § 1853, subdivision (c)(1)

The RCA shall use spatial analyses to identify ecological relationships between existing protected areas and conservation areas.<sup>33</sup> The spatial analysis, or gap analysis, should identify the degree to which **sensitive species** and resources are captured in existing protected areas including, but not limited to, the total acreage and percent of the RCA area currently in conservation protection and the acreage and percent of each habitat type currently in conservation protection. The analysis should consider the location, size, habitats, and level of connectivity of the protected areas to help identify priority areas for additional conservation efforts.

The RCA proponent should also consider identifying the level of conservation protection and management on existing protected lands, which may be useful in determining whether the RCA should identify locations within or adjacent to a particular protected area as ideal for further conservation planning. This information is captured by the USGS National [Gap Analysis Project](#) (GAP) Status Rank as provided in CPAD and PAD-US. The GAP Status Rank, when available, gives an indication of the level of conservation protection afforded to various lands based on their management strategies.

### 3.2.6 Pressures and Stressors

The RCA shall identify the pressures and stressors for the ecoregion(s) that occur in the RCA area. An RCA is not required to include pressures and stressors for each identified species in the RCA. An RCA shall identify and summarize relevant regional pressures and stressors, including those associated with climate change<sup>34</sup> and invasive species. As a starting point, RCA proponents shall indicate and reference pressures and stressors provided in the current version of SWAP (Tables 1.5-2 and 1.5-3 in SWAP 2015), and identify, summarize, and reference additional regional pressures and stressors indicated in approved NCCPs and other applicable conservation plans within the RCA area.<sup>35</sup>

#### 3.2.6.1 Climate Change Vulnerability

RCA proponents shall use existing analyses and information to identify exposure of the RCA area to climate change (e.g., magnitude of projected changes in temperature and precipitation, sea level rise), climate vulnerable

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<sup>33</sup> Fish & G. Code, § 1853, subdivision (c)(3)

<sup>34</sup> Fish & G. Code, § 1853, subdivision (c)(1)

<sup>35</sup> Fish & G. Code, § 1853, subdivision (c)(1)(A)

resources in the RCA (e.g., vulnerable fish, wildlife, and plant species), and areas that may be resilient to the impacts of climate change.

For existing information on climate vulnerability of California species and habitats and links to associated datasets, please refer to [CDFW's Climate Change Vulnerability Assessment web page](#). This web page will be maintained to provide relevant resources that will aid proponents in developing content for this section of the RCA in accordance with the list of requirements below.

An RCA shall include summaries of the following relevant existing data, when available:

- a. Lists of climate-vulnerable species or species groups and natural communities developed or supported by CDFW. These include species, species groups, and natural communities recognized in climate vulnerability assessments for birds, mammals, reptiles, amphibians, fish, and plants in California including those listed in the current version of SWAP (Criteria 3 in the [SGCN](#) list of SWAP 2015).
- b. Other factors that may contribute to climate resilience such as diverse land facets (geophysical features expected to support biodiversity in a changing climate) and high levels of connectivity (corridors to facilitate movement as species' ranges and species' habitats shift in response to climate change). Where available, data or information should be included that demonstrate how land facets and/or corridors within the RCA may promote climate resilience.
- c. Geospatial information on climate exposure with respect to species, including information from existing projected range-shift models for wildlife species developed for CDFW climate vulnerability analyses, where available.
- d. Geospatial information on landscape-scale climate exposure, such as:
  - High-climate-exposure natural community areas as identified by the [Climate Change Vulnerability Assessment of California's Terrestrial Vegetation](#). These represent habitats that are expected to experience major changes in composition, such as habitat type conversion, due to changes in temperature and water availability.
  - Coastal areas expected to be impacted by sea level rise. Tools such as [CoSMoS](#), [CalAdapt](#), the National Oceanic and Atmospheric Administration's (NOAA) [Sea Level Rise Viewer](#), the [Coastal](#)

- [Conservancy's Climate Ready Program](#), the [CA Coastal Commission's Climate Change website](#), and the [Conserving California's Coastal Habitat's assessment](#) by The Nature Conservancy and the California Coastal Conservancy may assist in identifying stressors associated with sea level rise.
- e. Geospatial information on landscape-scale climate resilience, such as climate-resilient natural community areas representing habitats expected to remain stable in the face of climate change (i.e., potential climate refugia). See [ACE](#) datasets on the probability that a given location within California will serve as refugia under climate change.
  - f. Other readily available analyses that indicate exposure of the RCA area to climate change, climate vulnerable resources in the RCA, and areas that may be resilient to the impacts of climate change.

### **3.2.6.2 Invasive Species**

The RCA shall include invasive species within the RCA area as a pressure or stressor on sensitive species and resources. Information is available from [CDFW's Invasive Species Program](#), California Department of Food and Agriculture's [Plant Health and Pest Prevention Services Division](#), [Invasive Species Council of California](#), [California Invasive Plant Council Inventory](#), and [county agricultural commissioner offices](#).

### **3.2.7 Other Considerations**

The RCA shall consider existing major water, transportation, and transmission infrastructure facilities in the RCA area and account for reasonably foreseeable development of major infrastructure facilities including, but not limited to, renewable energy and housing.<sup>36</sup> Existing land uses and reasonably foreseeable development may be identified through publicly and readily available sources, such as by reviewing city and county general plans, state water and transportation plans, regional transportation plans, other land use planning documents, and consultation and personal communication with infrastructure agencies. Information on renewable energy projects may be obtained from the cities, counties, and the California Energy Commission. The RCA must, at a minimum, include text and/or ideally maps that provide the general types (e.g., housing, renewable energy) and general locations for existing and future development.

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<sup>36</sup> Fish & G. Code, § 1853, subdivision (c)(7)

### 3.2.8 Consistency and Compliance

An RCA shall be consistent with and compliment any [draft and approved NCCPs](#), regional federal **Habitat Conservation Plans (HCPs)**, and approved state and federal **recovery plans** that overlap with the ecoregion or **sub-ecoregion** included in the RCA.<sup>37</sup> The RCA shall also include an explanation of whether, and to what extent, the RCA is consistent with any previously approved or amended assessment, state or federal recovery plan, or other state or federal approved conservation strategy that overlaps with the RCA area.<sup>38</sup> This can be accomplished by including brief summaries that compare the RCA components (e.g., natural communities, habitat connectivity areas, existing conservation lands, conservation priorities and conservation areas) to those identified in these other plans. If inconsistencies exist, explain the scientific basis for how and why the RCA is acceptable.

An RCA shall consider local general plans and include a statement explaining how the RCA will be in compliance with all applicable laws and does not preempt the authority of state and local agencies to implement infrastructure and urban development in local general plans.<sup>39</sup>

### 3.3 Data Management, Sharing, and Access

The RCA proponent shall compile spatial input and summary data in an industry-standard (i.e., Environmental Systems Research Institute [ESRI]-readable) geospatial format<sup>40</sup> and include metadata that meets [CDFW's Minimum Metadata Standards](#). Spatial data should have internal metadata, created in the GIS, which will automatically be carried with the file. Metadata should be specific to the file to which it is attached, rather than using "inherited" metadata which originated with a source file. The metadata must include a summary description of the data, a detailed description of why the data were created (including a brief summary of the project), the date or dates the data were gathered or otherwise created, a point of contact for further information about the data, field definitions for all fields, abbreviation definitions, access constraints, use constraints, data distribution method, whether the data are complete or incomplete, how

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<sup>37</sup> Fish & G. Code, § 1853, subdivision (c)(6)

<sup>38</sup> Fish & G. Code, § 1853, subdivision (c)(9)

<sup>39</sup> Fish & G. Code, § 1853, subdivision (c)(8)

<sup>40</sup> Fish & G. Code, § 1853, subdivision (c)(5)

often the data will be updated, and keywords that can be used to catalog and search for the data. If data contain confidential information, such as the detailed locations of special status species, mention that in the access constraints section of the metadata. Metadata should be adequate to allow interested persons and entities to understand the purpose and format of the data without prior knowledge of the project. For a more detailed description of the metadata fields, see [CDFW's Metadata Guidelines](#). RCA proponents are encouraged to consult with CDFW RCIS Program staff when developing a plan for data management during RCA development.

All data and models used for or created for the RCA shall be readily available to potential users, including RCA proponents, and shall not depend upon the acquisition of proprietary data, software, or licenses. If an RCA proponent wishes to use proprietary data or models not readily available to the public, the proponent shall confer with CDFW.

All spatial and non-spatial data created during RCA development shall be submitted to CDFW via a File Transfer Protocol (FTP) site at the time that the RCA is submitted to CDFW for review. If needed, the RCA proponent may request that CDFW provide a link to the FTP site, which will remain active for approximately two weeks. CDFW may incorporate these data into one or more of its web portals or, at a minimum, will make the datasets available to the public upon request.

RCA proponents may also choose to upload this information onto another (non-CDFW) website for interactive use to allow all interested persons and entities to generate queries of regional conservation values within the RCA area. The website should clearly display the process-related steps used to compile, develop, and derive RCA information. All spatial data included in the website should have metadata meeting CDFW's minimum metadata standards and be available for download in an industry-standard geospatial format. Examples of an interactive platform include the [Desert Renewable Energy Conservation Plan Gateway](#) and the Bay Area [Conservation Lands Network Explorer](#).

## 3.4 Review Process for RCAs

This section provides an overview of CDFW's review and approval process for RCAs, which also applies to amended RCAs. An RCA is not required for

CDFW approval of an RCIS.<sup>41</sup> However, if an RCA has been approved by CDFW, a proposed RCIS that overlaps the RCA area shall explain how and to what extent it has incorporated that RCA's information and analysis.<sup>42</sup> If inconsistencies exist, the RCIS shall include an explanation providing the scientific basis for how and why the RCIS is acceptable.

A public input and review process is recommended but not required prior to the approval by CDFW of an RCA or any subsequent amendments.

### **3.4.1 CDFW Review Process**

After a draft RCA is submitted to CDFW for its review, along with the required RCA review and approval fee (see Section 1.3 – Fees), CDFW shall either determine that the RCA is complete or will provide the RCA proponent with a written explanation of the information needed to complete the RCA. Once CDFW determines that an RCA is complete, CDFW shall make the draft RCA available to the public on [CDFW's RCIS Program web page](#). The RCA proponent must provide CDFW with an electronic PDF version of the draft RCA that is edited for web accessibility (see Section 1.5 - Accessibility). Concurrent with the public review, CDFW may conduct a substantive review of the RCA and may send written comments to the RCA proponent in a comment letter.

### **3.4.2 Finalizing an RCA**

After a final RCA is submitted to CDFW for its review and approval, CDFW shall either approve the final RCA or provide the RCA applicant with a written explanation of the information needed to approve the RCA.

The RCA proponent must provide CDFW with an electronic PDF version of the final RCA that is edited for web accessibility (see Section 1.5 - Accessibility). CDFW shall make all approved RCAs available on [CDFW's RCIS Program web page](#).

## **3.5 Updating an RCA**

RCAs are not required to be updated. However, CDFW recommends that an RCA be updated with current scientific information at least every ten years.

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<sup>41</sup> Fish & G. Code, § 1853, subdivision (a)

<sup>42</sup> Fish & G. Code, § 1853, subdivision (b)

The updated RCA shall include an explanation of the updates and whether, and to what extent, the RCA is consistent with the previously approved RCA or amended RCA. Upon completion of the update, the public agency responsible for updating the RCA shall submit it to CDFW for review and approval (see Section 1.4 – Program Contacts). CDFW recommends that public input regarding the RCA update be sought to maximize the opportunity to supplement the relevant information.

# Regional Conservation Investment Strategies

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## 4.1 Introduction

This section provides guidance on the information needed to develop a **Regional Conservation Investment Strategy (RCIS)**, and applies to all draft RCISs submitted for formal completeness review as of the posting date of these Guidelines.<sup>43</sup> An RCIS should be a comprehensive regional conservation strategy that enables the protection of the region's **focal species** and **other conservation elements**, and promotes resilience to foreseeable **pressures** and **stressors**. RCISs will include existing, available information and analyses of **conservation elements** at a **sub-ecoregional** scale, including focal species and their associated habitats, wildlife corridors and linkages, and other relevant natural resources within the **RCIS area**.

The intent of the RCIS Program (Program) is to identify high-value conservation opportunities within the RCIS area to inform and facilitate comprehensive, cohesive, and connected regional conservation outcomes. When implemented, RCIS-directed actions will benefit species conservation, adaptation to climate change, and resiliency in the face of pressures and stressors.

Each RCIS will incorporate the best available scientific data and existing information to identify **goals** and **objectives** for focal species and important conservation elements identified in the RCIS to identify actions that, if implemented, will further those goals and objectives. The actions will benefit the conservation of focal species and their habitats, **non-focal species**, and other conservation elements by addressing or responding to the identified pressures and stressors.

Actions identified in an approved RCIS may be implemented as **conservation investments** or for developing **credits** as **advance mitigation** through a **Mitigation Credit Agreement (MCA)**; see Section 5 – Mitigation Credit Agreements). It is also the intent of the Program that RCISs inform

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<sup>43</sup> Any draft or final RCIS that was submitted, reviewed, and/or approved prior to the posting of these Guidelines is subject to the requirements of the applicable prior version of the Guidelines. For example, an MCA subject to these Guidelines may be established under a previously approved RCIS if the RCIS included the additional RCIS requirements to create MCAs that were identified in the applicable version of the Guidelines. Those previously approved RCISs do not need to be amended to include the new requirements of Section 4.2.8 in order to establish MCAs.

infrastructure planning and provide project proponents with additional mechanisms for identifying and developing **compensatory mitigation**. An RCIS may be used to assist in land use planning in conjunction with other land use considerations, such as physical geography, social, economic, and risk-reduction analyses. Any organization, entity, or individual may use an approved RCIS.

Preparation and implementation of an RCIS is voluntary. An RCIS is nonbinding and the development of an RCIS will not create, modify, or impose regulatory requirements or standards, regulate land use, establish land use designations, or affect the land use authority of a public agency.<sup>44</sup> Project proponents in need of compensatory mitigation are not required to use or implement any action described in an RCIS. Only entities that have committed to be a **party** to an MCA will be required to implement the RCIS goals, objectives, and actions that form the basis for the MCA.<sup>45</sup> Additionally, the preparation or approval of an RCIS does not alter the requirements of the California Environmental Quality Act (CEQA),<sup>46</sup> the California Endangered Species Act (CESA),<sup>47</sup> the Natural Community Conservation Planning Act,<sup>48</sup> or Lake and Streambed Alteration (LSA)<sup>49</sup> and Conservation and Mitigation Bank<sup>50</sup> programs.<sup>51</sup>

An RCIS may be proposed by any public agency, including CDFW, or a federally recognized tribe and shall be developed after consulting with local agencies with land use authority (i.e., each city and county) within the geographic area of the RCIS.<sup>52</sup> Other entities whose jurisdictions are likely to be included in the RCIS's actions should be considered for participating in the RCIS planning process. For guidance on RCIS consultation requirements and recommendations, see Section 4.5.1.1.

The public agency or federally recognized tribe proposing the RCIS shall notify CDFW headquarters of its intent to develop an RCIS by emailing

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<sup>44</sup> Fish & G. Code, § 1851, subdivision (l)

<sup>45</sup> Fish & G. Code, § 1855, subdivision (a)

<sup>46</sup> Pub. Resources Code §§ 21000 – 21189

<sup>47</sup> Fish & G. Code, §§ 2080 – 2085

<sup>48</sup> Fish & G. Code, § 2035

<sup>49</sup> Fish & G. Code, §§ 1600 – 1613

<sup>50</sup> Fish & G. Code, §§ 1797 – 1799

<sup>51</sup> Fish & G. Code, § 1855, subdivisions (b)(1 & 2)

<sup>52</sup> Fish & G. Code, § 1852, subdivision (a)

[RCIS@wildlife.ca.gov](mailto:RCIS@wildlife.ca.gov). CDFW region may be notified either by requesting region contacts from headquarters staff or by contacting established Habitat Conservation Planning contacts within the applicable CDFW region(s). CDFW may approve an RCIS for an initial period of up to ten years.<sup>53</sup>

## 4.2 Consultation

An **RCIS proponent** must develop the RCIS after consulting with all local public agencies that have land use authority (i.e., cities and counties) within the geographic area of the RCIS.<sup>54</sup> Early and ongoing consultation with CDFW is strongly recommended. The RCIS proponent should also prepare an RCIS collaboratively with other public agencies and interested stakeholders. See Section 4.5.1.1 Consultation with Stakeholders for guidance on the notification and invitation process with local land use authorities and for CDFW's recommendations to consult with other entities.

## 4.3 Required Components of an RCIS

CDFW may approve an RCIS after finding that the RCIS meets the requirements of Fish and Game Code, section 1852.<sup>55</sup> To assist RCIS proponents in meeting these requirements, the following subsections include explanations and guidance regarding the minimum information that is required (i.e., "shall" and "must") to be included in RCIS before it can be approved by CDFW. These sections also included suggestions (i.e., "should" and "may") for further information that an RCIS proponent may choose to add to an RCIS.

It is the intent of the RCIS Program to establish requirements that provide sufficient flexibility to develop each RCIS based on the best available information regarding the RCIS area.<sup>56</sup> The RCIS shall incorporate and cite the best scientific information that is available for the RCIS area and the surrounding **ecoregion**.<sup>57</sup>

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<sup>53</sup> Fish & G. Code, § 1854, subdivision (a)

<sup>54</sup> Fish & G. Code, § 1852, subdivision (a)

<sup>55</sup> Fish & G. Code, § 1854, subdivision (a)

<sup>56</sup> Fish & G. Code, § 1854, subdivision (b)

<sup>57</sup> Fish & G. Code, § 1852, subdivision (c)(14)

Any maps or text descriptions provided in an RCIS should include a level of detail commensurate with the scale of the RCIS area and its resources but shall not include individual parcel boundaries or other parcel-specific detail.

For an action identified in an RCIS to be used to create mitigation credits through an MCA, the RCIS must include components discussed in Section 4.3.8 (Additional RCIS Requirements to Create MCAs).

### **4.3.1 Compliance with Existing Laws and Regulations**

An RCIS is nonbinding and voluntary and cannot create, modify, or impose regulatory requirements or standards nor can it regulate the use of land, establish land use designations, or affect the land use authority or the exercise of discretion by any public agency.<sup>58</sup> An RCIS must include a statement explaining how it will be in compliance with all applicable laws and that it does not preempt the authority of the state or of local agencies to implement infrastructure and urban development in local general plans.<sup>59</sup> The RCIS shall clarify that the approval or existence of an RCIS does not do any of the following:<sup>60</sup>

- a. Modify in any way the standards for issuance of incidental take permits, consistency determinations, take authorizations, lake or streambed alteration agreements, or any other permits or authorizations;
- b. Modify in any way the standards under CEQA, or in any way limit a lead agency's or responsible agency's discretion in determining whether a proposed project may or may not result in significant environmental effects or in any way establish a presumption of whether a proposed project may or may not result in significant environmental effects or whether a proposed project's impacts would be mitigated;
- c. Prohibit or authorize any project or project impacts;
- d. Create a presumption or guarantee that any proposed project will be approved or permitted, or that any proposed impact will be authorized, by any state or local agency;

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<sup>58</sup> Fish & G. Code, § 1851, subdivision (l)

<sup>59</sup> Fish & G. Code, § 1852, subdivision (c)(7)

<sup>60</sup> Fish & G. Code, § 1855, subdivision (b)(1-7)

- e. Create a presumption that any proposed project will be disapproved or prohibited, or that any proposed impact will be prohibited, by any state or local agency;
- f. Alter or affect, or create additional requirements for, the general plan of the cities and counties that overlap the RCIS area;
- g. Constitute any of the following, for the purposes of CEQA: (1) a plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect; (2) a local policy or ordinance protecting biological resources; or (3) an adopted local, regional, or state **Habitat Conservation Plans (HCPs)**.

To help clarify the intent of these provisions to the RCIS users, the RCIS proponent may choose to restate or expand on these statements.

### 4.3.2 Purpose and Need

The RCIS shall include an explanation of the conservation purpose of and need for a conservation strategy within the RCIS area.<sup>61</sup> The need for the RCIS should describe the existing conditions within the RCIS area that are the basis for the decision to develop an RCIS (e.g., lack of local conservation planning, lack of mitigation opportunities). The purpose of the RCIS should respond to the need for the RCIS. At a minimum, the RCIS's conservation purpose shall be to inform science-based actions that would advance the conservation of focal species and other conservation elements.<sup>62</sup> The conservation purpose shall also be to provide guidance for one or more of the following:<sup>63</sup>

- a. Identification of wildlife and habitat conservation **priorities**, including actions to address the impacts of climate change and other wildlife stressors;
- b. Investments in resource conservation;
- c. Infrastructure; and/or
- d. Identification of areas for compensatory mitigation for impacts to focal species and other conservation elements.

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<sup>61</sup> Fish & G. Code, § 1852, subdivision (c)(1)

<sup>62</sup> Fish & G. Code, § 1852, subdivision (b)

<sup>63</sup> Fish & G. Code, § 1852, subdivision (b)(1-4)

### 4.3.3 Description of the RCIS Area

The RCIS area is the geographic area encompassed by an RCIS. There is no minimum or maximum size for an RCIS area; however, the size must be relevant for regional planning to meet the purposes of the program. An RCIS area should also be a complete, unfragmented geographic area. Multiple RCISs shall not overlap one another. RCISs that are adjacent or near one another shall not conflict, nor shall the purpose of one RCIS undermine or be incompatible with the purpose of the other RCIS.

Criteria for selecting and defining the RCIS area should be based on ecological considerations, including subdivisions of a U.S. Department of Agriculture ([USDA Ecoregion Section](#)) or U.S. Geological Survey ([USGS Hydrologic Unit](#) Codes (HUCs)). An RCIS area may also be further modified by administrative boundaries such as county lines or jurisdictional boundaries of the RCIS proponent.

Other factors to consider when defining the RCIS area may include, but are not limited to:

- a. Areas where habitats are expected to be resilient to the effects of climate change or other stressors and pressures or areas where species ranges are expected to expand, or shift, due to climate change.
- b. U.S. Fish and Wildlife Service (USFWS)-defined designated critical habitat or recovery units for one or more focal species, or distinct population segments or ecologically significant units (e.g., National Oceanic and Atmospheric Administration (NOAA) Fisheries equivalent for fish).
- c. Areas where actions, when implemented, may benefit focal species and other conservation elements including, when feasible, contributing to species recovery or sustaining focal species populations. Consider, for example, the extent of a key ecological resource or the range for a local distinct population segment of an anticipated focal species.
- d. Areas where **Natural Community Conservation Plans (NCCPs)** and HCPs have not been developed and are unlikely to be developed or where conservation or mitigation banks have not been established.

The RCIS shall include a concise description of the RCIS's geographic area and the rationale for why it was selected, including the rationale for excluding any areas. The description shall indicate the USDA Ecoregional section or sub-ecoregions and the USGS HUC units that overlap with the RCIS area, in part or in whole. The description shall also identify the surrounding

ecoregion(s) and describe any adjacent protected habitat areas (see Section 4.3.4.3 – Existing Protected Areas) and linkages (see Section 4.3.7.6 – Habitat Connectivity) that provide relevant context and rationale for the RCIS.<sup>64</sup>

## **4.3.4 Land Use and Conservation Plans**

### **4.3.4.1 Consideration of Existing Land Uses and Foreseeable Development**

An RCIS shall consider existing land uses, including major water, transportation, transmission infrastructure facilities and urban development areas in the RCIS area.<sup>65</sup> An RCIS must also consider future development, includes reasonably foreseeable development of major infrastructure facilities, including, but not limited to, renewable energy and housing in the RCIS area.<sup>66</sup>

Existing land uses and reasonably foreseeable development may be identified through publicly and readily available sources, such as by reviewing city and county general plans, state water and transportation plans, regional transportation plans, other land use planning documents, and consultation and personal communication with infrastructure agencies (see Section 4.5.1.1 for consultation requirements and suggestions). Information on renewable energy projects may be obtained from the cities, counties, and the California Energy Commission. Sources of information shall be cited. The RCIS must, at a minimum, include text and/or ideally maps that provide the general types (e.g., housing, renewable energy) and general locations for existing and future development.

An RCIS shall include a brief discussion of how current land uses and reasonably foreseeable development was considered in developing the RCIS. For example, focal species, other conservation elements, or non-focal species may be selected due to anticipated mitigation needs for future development or priority locations may be selected based on current or future land use information. Yet, the specific project details, such as the impacts that may result from a specific development, must not be included, estimated, or discussed in an RCIS. Additionally, the RCIS proponent shall demonstrate a good faith effort to work together with local land use

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<sup>64</sup> Fish & G. Code, § 1852, subdivision (c)(2)

<sup>65</sup> Fish & G. Code, § 1852, subdivision (c)(6)

<sup>66</sup> Fish & G. Code, § 1852, subdivisions (c)(6) and (e)(2-4)

authorities and shall include a description of their consultation process (see Section 4.5.1.1) in the RCIS.

Actions should be developed to conserve natural communities, focal species, and other conservation elements with both conservation and existing and reasonably foreseeable land uses in mind.

#### **4.3.4.2 Consideration of Working Lands**

An RCIS shall consider the conservation benefits of preserving working lands (e.g., farms, orchards, vineyards and ranches) for agricultural uses.<sup>67</sup> Where working lands provide valuable habitat for focal species, the RCIS proponent should develop focal species actions in consideration of the conservation benefit that working lands could provide. Those actions should focus on adjustments that could be made to farming and ranching practices that would increase the ecological value of the land for focal species (e.g., reduce or eliminate rodenticide use, delay timing of harvest). Working lands may also be included in the RCIS as a conservation element (see Section 4.3.5.3) with its own set of goals, objectives, and actions, which may benefit focal species and non-focal species. An RCIS shall include a brief discussion of how the conservation benefits of working lands within the RCIS area were considered.

#### **4.3.4.3 Existing Protected Areas**

An RCIS shall identify existing protected areas within and adjacent to the RCIS area and include an explanation of the criteria, data, and methods used to identify them.<sup>68</sup> Protected areas may include lands with a **Conservation Easement (CE)**; federal, state, or local public agency owned lands with conservation value; Marine Protected Areas; reserve networks within an NCCP; designated park and open space; etc. Data sources that may be used to identify protected lands include, but are not limited to, the following:

- a. The California Protected Areas Database ([CPAD](#));
- b. Protected Areas Database of the United States ([PAD-US](#));
- c. California Conservation Easement Database ([CCED](#));
- d. National Conservation Easement Database ([NCED](#));

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<sup>67</sup> Fish & G. Code, § 1852, subdivision (e)(1)

<sup>68</sup> Fish & G. Code, § 1852, subdivisions (c)(2) & (c)(4)

- e. Records of CEs and Notices of CE, which can be requested from each county within the RCIS area;
- f. Local land use plans;
- g. Knowledge from local stakeholders, including land trusts;
- h. Knowledge from local tribes.

The RCIS proponent should also consider identifying the level of conservation protection on existing protected lands, which may be useful in determining whether the RCIS should suggest actions within or adjacent to a particular protected area. This information is captured by the USGS National [Gap Analysis Project](#) (GAP) Status Rank as provided in CPAD and PAD-US. The GAP Status Rank, when available, gives an indication of the level of conservation protection afforded to various lands based on their management strategies.

An RCIS proponent may also choose to use this information to conduct a gap analysis or spatial analysis to identify the degree to which conservation elements are captured in existing protected areas including, but not limited to, the total acreage and percent of the RCIS area currently in conservation protection and the acreage and percent of each habitat type currently in conservation protection. If such an analysis is done, it may serve as the basis for identifying the conservation targets for the focal species and other conservation elements (see Section 4.3.6.3 – Actions) and could provide a baseline against which RCIS implementation could be evaluated (see Section 4.7 for information regarding RCIS evaluation requirements).

#### **4.3.4.4 Summary of Mitigation and Conservation Banks within an RCIS Area**

The RCIS shall include a summary of all approved conservation and mitigation banks that are located within the RCIS area or whose **service area** overlaps the RCIS area.<sup>69</sup> Information about conservation and mitigation banks may be found by using the U.S. Army Corps of Engineers' Regulatory In-lieu Fee and Bank Information Tracking System ([RIBITS](#)). Information regarding CDFW-only banks may be found on [CDFW's Conservation and Mitigation Banking web page](#). The summary shall list the types of credits available at each bank and shall indicate which of the banks are approved by CDFW.

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<sup>69</sup> Fish & G. Code, § 1852, subdivision (c)(12)

#### 4.3.4.5 Consistency with Other Conservation Plans

An RCIS shall be consistent with and complement any [draft and approved NCCPs](#), and federal HCPs that overlap the RCIS area.<sup>70</sup> An RCIS should also be consistent with any **Regional Conservation Assessments (RCAs)** and approved state or federal **recovery plans** that overlap the RCIS area. The RCIS must include the following information for each plan type:

- a. Consistency with NCCPs and HCPs. If an approved NCCP or HCP, or **draft NCCP**, overlaps with a proposed RCIS area, the RCIS shall provide a brief summary of how and to what extent it is consistent with and complementary to the NCCP or HCP by including the consistency information described below. The summaries for each NCCP and HCP shall review both the consistencies and inconsistencies between the species covered; goals, objectives, and actions; and areas identified as priorities for conservation. For any inconsistencies that may exist, the RCIS must include the rationale that justifies the differences. For example, the RCIS may include different focal species, actions, or priority areas to avoid conflicts that would limit the NCCP's ability to meet its requirements. Conversely, an RCIS may include similar species or actions to provide mitigation opportunities for entities or projects that are not eligible for coverage under the NCCP.
- b. Consistency with recovery plans. An RCIS must include an explanation of whether and to what extent the RCIS is consistent with any approved state or federal recovery plan that overlaps with the RCIS area.<sup>71</sup>
- c. Consistency with RCAs. If a CDFW-approved RCA encompasses or overlaps with a proposed RCIS area, the RCIS shall explain how and to what extent it has incorporated the RCA's information and analysis.<sup>72</sup>

#### 4.3.5 Focal Species, Non-focal Species, and Other Conservation Elements

The RCIS shall identify and describe the RCIS area's important conservation elements, which includes focal species and other conservation elements. Other conservation elements are the important ecological resources, habitat, and processes in the RCIS area. An RCIS may also include other

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<sup>70</sup> Fish & G. Code, § 1852, subdivisions (c)(10) and (e)(5)

<sup>71</sup> Fish & G. Code, § 1852, subdivision (c)(11)

<sup>72</sup> Fish & G. Code, § 1853, subdivision (b)

species as non-focal species if their ecological needs are the same as, or very similar to, those of a focal species or other conservation element.

Focal species, non-focal species, and other conservation elements may benefit through either conservation investments, MCAs, or both. Focal species, non-focal species, and other conservation elements must be included in an RCIS to be considered for credits in an MCA.<sup>73</sup> However, to have a comprehensive RCIS, the RCIS should not be restricted solely to those species and other conservation elements with anticipated compensatory mitigation needs under CESA, CEQA, LSA, or other state, federal, and local laws and regulations. The final focal species list and list of other conservation elements shall be representative of all important natural communities and **ecosystem processes** that characterize the conservation needs in the RCIS area such that the RCIS results in a comprehensive, cohesive, and connected regional conservation outcome with enhanced adaptation to pressures and stressors.

CDFW recommends that the RCIS proponent involve stakeholders and a technical review team in developing the list of focal species, non-focal species, and other conservation elements (see Sections 4.5.1.1 for requirements and suggestions regarding stakeholder involvement). The subsections below provide further details on the selection process and required information for focal species, non-focal species, and other conservation elements.

#### **4.3.5.1 Focal Species Selection Process**

A preliminary species list shall be developed using the best available scientific information (see Section 4.3.7.3 – Species Information and List Development). Once a preliminary species list is developed, it must be refined to create the final focal species list. The RCIS must include a description of the criteria, data, and methods for refining the preliminary list, including the reasons for excluding species. For example, if a species is already protected under an approved conservation plan covering the same area as the RCIS, then that species may be considered for exclusion with written justification. Lack of information about a species may be another justification for exclusion, in which case the information needed for that species should be noted as a scientific information gap (see Section 4.3.7.9 regarding gaps in scientific information).

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<sup>73</sup> Fish & G. Code, § 1856, subdivision (a)

The focal species list shall consist of a range of species with conservation needs within the RCIS area and should include federal- and state-listed species, wide-ranging species, climate-vulnerable species, and representative species from major taxonomic groups (see further descriptions of these in the list below). Focal species must be native species.

- a. **Listed Species** – Listed species include all federal Endangered Species Act threatened and endangered species, California Endangered Species Act ([CESA](#)) [threatened and endangered species](#), and [California Fully Protected Animals](#). CDFW recommends that the focal species list include listed species that are most representative of the important natural community types in the RCIS area and ecosystem processes that are characteristic of the conservation needs in the RCIS area. Listed species included in an RCIS that cannot be strongly associated with a single focal species or other conservation element should be included as a focal species (as opposed to a non-focal species) to ensure that their specific ecological requirements are discussed.
- b. **Wide-ranging Species** – Wide-ranging focal species are those that require contiguous (i.e., connected) blocks of habitat and represent the general wildlife and habitat connectivity needs in the RCIS area. This includes achieving and maintaining wildlife and plant dispersal connectivity across or through barriers such as infrastructure, fences, and other landscape barriers, and ensuring that species movement and habitat requirements are conserved at different scales, as applicable (for example, movement of species to and from wetlands such as streams and vernal pools, as well as species movement throughout large regions).
- c. **Climate-Vulnerable Species** – Climate-vulnerable focal species are those that have been analyzed in the best available science and have been found to be vulnerable to the effects of climate change. Climate-vulnerable focal species may be identified by reviewing species-specific analyses in peer-reviewed literature, CDFW's current version of **California State Wildlife Action Plan (SWAP)** climate-vulnerable [Species of Greatest Conservation Need \(SGCN\)](#) and lists of species deemed to be vulnerable to the effects of climate change by other agencies.
- d. **Taxonomic Group Representatives** – In an effort to address the unique ecological needs and pressures and stressors of various taxonomic groups, one or more species from each of the following major taxonomic groups should be included in the final focal species list: plants, invertebrates, fish, amphibians, reptiles, birds, and mammals.

### 4.3.5.2 Required Focal Species Information

The RCIS shall include focal species summaries that provide a sufficient basis for the RCIS goals, objectives, actions, and priorities to benefit the species and to address pressures and stressors. The summaries shall use the best available scientific information and shall include proper citations (see Section 4.3.7 – Best Available Scientific Information). The summaries should provide a basis for the development of reasonable **metrics** to measure the RCIS objectives (see Section 4.3.6.2 – Objectives).

Each focal species summary shall include the following information:

- a. The species' regulatory status, if any.
- b. A brief summary and a map of the species' current range, as identified by the best available science, including information produced by CDFW, USFWS, or NOAA Fisheries (e.g., species listing or review information). The summary and map shall, at a minimum, include the species' range within the RCIS area as well as any applicable adjacent areas that could allow for connectivity outside the RCIS area. The state-wide range, if applicable, may also be shown. The species' range summary and map may be used in the biological justification for determining an MCA service area.
- c. Maps and description of the known occurrences and potential distribution based on existing habitat and, if known, the quality of that habitat within the RCIS area<sup>74</sup> (see Section 4.3.7.4 – Distribution of Focal Species and Natural Communities). RCIS proponents are not required to create new species distribution models.
- d. The species' ecological requirements (i.e., habitat components; movement characteristics including dispersal, migration, habitat connectivity and home-range needs; and biotic and abiotic conditions). The species' ecological requirements discussion does not need to describe the species' full life history, but it should be sufficiently detailed to provide a basis for the goals, objectives, actions, and priorities. The summaries should also include any aspects of the species' life history that alters its ecological requirements (e.g., provide the seasonal time frame during which a migratory bird would be present in the RCIS area and using the RCIS's ecological resources) as well as seasonal constraints on species identification (e.g., a plant's typical blooming period).

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<sup>74</sup> Fish & G. Code, § 1852, subdivision (c)(3)

- e. The RCIS shall include a summary of historic, current, and projected pressures and stressors on the focal species in the RCIS area. The summary must discuss climate change, land use changes, invasive species (see Section 4.3.7.8 – Invasive Species), and other pressures and stressors identified in the best available science, including, but not limited to, those identified in the SWAP for overlapping ecoregions.<sup>75</sup> The climate change summary must include information about climate change vulnerability, as available (see Section 4.3.7.7 – Climate Change Risk and Resilience). A general description of pressures and stressors may be discussed for a group of species, provided there is a focused discussion about how those pressures and stressors influence focal species. The focused discussion must explain how the actions provide opportunities for the focal species to overcome the adverse effects of the pressures and stressors.<sup>76</sup>

If an NCCP overlaps with the RCIS area and an RCIS focal species is covered by the NCCP, the NCCP covered species information and analysis may be included in the RCIS focal species summaries and the NCCP must be cited, as appropriate.

### **4.3.5.3 Other Conservation Elements Selection Process**

An RCIS shall include other conservation elements needing conservation within the RCIS area, and those whose inclusion would help to achieve a comprehensive, cohesive, and connected regional conservation outcome. Other conservation elements are the important resources and processes within the RCIS area, including important natural communities, habitat, habitat connectivity, ecosystem processes, and water resources – these are described further in the list below. An RCIS shall explain how the other conservation elements were selected, including the science-based criteria, data, and methods<sup>77</sup> and, if applicable, the reasons for excluding any significant conservation elements (e.g., a focal species' goals, objectives, and actions will sufficiently address the conservation needs of a unique natural community type).

- a. Natural Communities – The RCIS shall include any natural communities that may be important in the RCIS area,<sup>77</sup> including major types and those considered unique, sensitive, vulnerable to pressures and stressors, and declining. Other natural communities should be considered for inclusion if

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<sup>75</sup> Fish & G. Code, § 1852, subdivision (c)(5)

<sup>76</sup> Fish & G. Code, § 1852, subdivision (c)(13)

<sup>77</sup> Fish & G. Code, § 1852, subdivision (c)(4)

they have conservation benefits for focal or non-focal species, may require compensatory mitigation, or provide other benefits, such as **ecosystem services** including carbon sequestration; protection against flood, fire, or storm damage; open space and park values; agriculture and cultural values; or other benefits.

- b. Habitat – The RCIS should include any important habitat types that are not easily characterized by the natural communities. Such habitat types should be considered for inclusion if they have conservation benefits for focal or non-focal species, may require compensatory mitigation, or provide other benefits.
- c. Habitat Connectivity – The RCIS shall include habitat connectivity<sup>78</sup> as a conservation element (see Section 4.3.7.6). The RCIS must include information regarding connectivity within the RCIS area as well as connectivity to adjacent areas.<sup>79</sup>
- d. Ecosystem Processes – The RCIS shall include any ecosystem processes that are important to the RCIS area.<sup>80</sup> Examples include a dynamic river meander, tidal fluctuations, bank erosion, and sediment deposition.
- e. Water Resources – The RCIS should include Waters of the United States, Waters of the State, and other applicable water resources, particularly if they are likely to incur permitting needs under the jurisdiction of CDFW or other state or federal agencies, that may be mitigated through an MCA.

#### **4.3.5.4 Required Information for Other Conservation Elements**

The RCIS shall include summaries for other conservation elements. Summaries for other conservation elements shall be sufficiently detailed, using the best available scientific resources (see Section 4.3.7 – Best Available Scientific Information) and proper citations, to provide the basis for the RCIS's goals, objectives, actions, and priorities for those conservation elements, and to address pressures and stressors. The summaries should provide a basis for the development of reasonable metrics to measure the RCIS objectives (see Section 4.3.6.2 – Objectives).

The following information shall be included in the summaries for all other conservation elements:

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<sup>78</sup> Fish & G. Code, § 1852, subdivision (c)(4)

<sup>79</sup> Fish & G. Code, § 1852, subdivision (c)(2)

<sup>80</sup> Fish & G. Code, § 1852, subdivision (c)(4)

- a. Description of the other conservation element, including its ecological characteristics and status (i.e., sensitive, vulnerable, declining, etc.), if any;
- b. Description and map of the current known or estimated extent within the RCIS area (see Section 4.3.7.4 - Distribution of Focal Species and Natural Communities);
- c. Ecosystem services, if applicable to the conservation element; and
- d. The RCIS shall include a summary of historic, current, and projected pressures and stressors on the other conservation element in the RCIS area. The summary must discuss climate change, land use changes, invasive species (see Section 4.3.7.8 – Invasive Species), and other pressures and stressors identified in the best available science, including, but not limited to, those identified in the SWAP for overlapping ecoregions. The climate change summary must include information about climate change vulnerability, as available (see Section 4.3.7.7 – Climate Change Risk and Resilience).<sup>81</sup> A general description of pressures and stressors may be discussed, provided there is a focused discussion about how those pressures and stressors influence the other conservation elements.

#### **4.3.5.5 Associated, Non-focal Species Information**

Other, non-focal, species may be included in an RCIS if they are native species with ecological needs that are the same as, or similar to, those of a focal species or other conservation element. In order to demonstrate sufficient association, the RCIS must include a brief, science-based justification indicating how the non-focal species' ecological requirements align with those of a focal species or another conservation element, and how the actions for the associated focal species or other conservation element would benefit the non-focal species (see Section 4.3.6.3 - Actions).

If a proposed non-focal species has unique ecological needs that require actions beyond those identified for its associated focal species or other conservation elements, the non-focal species should instead be listed as a focal species. MCA credits are only available for non-focal species when an action for its associated focal species or other conservation element is implemented.

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<sup>81</sup> Fish & G. Code, § 1852, subdivision (c)(5)

## 4.3.6 Conservation Strategy

RCIS proponents shall use the best available scientific information on focal species and other conservation elements to develop the RCIS's goals, objectives, actions, and priorities (see Section 4.3.7). The RCIS proponent shall consider existing conditions in the RCIS area (see Section 4.3.4), including the current pressures and stressors, as well as the goals, objectives, actions, and priorities discussed in approved conservation plans that overlap the RCIS area (see Section 4.3.4.5), including recovery plans and the current version of SWAP and its companion plans.

Goals, objectives, actions, and priorities for focal species and other conservation elements may be grouped by habitats, taxonomic groups, ecosystem processes, and/or other groups if they largely address the ecological needs of the group and the pressures and stressors affecting the group. If a focal species or other conservation element has unique ecological requirements that are not fully covered by its group, specific goals, objectives, actions, and priorities must be included to address those specific needs.

The goals, objectives, and actions for focal species and other conservation elements are intended to cover the non-focal species that are associated with them (see Section 4.3.5.5). If a proposed non-focal species has unique ecological or conservation needs that are not covered by its associated focal species or other conservation element, the species should instead be included as a focal species with its own goals, objectives, actions, and priorities.

### 4.3.6.1 Goals

The RCIS shall include conservation goals that reflect broad, desired outcomes for the focal species and other conservation elements. Examples of potential goals include: achieving sustainable native species populations and natural community persistence in the RCIS area, supporting recovery of focal species; **preserving** or **establishing** (which includes **restoring**, **creating**, and/or **enhancing**) habitat; reconnecting fragmented habitat blocks; maintaining and enhancing ecological and ecosystem processes and ecosystem services; and improving connectivity by increasing permeability for wildlife movement and migration corridors.

Goals, along with objectives, shall address or respond to the identified pressures and stressors on focal species and other conservation elements.<sup>82</sup> The RCIS must describe how the goals provide for adaptation opportunities against negative effects of climate change for the focal species.<sup>83</sup>

#### 4.3.6.2 Objectives

An RCIS must include one or more objectives that could achieve each conservation goal. An objective is a concise statement of a target outcome for a focal species or other conservation element. Objectives, along with the goals, shall address or respond to the identified pressures and stressors on focal species and other conservation elements.<sup>84</sup> The RCIS must describe how the objectives provide for adaptation opportunities against negative effects of climate change for the focal species.<sup>85</sup> Objectives must also include the following requirements:

- a. Objectives shall be measurable<sup>86</sup> such that they allow for the use of consistent metrics to measure the net change resulting from the implementation of the actions. The metrics used during implementation must incorporate both the area and quality of habitat or other natural resource.<sup>87</sup> To support the use of consistent metrics, the RCIS's objectives must identify the types of habitat or ecosystem processes that need protection or establishment to benefit the focal species and other conservation elements. Additionally, the RCIS must provide the metrics that may be used during implementation. Metrics must, at a minimum, be generally listed for all objectives or may be specifically identified for each objective.
- b. Objectives must include conservation targets, which are the general amounts and types of habitat that should be preserved or established and **permanently protected** in order to meet the associated goals and objectives.<sup>88</sup> These conservation targets may be based on targets identified in the overlapping conservation plans or other best available science or may be developed for the RCIS. A gap analysis (see Section

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<sup>82</sup> Fish & G. Code, § 1852, subdivision (c)(8)

<sup>83</sup> Fish & G. Code, § 1852, subdivision (c)(13)

<sup>84</sup> Fish & G. Code, § 1852, subdivision (c)(8)

<sup>85</sup> Fish & G. Code, § 1852, subdivision (c)(13)

<sup>86</sup> Fish & G. Code, § 1852, subdivision (c)(8)

<sup>87</sup> Fish & G. Code, § 1854, subdivision (e)

<sup>88</sup> Fish & G. Code, § 1852, subdivision (c)(9)

4.3.4.3) may be conducted as a basis for calculating any newly developed conservation targets. The RCIS must briefly explain how the conservation targets were identified or developed.

#### **4.3.6.3 Actions**

An RCIS shall identify actions that could achieve the RCIS's goals and objectives for focal species and other conservation elements. Examples of actions may include, but are not limited to, establishment of habitat and other conservation elements on public or private land, installation of wildlife crossings, and removal of fish barriers. For the purposes of the RCIS Program, actions include both **conservation actions**, which require permanent protection of the land, and **habitat enhancement actions**, which require long-term durability of the land (for information about long-term durability agreements, see Section 5.3.7.4 – Real Estate Instrument) but do not include permanent protection. Distinction between these action types is necessary in an MCA. However, to allow for the flexibility of implementing actions as either a conservation action or a habitat enhancement action, the RCIS may identify actions in a general way, rather than identifying each action as one of these two types.

The RCIS proponent should consider incorporating actions from approved conservation plans that overlap the RCIS area (see Section 4.3.4.5), including recovery plans and the current version of SWAP and its companion plans. The RCIS shall include a description of how the actions were selected.<sup>89</sup>

Any person or entity can create MCA credits for focal species, other conservation elements, and associated non-focal species by implementing actions included in the RCIS. MCA credits are only available for non-focal species when an action for its associated focal species or other conservation element is implemented. If credits are needed for a species, other conservation element, or action that is not included in the RCIS, the RCIS may need to be amended (see Section 4.6).

#### **4.3.6.4 Priorities**

The RCIS must identify the priority actions and/or locations that represent the most immediate conservation needs of the focal species and other conservation elements within an RCIS area. The RCIS proponent should consider existing conditions, including land use, in the RCIS area as well as

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<sup>89</sup> Fish & G. Code, § 1852, subdivision (c)(9)

priorities from approved conservation plans that overlap the RCIS area (see Section 4.3.4.5), including recovery plans. The RCIS shall include a description of how the priorities were selected.<sup>90</sup>

If an action should ideally be implemented within a particular time or location in order to achieve the greatest conservation benefit, this should be specified in the priorities. Key locations for priorities shall be indicated by description, map, or both.

### 4.3.7 Best Available Scientific Information

It is the intent of the RCIS Program to establish requirements that provide sufficient flexibility to develop each RCIS based on the best available information regarding the RCIS area.<sup>91</sup> Development of an RCIS does not require new studies or modeling efforts. Rather, the RCIS shall incorporate and cite the best scientific information that is available for the RCIS area and surrounding ecoregion.<sup>92</sup> The best available scientific information includes, but is not limited to, peer-reviewed literature and datasets identified in the following subsections. RCIS proponents are encouraged to have a technical review team to help ensure that the best available scientific information is used, and to help identify gaps in scientific information.

Sections 4.3.1 through 4.3.6.4 identify the primary requirements for an RCIS. The information in the following subsections provides further details for how to apply and include the best available scientific information.

#### 4.3.7.1 Use of Standard Vegetation Classifications

An RCIS must use standard or prevalent vegetation classifications to enable and promote consistency among RCISs throughout California.<sup>93</sup> The standard vegetation classification system for California is [CDFW's Natural Communities List](#), which is based on [A Manual of California Vegetation Online](#), and is the California expression of the [U.S. National Vegetation Classification](#). CDFW's Natural Communities List is developed and maintained by CDFW's **Vegetation Classification and Mapping Program (VegCAMP)** and replaces all other lists of terrestrial natural communities and vegetation types previously developed for the **California Natural Diversity Database (CNDDDB)**.

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<sup>90</sup> Fish & G. Code, § 1852, subdivision (c)(9)

<sup>91</sup> Fish & G. Code, § 1854, subdivision (b)

<sup>92</sup> Fish & G. Code, § 1852, subdivision (c)(14)

<sup>93</sup> Fish & G. Code, § 1852, subdivision (c)(14)

The list is updated one to two times per year to incorporate updated vegetation community information and rarity ranks. To ensure the RCIS is using the current list, the RCIS proponent shall check for the most recent version of the list, associated vegetation descriptions, and any recent updates specific to the RCIS area. Any vegetation maps and other information developed for an RCIS shall use this classification system and follow the Survey of California Vegetation ([SCV standards](#)). If the RCIS area has not been mapped to SCV standards, proponents shall [contact VegCAMP](#) to determine the best readily available vegetation map.

If another prevalent vegetation classification is commonly used in the RCIS area, the RCIS proponent may choose to use it as the primary vegetation classification for the RCIS. For example, if an approved or draft NCCP or regional HCP overlaps the RCIS area, the RCIS proponent may use that NCCP's or HCP's vegetation classification system. However, if the RCIS incorporates a vegetation classification that differs from the Manual of California Vegetation Online, the RCIS shall include a crosswalk between the classifications to help ensure consistency between the RCISs throughout California.

#### **4.3.7.2 Aquatic Resources**

The RCIS shall use the best available data sources to assess inland, coastal marine, and other aquatic resources. These may include the **Areas of Conservation Emphasis (ACE) Aquatic Biodiversity Summary**, USGS topographic maps, local wetland delineation reports, [USFWS National Wetlands Inventory](#), the State Water Resources Control Board's marine [Areas of Special Biological Significance](#), [California Marine Protected Areas](#), sea level rise mapping and other climate change adaptation planning documents (see Section 4.3.7.7 – Climate Change Risk and Resilience), the most up-to-date list of California's [Impaired Water Bodies](#) (i.e., Clean Water Act section 303(d) List/ 305(b) Report), and the [California Ocean Protection Council](#) resources.

#### **4.3.7.3 Species Information and List Development**

For information regarding focal species, non-focal species, and other conservation elements, the RCIS proponent shall use the best available scientific information, including information published by CDFW, USFWS, and other peer-reviewed sources. CDFW resources may include species listing or status review reports, information available in the [Biogeographic Information and Observation System \(BIOS\)](#), approved NCCPs that overlap the RCIS area,

and the current version of SWAP and the companion plans. Data vary throughout the state, and the most current, detailed, available and scientifically supported data shall be used.

As described in Section 4.3.5.1, a preliminary species list must be developed using the best available scientific information. The preliminary list is then refined to create the final focal species list and, if applicable, the final non-focal species lists. Resources that should be used to create the preliminary species list include the following:

- a. Plants or animals that are listed as [CESA threatened or endangered species](#) or are candidates for listing;
- b. [California Fully Protected Animals](#);
- c. Plant and animal species that are listed under the federal Endangered Species Act, or are proposed for listing or are a candidate for listing as endangered or threatened;
- d. CDFW [Species of Special Concern](#);
- e. Additional species identified by the [CNDDDB Special Plants List](#) and [CNDDDB Special Animals List](#);
- f. [SGCN](#) lists in the current version of SWAP;
- g. Species specially protected under the California Wildlife Protection Act of 1990 (mountain lion);
- h. Species included on the US Forest Service [\(USFS\) Sensitive Animal Species List](#) and the [USFS Sensitive Plant Species List](#) or a Management Indicator Species; species listed as a [USFWS Bird of Conservation Concern](#); animal and plant species listed by the US Bureau of Land Management as sensitive; and other species identified by a state or federal agency as having special status.
- i. Native game species managed under [CDFW's Game Conservation Programs](#);
- j. The [Complete List of Amphibian, Reptile, Bird, and Mammal Species in California](#);

In addition, lists of terrestrial vertebrates can be generated by queries of the [California Wildlife Habitat Relationships \(CWHR\)](#) Program. The CWHR contains life history, geographic range, and habitat suitability information for regularly occurring species of amphibians, reptiles, birds, and mammals in the state.

The CWHR allows users to produce queries to generate lists of species by geographic location (i.e., county, ecoregion, CalWater Hydrologic Region, or National Forest) and/or by habitat type and provides information on expert opinion–based habitat suitability ranks for each species within each habitat type.

A list of species by ACE hexagon (terrestrial species) and by watershed (aquatic species) can be generated by ACE hexagon with the [ACE Terrestrial Species List](#) and the [ACE Aquatic Species List](#). The ACE species lists include predicted species presence by hexagon based on both models and observation data. The ACE species lists indicate species status including Rare (listed or SGCN), Endemic, Climate Vulnerable, SGCN, and Game.

#### **4.3.7.4 Distribution of Focal Species and Natural Communities**

The RCIS shall identify and describe the distribution of focal species and natural communities. The following information may be used:

- a. Geospatial information on the distribution of the focal species in the RCIS area. The [CWHR](#) contains life history, geographic range, and habitat relationship information on regularly occurring species of amphibians, reptiles, birds, and mammals in the state. The CWHR can be used to generate lists of species by geographic location (i.e., county, ecoregion, CalWater Hydrologic Region, or National Forest) and/or by habitat type. The CWHR provides 1) geographic range data representing the maximum, current (within the past 20 years) extent of a species distribution for most regularly occurring vertebrates in the state and 2) predicted habitat distributions, showing areas of potentially suitable habitat within each species' range based on CWHR habitat suitability ranks. The [BIOS](#) spatial data catalog<sup>94</sup> includes additional geospatial information on the distributions of wildlife species (e.g., occurrence location data and species distribution models).
- b. Geospatial information on special-status species. Reported information on the distribution of many of these species is available through, but not limited to, [CNDDDB](#) and [BIOS Viewer](#) from [CDFW's Biogeographic Data Branch](#). The CNDDDB is an inventory of GIS-mapped occurrence locations of special-status species in California. BIOS is CDFW's data catalogue of spatial data, including other species observation, distribution, and habitat

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<sup>94</sup> The BIOS spatial data catalog can be searched by species name or searched spatially by location.

datasets (e.g., USFWS critical habitat datasets and fish distribution maps for some salmonids).

- c. Species distribution models. While not required, the RCIS may incorporate existing species distribution models published by CDFW or in peer-reviewed literature or developed specifically for the RCIS. If new models are developed for an RCIS, the RCIS shall include a description of methods and data sources used and shall report model confidence as outlined in [NatureServe's Habitat Model Standard](#). The assessment of model confidence may include both statistical measures and species expert review. The results of the model confidence assessment shall support the appropriate use of the model in an RCIS (see Habitat Model Standard, section 3.3 Assignment of Confidence Scores). All new data (e.g., new occurrence information, maps, and other model output) must be submitted to CDFW as indicated in Section 4.4 (Data Management, Sharing, and Access).
- d. Lists of rare natural communities or other high-priority natural communities that occur within the RCIS area. Information on the distribution and mapped locations of rare or other high-priority natural communities is available through, but not limited to, [SCV vegetation maps](#) and survey points, [CNDDDB](#), and the [ACE Terrestrial Significant Habitats Summary](#) and [ACE Aquatic Significant Habitats Summary](#).
- e. Information on the RCIS's focal species, natural communities, and/or other conservation elements from any NCCPs that overlap the RCIS area.

#### **4.3.7.5 Biodiversity Information**

The RCIS proponent may choose to identify and summarize areas of high biological diversity within an RCIS area, which may be useful in selecting priority locations for actions. Biodiversity information across California can be found in the most recent version of [ACE](#). ACE is a compilation and analysis of the best available statewide spatial information on California's biological richness, including species diversity, rarity, and endemism. In addition to ACE, RCIS proponents may use other local or regional resources, as available. The ACE datasets identify and map the following relative to biodiversity:

- a. Native species richness, which represents overall native diversity of all species in the state, both common and rare;
- b. Rare species richness, which represents diversity of rare species;
- c. Irreplaceability, which is a weighted measure of endemism.

#### 4.3.7.6 Habitat Connectivity

Habitat connectivity is a critical consideration when evaluating the location and association of protected lands within an RCIS. It is important in determining how to maintain sustainable populations and gene pools and how to provide for wildlife movement at different scales. Wildlife movement includes daily movements to find food, shelter, and mates; dispersal by young to find new territories; seasonal migration; and movement in response to climate change. An RCIS should use habitat connectivity data and information including, but not limited to:

- a. The [California Essential Habitat Connectivity Project \(CEHC\)](#), a statewide assessment of essential habitat connectivity. The project identified large remaining blocks of intact, contiguous natural habitat (natural landscape blocks) and modeled linkages (essential connectivity areas) between them to best maintain habitat connectivity across the landscape. CEHC data is included in [ACE](#).
  - [Natural Landscape Blocks](#) identify remaining intact lands across the state, independent of ownership. These lands contribute to habitat connectivity and are expected to have high conservation and climate resilience value because of their size, intactness, and connectedness with other natural habitats. Although the CEHC only used large natural landscape blocks (greater than 2,000 acres) due to the statewide nature of its analysis, [Small Natural Areas](#) were identified and should be used for evaluating connectivity at a regional scale.
  - [Essential Connectivity Areas](#), represent coarse scale, generalized habitat connections between natural landscape blocks. These connections provide a broad-scale view of habitat connectivity needs at the statewide scale, but they should be supplemented with or superseded by fine-scale connectivity analyses at a regional scale, when available.
- b. [ACE Terrestrial Connectivity](#), which is a spatial evaluation of the relative contribution of an area to terrestrial connectivity.
- c. Regional, fine-scale connectivity analyses include refinements of the CEHC at a regional scale using finer-scale datasets and based on species' movement needs. They may also include different methods applied regionally. Regional, fine-scale connectivity analyses have been or may in the future be completed for several ecoregions in the state. When such scientifically based regional connectivity analyses are readily

available, these spatial datasets (available in [BIOS](#)) and project reports (available on [CDFW's Connectivity web page](#)) should be used by an RCIS. These datasets can be used to identify overall fine-scale habitat connections within or through an ecoregion, as well as critical movement corridors for individual species that may be of high priority for conservation.

- d. CDFW's [Guidance for Fine-Scale Wildlife Connectivity Analysis](#) is a report that provides guidance to complete a fine-scale wildlife connectivity analysis that meets CDFW standards. The report includes information on species selection criteria and landscape block identification and details the model development process using examples from CDFW's case study analysis of wildlife connectivity across the northern Sierra Nevada foothills that was conducted after the completion of the CEHC project. RCIS proponents are not required to develop a fine-scale connectivity analysis; however, if RCIS proponents choose to develop this type of analysis, CDFW's guidance should be used. RCIS proponents must submit a description of the modeling process, methods, and metadata that meet CDFW's minimum metadata standards, and model reviews by recognized species experts (see Section 4.4 – Data Management, Sharing, and Access).
- e. [Fish Passage Assessment Database](#) and/or CDFW Fisheries Branch [Fish Passage Priorities](#).<sup>95</sup> The Fish Passage Assessment Database is an ongoing inventory of known and potential barriers to anadromous fish in California. It compiles currently available fish passage information from more than two hundred data sources and allows past and future barrier assessments to be standardized and stored in one place. The inventory may be used to identify barriers suitable for removal or modification to restore access to spawning and rearing habitat. Contact CDFW Fisheries Branch for their list of priority fish barriers in the RCIS area.
- f. CDFW's Wildlife Movement Barrier Priorities Dataset depicts segments of linear infrastructure (roads, railroads, canals, etc.) that have been identified as high priority barriers to terrestrial wildlife movement by biologists in CDFW Regions 1-6 and includes a list of high-priority focal species for each segment. The barrier priorities dataset is updated on a regular basis to reflect shifts in regional priorities as remediation efforts are implemented and new barriers are identified.

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<sup>95</sup> Currently, the most recent list is from 2021. For future updates to this list, enter "Fish Passage Priorities" into the BIOS search bar.

Links to spatial data associated with many of the datasets described above can also be found in CDFW's [Habitat Connectivity Viewer](#).

#### **4.3.7.7 Climate Change Risk and Resilience**

The RCIS shall incorporate existing available, science-based analyses and information to identify climate change vulnerability of the RCIS focal species and natural communities, exposure of the RCIS area to climate change (e.g., projected changes in temperature and precipitation, sea level rise, drought, wildfire risk), and areas that may be resilient to the impacts of climate change, to inform adaptation strategies for the RCIS. The climate vulnerability information assembled for the RCIS should include climate change threats at mid-century (2050) and end-of-century (2100) for both a hotter and drier future climate scenario and a warmer and wetter future climate scenario where possible. The future climate scenarios used in existing studies may vary, and these differences and their implications should be explicitly indicated and addressed in the RCIS.

Climate science and modeling is a rapidly evolving field, and the best available, most current scientifically based information should be consulted and cited for each RCIS. For all new analyses, global climate models selected for the state's most recent [California Climate Change Assessment](#) should be used. For information on climate vulnerability of California species and habitats and links to associated datasets, please refer to [CDFW's Climate Change Vulnerability Assessment web page](#). This web page provides relevant resources that will aid proponents in developing the RCIS. An RCIS shall be informed by:

- a. Climate change projections developed for California as presented by [Cal-Adapt](#). Cal-Adapt may be used to identify projected changes in temperature, precipitation, streamflow, snowpack, sea level rise, wildfire, and drought, at multiple timescales and across a range of greenhouse gas emissions scenarios and climate models.
- b. Lists of climate-vulnerable species and natural communities developed or supported by CDFW. For example, birds, mammals, reptiles, amphibians, fish, and plants in California and the current version of SWAP (Criteria 3 in the [SGCN](#) list of SWAP 2015). A list of climate vulnerable species, as identified in SWAP, can be queried by hexagon using ACE.
- c. Other factors that may contribute to climate resilience such as diverse land facets (geophysical features expected to support biodiversity in a changing climate) and high levels of connectivity (corridors to facilitate

movement as species and their habitats move in response to climate change). Where available, data or information should be included that demonstrate how land facets and/or corridors within the RCIS area may promote climate resilience.

- d. Geospatial information on climate exposure with respect to species, including projected range-shift models for wildlife species developed for CDFW climate vulnerability analyses, where available.
- e. Geospatial information on landscape-scale climate exposure, such as:
  - High-climate-exposure natural community areas as identified by the [Climate Change Vulnerability Assessment of California's Terrestrial Vegetation](#). These represent habitats that are expected to experience major changes in composition, such as type conversion, due to changes in temperature and water availability.
  - Coastal areas expected to be impacted by sea level rise. Tools such as [CoSMoS](#), [CalAdapt](#), NOAA's [Sea Level Rise Viewer](#), the [Coastal Conservancy's Climate Ready Program](#), the [CA Coastal Commission's Climate Change web page](#), and the [Conserving California's Coastal Habitat's assessment](#) by The Nature Conservancy and the California Coastal Conservancy may assist in identifying stressors associated with sea level rise.
- f. Geospatial information on landscape-scale climate resilience, such as climate-resilient natural community areas, representing habitats expected to remain stable in the face of climate change (i.e., potential climate refugia). See ACE datasets on the probability that a given location within California will serve as refugia under climate change.
- g. Other available, science-based analyses and information to identify exposure of the RCIS area to climate change, climate-vulnerable resources in the RCIS, and areas that may be resilient to the impacts of climate change.

For assistance translating climate science and vulnerability information to adaptation strategy and action, consider using the [Resist-Accept-Direct Framework](#), the [USGS's Integrating Climate Change Considerations into Natural Resource Planning Guide](#), or other relevant guidelines and decision frameworks. The [California Adaptation Clearinghouse](#) can be referenced for examples of biodiversity-related adaptation case studies.

#### 4.3.7.8 Invasive Species

RCIS proponents shall include invasive species within the RCIS area as a pressure or stressor to focal species and other conservation elements. Information is available from [CDFW's Invasive Species Program](#), California Department of Food and Agriculture's [Plant Health and Pest Prevention Services Division](#), [Invasive Species Council of California](#), [California Invasive Plant Council Inventory](#), and [county agricultural commissioner offices](#).

#### 4.3.7.9 Gaps in Scientific Information

The RCIS shall provide a brief description of gaps in relevant scientific information<sup>96</sup> that may not allow for a full analysis of the conservation elements or that may result in uncertainties in any portion of the RCIS. Some examples of potential scientific information gaps include key ecological information, distribution information, or management uncertainties for focal species, non-focal species, or other conservation elements. When lack of data is used as a criterion for not including a species as a focal or non-focal species (see Section 4.3.5.1 for information about the species selection process), the information needed for that species should be noted as a scientific gap.

### 4.3.8 Additional RCIS Requirements to Create MCAs

For actions identified in an RCIS to be eligible for creating mitigation credits through an MCA, the RCIS shall also include the items in the list below. If any of these items are missing, the RCIS must be amended before an MCA could be developed.

- a. An outline for adaptive management and monitoring of conserved habitat and other conserved natural resources consistent with the goals and objectives for focal species and other conservation elements in the RCIS. The outline shall guide the preparation of, and consistency among, Long-term Management and Monitoring Plans required in MCAs.<sup>97</sup> The outline should indicate minimum requirements that are consistent with Section 5.3.6.4 (Long-term Management and Monitoring Plan) of these Guidelines and the [MCA Template](#).
- b. A process for **MCA sponsors** to provide information to the RCIS proponent to allow the RCIS proponent to track the progress of, and evaluate the

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<sup>96</sup> Fish & G. Code, § 1852, subdivision (c)(14)

<sup>97</sup> Fish & G. Code, § 1856, subdivision (b)(1)

effectiveness of, the RCIS actions in achieving the goals and objectives for focal species and other conservation elements, including offsetting the effects of identified pressures and stressors.<sup>98</sup>

Tracking and evaluation shall be based on relevant, current, best available information and analyses, including but not limited to, information reported under monitoring and long-term adaptive management and monitoring plans required of MCAs. Tracking shall begin upon the creation of the first MCA credit developed under the RCIS. However, the evaluation should occur, and a report submitted to CDFW, no earlier than one year before the expiration of the RCIS. The evaluation report is required before CDFW can extend the duration of an RCIS.<sup>99</sup>

- c. Identification of either the RCIS proponent or another public or private entity that has agreed to be responsible for evaluating and reporting on the effectiveness of achieving the RCIS's goals and objectives.<sup>100</sup> In the event that the responsible entity identified in the RCIS is not available for these tasks, another entity, with approval from CDFW, can elect to take responsibility.

## 4.4 Data Management, Sharing, and Access

The RCIS proponent shall compile spatial input and summary data in an industry-standard (Environmental Systems Research Institute [ESRI]-readable) geospatial format<sup>101</sup> and include metadata that meets [CDFW's Minimum Metadata Standards](#). Spatial data should have internal metadata, created in the GIS, which will automatically be carried with the file. Metadata should be specific to the file to which it is attached, rather than using "inherited" metadata which originated with a source file. The metadata must include a summary description of the data, a detailed description of why the data were created (including a brief summary of the project), the date or dates the data were gathered or otherwise created, a point of contact for further information about the data, field definitions for all fields, abbreviation definitions, access constraints, use constraints, data distribution method, whether the data are complete or incomplete, how often the data will be

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<sup>98</sup> Fish & G. Code, § 1856, subdivision (b)(2)(A)

<sup>99</sup> Fish & G. Code, § 1856, subdivision (b)(2)(B)

<sup>100</sup> Fish & G. Code, § 1856, subdivision (b)(3)

<sup>101</sup> Fish & G. Code, § 1852, subdivision (d)

updated, and keywords that can be used to catalog and search for the data. If data contain confidential information, such as the detailed locations of special status species, mention that in the access constraints section of the metadata. Metadata should be adequate to allow interested persons and entities to understand the purpose and format of the data without prior knowledge of the project. For a more detailed description of the metadata fields, see [CDFW's Metadata Guidelines](#). RCIS proponents are encouraged to consult with CDFW RCIS Program staff when developing a plan for data management during RCIS development.

All data, models, and other tools used for or created for the RCIS shall be readily available to potential users, including MCA sponsors, and shall not depend upon the acquisition of proprietary data, software, or licenses. If an RCIS proponent wishes to use proprietary data or models not readily available to the public, the proponent shall confer with CDFW.

All spatial and non-spatial data created during RCIS development (e.g., new occurrence information, maps, and other model output) shall be submitted to CDFW. It is not necessary to include copies of publicly available data which has not been modified, although these data sources should be mentioned in the metadata of any data which was created using them and cited in project references. CDFW may incorporate these data into one or more of its web portals for interactive use or, at a minimum, will make the datasets available to the public upon written request submitted to [rcis@wildlife.ca.gov](mailto:rcis@wildlife.ca.gov).

RCIS proponents may also choose, in addition, to upload this information onto another (non-CDFW) website for interactive use to allow all interested persons and entities to generate queries of regional conservation values within the RCIS area. The website should clearly display the process-related steps used to compile, develop, and derive RCIS information. All spatial data included in the website should have metadata meeting CDFW's minimum metadata standards and be available for download in an industry-standard geospatial format. Examples of an interactive platform include the [Desert Renewable Energy Conservation Plan Gateway](#) and the Bay Area [Conservation Lands Network Explorer](#).

## 4.5 RCIS Development, Review, and Approval Process

Fish and Game Code section 1854 specifies tasks that the RCIS proponent or CDFW must complete during the phases of RCIS development, review, and approval. This section provides guidance on the responsibilities, timing, and requirements for each of these tasks. Figure 1, below, provides a flowchart to help orient RCIS proponents with the development, review, and approval processes.

However, RCIS proponents should refer to Fish and Game Code section 1854 and the following subsections of these Guidelines for the detailed requirements. All steps of the process described below apply to both original RCISs and complex amendments to RCISs (see Section 4.6 for more information about amending an RCIS).

### 4.5.1 Pre-Submittal Steps

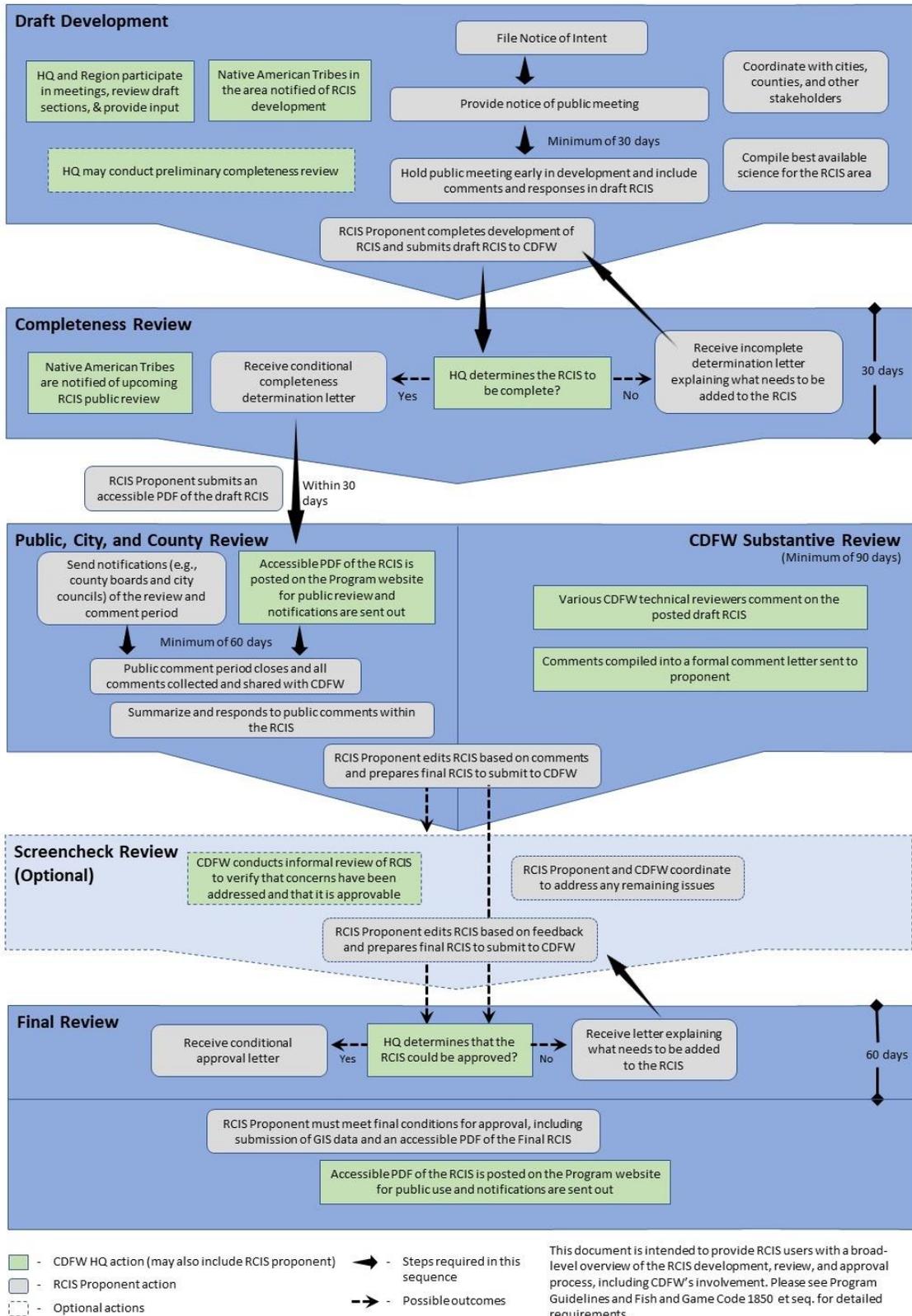
The development of an RCIS is meant to be a collaborative process between the RCIS proponent, CDFW, cities and counties, a range of other stakeholders, and the public. This section provides an overview of the RCIS proponent's minimum responsibilities for notifying and/or inviting stakeholders and the public to participate during the RCIS development. All of the following tasks that are indicated as required must be completed prior to submitting a draft RCIS to CDFW for formal completeness review.

#### 4.5.1.1 Consultation with Stakeholders

The RCIS must consider existing and reasonably foreseeable land uses, including major infrastructure (see Section 4.3.4.1). To ensure this, an RCIS shall be developed after consulting with local agencies that have land use authority (i.e., each city and county) within the geographic area of the RCIS.<sup>102</sup> Consultation with each local public agency with land use authority shall include, at a minimum, notification prior to or concurrent with filing the Notice of Intent (see Section 4.5.1.2) and an invitation to participate in the development process.

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<sup>102</sup> Fish & G. Code, § 1852, subdivision (a)



**Figure 1 – RCIS Development, Review, and Approval Process**

An RCIS must also be consistent with NCCPs, HCPs, recovery plans, and RCAs within the RCIS area (see Section 4.3.4.5). To achieve consistency and compatibility with NCCPs and HCPs, CDFW recommends that an RCIS be developed in consultation with NCCP and HCP Implementing Entities within the geographic area of the RCIS.

CDFW strongly recommends early and ongoing coordination and collaboration with CDFW's RCIS Program staff within the headquarters office and applicable regional offices when developing an RCIS. This will allow for early feedback on the various components (e.g., conservation elements, level of detail needed, sources for the best available scientific information) and typically results in a quicker formal review with less extensive comments.

CDFW recommends including a public or stakeholder engagement process in the development of an RCIS to foster collaborative engagement with individuals and entities with relevant experience and expertise. For example, a technical review team knowledgeable of ecological information and conservation needs can help to ensure that the best available scientific information is used. Agencies and entities that an RCIS proponent should consider consulting with include, but are not limited to, the following:

- a. Species and resource experts at various federal, state, and local agencies; nonprofits; and universities;
- b. Entities in the process of developing a draft NCCP that overlaps with or is adjacent to the RCIS area;
- c. Proponents of other overlapping conservation or mitigation plans that are in development;
- d. Agencies and entities that are likely to have mitigation needs within the 10-year duration of the RCIS;
- e. Native American Tribes with cultural interests in the RCIS area;
- f. Regulatory agencies that have jurisdiction over regulated natural resources within or adjacent to the RCIS area;
- g. **RCA proponents** in the process of developing a draft RCA that overlaps with, or is adjacent to, the RCIS area;
- h. Local public agencies with land use authority (i.e., cities and counties) adjacent to or near the proposed RCIS area;

- i. RCIS proponents with draft or approved RCISs adjacent to the RCIS area;  
and
- j. MCA sponsors with draft or **approved MCAs** adjacent to or near to the RCIS area;
- k. Entities that represent underrepresented communities.

#### 4.5.1.2 Notice of Intent

The RCIS proponent shall publish a notification of its intent to create an RCIS by filing a Notice of Intent (NOI) with the Governor's Office of Planning and Research and the county clerk of each county that the RCIS area overlaps, in part or in whole.<sup>103</sup> The NOI shall be filed as early in the development process as possible, and a copy of the NOI shall be emailed to [RCIS@wildlife.ca.gov](mailto:RCIS@wildlife.ca.gov). Additionally, a copy of the NOI shall be included in the draft and final RCISs submitted to CDFW for formal review and approval.

#### 4.5.1.3 Public Meeting

The RCIS proponent shall hold at least one public meeting within or near the RCIS area.<sup>104</sup> The public meeting shall be held within the county, or one of the counties, in which the RCIS is located, in whole or in part. The purpose of the public meeting is to provide interested persons and entities with meaningful information about the RCIS effort and to solicit input that may inform the development of the RCIS. Therefore, a public meeting shall be held early in the development process, but after the NOI has been filed. The RCIS proponent may also choose to hold additional online or in-person public meetings.

At least 30 days before holding any public meeting, the RCIS proponent shall provide notice of the public meeting as follows:

- a. To CDFW via email at [RCIS@wildlife.ca.gov](mailto:RCIS@wildlife.ca.gov);
- b. On the RCIS proponent's internet website and any relevant LISTSERV;<sup>105</sup>

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<sup>103</sup> Fish & G. Code, § 1854, subdivision (c)(1). If the RCIS proponent began preparation of the RCIS prior to January 1, 2017, the NOI is not required.

<sup>104</sup> Fish & G. Code, § 1854, subdivision (c)(2)(A). If the RCIS proponent began preparation of the RCIS prior to January 1, 2017 and held a public meeting that meets the requirements set forth above prior to January 1, 2017, no further public meeting is required.

<sup>105</sup> Fish & G. Code § 1854, subdivision (c)(3)(A)

- c. To each city and county within or adjacent to the RCIS area (CDFW recommends sending the notification to the city and county clerks);<sup>106</sup>
- d. To the **implementing entity** for each NCCP or federal regional HCP that overlaps the RCIS area;<sup>107</sup>
- e. To each public agency, organization, or individual who has filed a written request for the notice, including any agency, organization, or individual who has filed a written request to CDFW for notices of all RCIS public meetings.<sup>108</sup> CDFW will provide a list of these entities to the RCIS proponent upon written request via email at [RCIS@wildlife.ca.gov](mailto:RCIS@wildlife.ca.gov).

The RCIS proponent shall provide an adequate opportunity for interested persons and entities to provide comments. Copies of, and responses to, written comments submitted during the public meeting(s) shall be included in the draft RCIS submitted to CDFW for completeness review (see Section 4.5.2.1).<sup>109</sup> The RCIS proponent may also choose to include and respond, in the RCIS, to oral comments received during the public meeting. The RCIS proponent must provide instructions on when and how public meeting comments must be submitted in order to be considered in the draft RCIS.

All comments submitted, for the purpose of consideration in the RCIS, during public meeting(s) shall be included in a section or appendix of the draft RCIS submitted to CDFW for formal review and shall include each full original comment, a summary of each comment, and the RCIS proponent's response. If edits were made to the RCIS as a result of the comment, the RCIS proponent's response must include a description of how the comment was addressed in the RCIS.

## 4.5.2 Submission and Review of the Draft RCIS

A draft RCIS submitted to CDFW shall contain all information required by Fish and Game Code section 1852(c) and these Guidelines, primarily Section 4.3. Additionally, see Section 4.5.1.3 (Public Meeting), for requirements to incorporate public comments in the draft RCIS.

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<sup>106</sup> Fish & G. Code § 1854, subdivision (c)(3)(B)

<sup>107</sup> Fish & G. Code § 1854, subdivision (c)(3)(C)

<sup>108</sup> Fish & G. Code § 1854, subdivision (c)(3)(D)

<sup>109</sup> Fish & G. Code, § 1854, subdivision (c)(2)(B)

### 4.5.2.1 Completeness Review

Once the RCIS proponent submits both a draft RCIS and the RCIS review and approval fee (see Section 1.3 – Fees) to CDFW, CDFW shall have 30 days within which to deem the draft RCIS complete or to explain in writing to the RCIS proponent what additional information is required to complete the draft RCIS.<sup>110</sup> If deemed incomplete, the RCIS proponent may incorporate all missing information, as indicated in CDFW's letter, and resubmit for another 30-day completeness review. Additional fees will not be required for resubmittal.

CDFW will notify the RCIS proponent in writing that the draft RCIS has been deemed complete if the draft RCIS includes information in response to each of the requirements listed in Fish and Game Code section 1852(c) and Section 4 of these Guidelines and if the PDF of the draft RCIS meets web accessibility requirements (see Section 1.5 – Accessibility). The RCIS proponent may choose to submit a non-accessible document for completeness review, in which case CDFW will review for Fish and Game Code and Guidelines requirements only and will provide the RCIS proponent with a letter of conditional completeness. Once an accessible PDF version of the RCIS has been provided to, and reviewed by, CDFW, the conditions for completeness will have been met and the review process will continue with the public and CDFW substantive reviews.

Please note, the purpose of the completeness review is simply to determine if any required information is missing. CDFW will review the RCIS for accuracy and adequacy during its subsequent substantive review (see Section 4.5.2.4) and may identify additional information the RCIS will need before it could be approved by CDFW. Early and ongoing comprehensive communication and coordination with CDFW and other stakeholders is strongly encouraged as it typically reduces the extent of comments CDFW provides during the completeness and substantive reviews.

### 4.5.2.2 Public Review

Within 30 days of deeming the draft RCIS complete, CDFW shall initiate public review by posting the draft RCIS on [CDFW's RCIS web page](#) for public review and comment.<sup>111</sup> CDFW will also post instructions for how and when public comments may be submitted. Prior to posting this document, the RCIS

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<sup>110</sup> Fish & G. Code, § 1854, subdivision (c)(4)

<sup>111</sup> Fish & G. Code, § 1854, subdivision (c)(4)

proponent must provide CDFW with an electronic PDF version of the draft RCIS that is edited for web accessibility (see Section 1.5 - Accessibility). CDFW shall send an email notification to announce the availability of the draft RCIS to any public agency, organization, or individual who has filed a written request to CDFW to receive such notifications.<sup>112</sup> The notification will also include the instructions for submitting public comments to CDFW and the RCIS proponent. Concurrent with CDFW's notification, the RCIS proponent shall also send a similar email to the RCIS proponent's own relevant LISTSERV to provide notification of the public review period.

Depending on the scope, length, and complexity of the draft RCIS, CDFW will determine an appropriate public review and comment period, provided that the public review and comment period shall extend for at least 60 days after posting of the draft RCIS on [CDFW's RCIS web page](#).

After the close of the public review and comment period, CDFW and the RCIS proponent shall verify that both agencies have copies of all public comments received on the draft RCIS.

#### **4.5.2.3 Review by Cities and Counties**

Within 30 days of CDFW deeming the draft RCIS complete, and concurrent with the public review period, the RCIS proponent shall provide written notification of the draft RCIS to the boards of supervisors and the city councils in each county within which the RCIS is located, in whole or in part. CDFW recommends sending the notification to the city and county clerks. The RCIS proponent shall provide those entities at least 60 days in which to submit written comments regarding the draft RCIS.<sup>113</sup>

After the close of the city and county review and comment period, CDFW and the RCIS proponent shall verify that both agencies have copies of all comments received from the cities and counties on the draft RCIS.

#### **4.5.2.4 CDFW Substantive Review**

After deeming the draft RCIS complete, and generally concurrent with the public review, CDFW will conduct its substantive review. The substantive review is a thorough review, by CDFW, of the accuracy and adequacy of the draft RCIS's content. CDFW typically requires additional time beyond the public review period to complete the substantive review. The length of time

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<sup>112</sup> Fish & G. Code, § 1854, subdivision (c)(4)

<sup>113</sup> Fish & G. Code, § 1854, subdivision (c)(5)

needed by CDFW depends on the scope, length, and complexity of the draft RCIS, as well as the extent to which the RCIS proponent has consulted with CDFW during the development of the draft RCIS.

Upon completion of the substantive review, and with consideration of the public comments and responses, CDFW shall provide written comments to the RCIS proponent that identify any required changes that must be made to the RCIS before CDFW would be able to approve the RCIS. CDFW's comments also typically include suggested changes for the RCIS proponent to consider.

### **4.5.3 Submission and Review of the Final RCIS**

In preparing a final RCIS, the RCIS proponent shall consider all written comments received from the public, cities and counties, and CDFW. All comments submitted during the public review period (see section 4.5.2.2) and the cities and counties review period (see Section 4.5.2.3) shall be included in a section or appendix of the final RCIS submitted to CDFW for final review and shall include each full original comment, a summary of each comment, and the RCIS proponent's response.<sup>114</sup> If edits were made to the RCIS as a result of the comment, the RCIS proponent's response must include a description of how the comment was addressed in the RCIS. Responses to public comments received during the public meeting must also be retained in the final RCIS (see Section 4.5.1.3 for detailed requirements to incorporate public meeting comments in the draft RCIS). Additionally, required changes identified during CDFW's substantive review (see Section 4.5.2.4) must also be addressed in the final RCIS. Substantial edits that are not in response to public, city and county, or CDFW substantive comments may be subject to additional review and fees.

Prior to formally submitting the final RCIS, the RCIS proponent is strongly encouraged to consult with CDFW regarding edits to the RCIS. This optional consultation period could include an informal review by CDFW of the final RCIS to identify any issues that would prevent CDFW from approving the RCIS during the formal final review.

Once the final RCIS is submitted to CDFW for review and approval, CDFW shall have 60 days in which to approve the final RCIS or to explain in writing to the RCIS proponent what additional information is required for CDFW to

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<sup>114</sup> Fish & G. Code, § 1854, subdivision (c)(4 & 5)

approve the RCIS.<sup>115</sup> CDFW may approve a final RCIS for up to ten years,<sup>116</sup> although it retains discretion to approve an RCIS for a shorter period of time.

The RCIS proponent must provide CDFW with an electronic PDF version of the final RCIS that is edited for web accessibility (see Section 1.5 - Accessibility). CDFW shall make all approved RCISs available on [CDFW's RCIS web page](#).<sup>117</sup>

## 4.6 Amending an RCIS

CDFW has defined two types of RCIS amendments: simple and complex. A simple amendment would include small or minor changes to the document that do not result in substantial changes, as determined by CDFW. A complex amendment would result in a substantial change to the document, such as changes to the geographic area, focal species, or other conservation elements, as determined by CDFW.

Prior to undertaking the amendments, a notification concerning the intent to amend an RCIS must be sent to CDFW in writing at [rcis@wildlife.ca.gov](mailto:rcis@wildlife.ca.gov) and shall include the reason(s) for the amendment and a summary of the proposed amendments. CDFW will respond with its determination of whether the amendment is a simple amendment or a complex amendment and may include information for consulting with CDFW during the development of the amended RCIS.

CDFW can approve the amended RCIS for additional periods of up to ten years after finding that the amended RCIS continues to meet the requirements of Fish and Game Code section 1852 and of Section 4 of these Guidelines.<sup>118</sup> Therefore, a complex RCIS amendment may require updates beyond the specific desired amendments (e.g., updates to best available science) and is subject to the same public notice requirements and review and approval processes required for original RCISs (see Section 4.5 – RCIS Development, Review, and Approval Process).

An amended RCIS can be submitted by either the original RCIS proponent, CDFW, or by a third-party public agency or federally recognized tribe with the express written authorization of the original RCIS proponent. If a third-

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<sup>115</sup> Fish & G. Code, § 1854, subdivision (c)(6)

<sup>116</sup> Fish & G. Code, § 1854, subdivision (a)

<sup>117</sup> Fish & G. Code, § 1854, subdivision (d)

<sup>118</sup> Fish & G. Code, § 1854, subdivision (a)

party public agency or federally recognized tribe wishes to amend an approved RCIS and the original RCIS proponent declines to amend the RCIS or to authorize the third-party public agency or federally recognized tribe to do so, the third-party public agency or federally recognized tribe may seek authorization from CDFW to amend the RCIS. CDFW may, in its sole discretion, authorize a third-party public agency or federally recognized tribe to amend an RCIS if it determines that the proposed amendment will provide a substantial conservation benefit and will not unduly prejudice the rights or interests of the original RCIS proponent. CDFW may also, in its sole discretion, amend an RCIS if it determines that an amendment is necessary to conform to new or amended federal, state, or local laws or regulations, or if it determines that the proposed amendment will provide a substantial conservation benefit and will not unduly prejudice the rights or interests of the original RCIS proponent.

## 4.7 Extending an RCIS

CDFW can approve an RCIS for an initial period of up to 10 years. CDFW may extend the duration of an approved RCIS for additional periods of up to ten years after finding that the RCIS continues to meet the requirements of Fish and Game Code section 1852 and of Section 4.3 of these Guidelines.<sup>119</sup> If the RCIS is intended to be used to create MCA credits, a report must be submitted to CDFW that evaluates the effectiveness of the RCIS actions in achieving the goals and objectives for focal species and other conservation elements, including offsetting the effects of identified pressures and stressors.<sup>120</sup> At a minimum, the evaluation must use the information provided by MCA sponsors in accordance with the process outlined in each RCIS (see Section 4.3.8, bullet b).

To extend an RCIS, a written request must be sent to CDFW at [RCIS@wildlife.ca.gov](mailto:RCIS@wildlife.ca.gov). The request must be sent by the original RCIS proponent, the entity identified in the RCIS, or a public or private entity that has received approval from CDFW. The request must be sent prior to the expiration of the RCIS, unless an exception has been provided by CDFW. The request must be accompanied by the RCIS evaluation report and a track change version of the RCIS with any edits necessary for the RCIS to be in

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<sup>119</sup> Fish & G. Code, § 1854, subdivision (a)

<sup>120</sup> Fish & G. Code, § 1856, subdivisions (b)(2)(A & B)

compliance with Fish and Game Code section 1852 and Section 4.3 of these Guidelines.

Edits to consider include changes to ecological requirements, range and occurrence information, stressors and pressures, and other updates based on the best scientific information available at the time of the extension request. Where applicable, goals, objectives, actions, and priorities may also require edits to reflect the best available science. Edits for the purpose of extending an RCIS shall not include significant modifications to the RCIS, such as changes to the geographic area or to the lists of focal species, other conservation elements, or non-focal species. If the RCIS proponent is interested in making such changes, they would instead need to submit a request to CDFW for a complex amendment to the RCIS, which would be subject to the requirements for amending an RCIS (see Section 4.6).

Once CDFW receives the extension request and fees, CDFW will begin a review of the edited RCIS to determine whether it meets the requirements of Fish and Game Code section 1852 and of Section 4.3 of these Guidelines. Upon completion of the review, CDFW shall provide written approval of the extension or shall explain in writing to the entity requesting the extension what additional information is required for CDFW to approve the RCIS extension.

## Section 5

# Mitigation Credit Agreements

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## 5.1 Introduction

This section provides guidance to aid in the preparation of a **Mitigation Credit Agreement (MCA)**, and applies to all draft MCAs submitted for formal completeness review as of the posting date of these Guidelines.<sup>121</sup> The purpose of an MCA is to create **credits** that may be used to fulfill, in whole or in part, **compensatory mitigation** requirements established in permits issued by one or more local, state, or federal regulatory agencies,<sup>122</sup> including, but not limited to the California Environmental Quality Act (CEQA)<sup>123</sup>, the California Endangered Species Act (CESA)<sup>124</sup>, or Lake and Streambed Alteration (LSA)<sup>125</sup> Agreements.<sup>126</sup> The credits created in an MCA are intended to meet compensatory mitigation for impacts to ecological resources, including impacts to threatened and endangered species, other **sensitive species**, natural communities, ecological processes, and wildlife corridors.<sup>127</sup>

An approved RCIS outlines actions to meet the RCIS's **goals** and **objectives**. The RCIS's actions may be implemented as **conservation actions** or **habitat enhancement actions**. Conservation actions require permanent protection of the land, and habitat enhancement actions only require long-term durability on the land, which does not involve land acquisition or the permanent protection of habitat.<sup>128</sup> **Advance mitigation** credits created through an MCA can be for **focal species**, **non-focal species**, and **other conservation elements** when the action to create those credits measurably advances the objectives outlined in the approved **RCIS area**.<sup>129</sup>

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<sup>121</sup> These guidelines do not address Fish and Game Code Sections 1955 et seq.; those will be addressed in a separate, but related set of guidelines.

<sup>122</sup> Fish & G. Code, § 1856, subdivision (d)(1)

<sup>123</sup> Pub. Resources Code, §§ 21000 – 21189

<sup>124</sup> Fish & G. Code, §§ 2050 – 2100

<sup>125</sup> Fish & G. Code, §§ 1600 – 1617

<sup>126</sup> Fish & G. Code, § 1856, subdivision (d)(3)(A-C)

<sup>127</sup> Fish & G. Code, § 1850, subdivision (a)

<sup>128</sup> Fish & G. Code, § 1851, subdivisions (c) & (g)

<sup>129</sup> Fish & G. Code, § 1856, subdivision (a)

As there are typically a wide range of actions for focal species, non-focal species, and other conservation elements outlined in an RCIS, there is a broad range of MCA credits that can be created. Actions that show a net ecological gain from the implementation can create credits include but are not limited to:

- a. habitat **preservation** or **establishment**;
- b. fish and wildlife corridors and habitat connectivity;
- c. passages and infrastructure crossings to benefit habitat and/or species;
- d. exceeding a project's mitigation requirements to benefit habitat and/or species;
- e. actions that benefit habitat and/or species for a set duration resulting in a habitat conservation action; and
- f. actions on public lands, including California Department of Fish and Wildlife (CDFW) owned lands, that exceed required preservation or establishment of habitat and/or species benefits.

Any person, public or private entity can propose an MCA, as the **MCA Sponsor**, such as a public agency, private land owner, federally recognized tribe, or non-governmental organization.<sup>130</sup> If an MCA sponsor intends to create mitigation credits on multiple future sites, is unsure on the location, or unsure on the specifics of a proposed MCA, the MCA sponsor can submit a framework for CDFW review and approval.<sup>131</sup> A framework is a helpful tool for CDFW to review and approve components of a future MCA (see Section 5.5.1.4 – MCA Framework).

CDFW recommends that prospective MCA sponsors engage early and often throughout the process with stakeholders, proponents of adjacent and overlapping conservation plans, CDFW, and other agencies who may have interest in the credits being proposed.

A complete **MCA package** must include:

- a. the draft MCA (preferably using the [MCA Template](#)) including all applicable exhibits identified in the MCA Checklist;
- b. the [MCA Checklist](#);
- c. the MCA application fee (see Section 1.3 – Fees); and

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<sup>130</sup> Fish & G. Code, § 1856, subdivision (f)

<sup>131</sup> Fish & G. Code, § 1856, subdivision (c)

d. all applicable letters.

The [MCA Template](#) and [MCA Checklist](#) (posted on [CDFW's RCIS Program web page](#)) are provided as a separate editable documents and are incorporated into these Guidelines by this reference as if they were fully set forth herein. Section 5.2 outlines information required in an MCA and Section 5.5 describes the MCA development, review, and approval process.

Once an MCA is signed by CDFW, it is an **approved MCA** (see Section 5.5.3) and once an MCA is established (see Section 5.3.8 – MCA Establishment) credits can be released to be sold and then used. The use or application of a credit for required compensatory mitigation is at the discretion of the regulatory agency requiring the mitigation. Further, an approved MCA, **MCA establishment**, or sale of an MCA credit does not guarantee that any proposed project will be approved or permitted by any agency.<sup>132</sup>

Requirements within these Guidelines apply only to the creation of credits under MCAs pursuant to the RCIS Program and do not establish requirements for other forms of compensatory mitigation.<sup>133</sup> Nothing in these Guidelines is intended to conflict, limit, or impose on the creation or sale of credits by a conservation or mitigation bank.<sup>134</sup>

As stated in Section 1.1, guidelines associated with considering and creating MCA credits for wildlife connectivity actions under [Fish and Game Code section 1955 et seq.](#), will be in a separate document.

As stated in Section 1.2, the words “shall” and “must” are used for provisions that are required, while the terms “may” or “should” indicate recommendations both in these Guidelines, as well as on-going collaboration and coordination on MCA development.

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<sup>132</sup> Fish & G. Code, § 1855, subdivision (b)(4)

<sup>133</sup> Fish & G. Code, § 1856, subdivision (a)

<sup>134</sup> Fish & G. Code, § 1856, subdivision (j)

## 5.2 MCA Relationship to Other Regulatory Structures

### 5.2.1 Coordination with Federal, State, and Local Agency Use of MCAs

MCAs can be established to meet the requirements of CEQA, CESA, and LSA Agreements. While the RCIS Program and guidelines are a CDFW program, MCA credits can be 'used to fulfill, in whole or in part, compensatory mitigation requirements established under any state or federal environmental law, as determined by the applicable local, state, or federal regulatory agency.'<sup>135</sup> This further expands the use and application of MCAs to all for the credits created to meet mitigation requirements of other agencies. While a specific process is not proposed at this time, it is the intent of CDFW to coordinate closely with any agency identified by the MCA sponsor throughout the entire MCA process.

With CDFW approval, MCAs may be combined with other instruments or agreements to create mitigation credits.<sup>136</sup> For an efficient process the MCA sponsor should use the [MCA Template](#) and include the changes necessary for acknowledgement by any identified federal, state, or local agency. As long as the proposed changes do not conflict with statute, and/or do not conflict with the goals of the MCA and associated RCIS, CDFW will review and accept proposed changes to the greatest extent feasible.

In order for an MCA to acknowledge credits for another agency, it is important for the MCA sponsor to identify and coordinate with the appropriate federal, state, or local agencies as early as possible. This coordination shall ideally occur prior to MCA submittal. Once agencies are identified by the MCA sponsor, the MCA sponsor shall help with early coordination and maintain open communication throughout the entire process (see Section 5.5.1.2 – Consultation with Other Regulatory Agencies) to ensure that the MCA will be acceptable and meet any other regulatory agencies requirements along with CDFW. CDFW will collaborate and coordinate the establishment, use, and/or operation of the MCA, as feasible, with the identified agencies. If the MCA is acceptable to that agency, they can be added as an acknowledging agency. Even if a federal, state, or

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<sup>135</sup> Fish & G. Code, § 1856, subdivision (d)(1)

<sup>136</sup> Fish & G. Code, § 1856, subdivision (d)(2)

local agency does not acknowledge the MCA by signing it, they can separately determine the adequacy of using MCA credits for their permits.

## 5.2.2 Consistency with Existing NCCPs

If an approved **Natural Community Conservation Plans (NCCPs)** overlaps with a proposed MCA area, the MCAs must be consistent with any overlapping NCCP in the following ways:

- a. The **Conservation Easement (CE)**, or other instrument for the perpetual protection of land must be consistent with any approved NCCP that overlaps with the MCA for the sites of any conservation action, and include an explanation of how the long-term durability of the site of any habitat enhancement actions will be ensured.<sup>137</sup>
- b. The creation of MCA credits within a NCCP plan area requires the advance written approval of the NCCP **implementing entity**.<sup>138</sup> This written approval must be included with the draft MCA as an exhibit (see Section 5.1 of the Template).

## 5.2.3 Consideration of Established Conservation and Mitigation Banks

Nothing in the Guidelines is intended to alter, limit or impose additional conditions on the creation, sale, or transfer of credits by a bank.<sup>139</sup> Available bank credits will continue to be viable source of compensatory mitigation within the RCIS area, and the Bank Enabling Instrument (BEI) is an established mechanism for multiple agencies to establish credits.

If an MCA and **established bank(s)** have **service areas** that overlap, the MCA must identify the established bank(s) approved by CDFW that have comparable credit types. The MCA sponsor shall explain how available mitigation credits at each bank will be purchased or used in lieu of, or in combination with, the mitigation credits created under the MCA. If those available credits from the established banks will not be purchased or used, the MCA shall outline why they will not be purchased or used.<sup>140</sup>

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<sup>137</sup> Fish & G. Code, § 1856, subdivision (g)(12)

<sup>138</sup> Fish & G. Code, § 1856, subdivision (k)

<sup>139</sup> Fish & G. Code, § 1856, subdivision (j)

<sup>140</sup> Fish & G. Code, § 1856, subdivision (g)(6)

## 5.2.4 Mitigation on Public and Protected Private Lands

In determining whether to approve an MCA, the following are minimum requirements and considerations for CDFW to approve MCAs on public or protected private lands:

- a. An MCA shall not be created on lands that have already been **permanently protected** and have been used, or is currently in use, to fulfill compensatory mitigation requirements for permanent impacts for one or more projects (see MCA Template Recital I).<sup>141</sup>
- b. The MCA actions are equal or greater than if it were to be situated on non-public or non-conserved lands.
- c. The MCA actions result in a clear quantifiable improvement or positive change to the current ecological value or future ecological value, also referenced as a net ecological gain if no action is taken.

Additionally, the proposed action must not conflict with, or impact, the existing sensitive resources or habitats. The credits will be based on the net ecological gain.

- d. The MCA is consistent with the purpose for which the land was acquired, and will not preclude, diminish, or interfere with the purpose or funding source used for the acquisition, encumbrances, or management plans that may already existing on the **MCA site**.
- e. For MCAs on CDFW lands, the full cost of the MCA must be accounted for, including, but not limited to, all capital improvements, monitoring, long-term management and maintenance, and reimbursement for all CDFW land management staff time.
- f. If an MCA is developed on public lands, the MCA sponsor shall submit, with the draft MCA package, a letter or document signed by the public agency landowner indicating their approval to include those lands in the MCA (see Section 5.3.4.1 and MCA Template Section 4.1 – Property Ownership Description).

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<sup>141</sup> Fish & G. Code, § 1856, subdivision (f)

## 5.3 Information Required in an MCA

The following subsections describe the information that must be included in the draft MCA package for CDFW's review and approval. Please see the [MCA Checklist](#) for a full list of all the required items outlined below. MCA sponsors and preparers should refer to these Guidelines and the [MCA Template](#) when preparing an MCA.

Within the Template, language that is ***[bracketed, bold, and italicized]*** provides directions for items or information that the MCA sponsor must provide. This text must be replaced with information relevant to the MCA. Text that is within brackets, but not bold or italicized is template language that should only be edited when necessary. To facilitate and expedite review and approval by CDFW, all proposed revisions or changes to the template language must be made in track changes. The MCA shall be based on the requirements in the version of the RCIS Program Guidelines that is current when the draft MCA package is submitted to CDFW for review. The RCIS Program Guidelines version used must be indicated in the MCA.

At the beginning of the MCA Template there is a "Recitals" section. It provides the reader with the general purpose of the MCA, the **parties** involved, sections of Fish and Game Code that are applicable to the MCA, and it also outlines several requirements, and statements that must be met to proceed with the MCA, such as the approved RCIS the MCA is located within. The MCA sponsor must fill in and meet all of the recitals for an MCA to be approved.

### 5.3.1 MCA Name

The MCA must include the full name of the MCA, as indicated in the MCA Template Section 1 (Name of the MCA).<sup>142</sup> The MCA sponsor may choose to provide both the full name and an abbreviated name. Both the full and abbreviated names must be unique and not previously used by another MCA. If an MCA with a habitat enhancement action is being renewed or extended, it can continue to use the same name or it can use a new unique name.

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<sup>142</sup> Fish & G. Code, § 1856, subdivision (g)(17) [referencing Fish & G. Code, § 1798, subdivision (b)(2)(A)]

### 5.3.2 Supporting RCIS

The MCA must identify the RCIS in which the MCA is located and provide a one- or two-paragraph description of the RCIS, as indicated in the MCA Template Section 2 (see also MCA Template – Recital E). Briefly describe the geographic extent of the RCIS and the number of focal species, non-focal species, and other conservation elements it addresses. The RCIS referenced must also meet the requirements outlined in Section 4.3.8 – Additional RCIS Requirements to Create MCAs (see MCA Template - Recital H).<sup>143</sup>

### 5.3.3 Purpose of the MCA

The MCA must describe the purpose and action(s) of the MCA, as indicated in the MCA Template Section 3 (Purpose of the MCA). In general, the purpose of an MCA is to establish a mechanism through which CDFW can authorize the MCA sponsor and property owner, to complete actions that measurably advance the goals and objectives of an RCIS and to create mitigation credits that can be used to offset compensatory mitigation requirements, including the development, management and monitoring of each MCA site.

To create MCA credits an MCA must identify all of the following: the RCIS action(s) that will be implemented (also see MCA Template - Recitals F and G); if they are considered conservation and/or habitat enhancement actions; how and to what extent they will measurably advance the goals and objectives of the RCIS;<sup>144</sup> how the MCA will contribute to connectivity and ecosystem function;<sup>145</sup> and how each action is designated as either preservation or establishment (which includes **restoration, creation, and/or enhancement**) credits. The actions must be identified using the specific name(s), title(s), or number(s) used in the RCIS. An MCA may implement several actions which could result in the creation of multiple credit types. The action or credit types could include credits that also meet other applicable local, state, or federal regulatory mitigation needs. If appropriate and applicable, credits may be bundled, which allows certain areas of the MCA to be considered as multiple credit types. The bundling can allow for combined credit designations including credits for multiple species, habitats, other conservation elements, and/or credit classifications desired by other

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<sup>143</sup> Fish & G. Code, § 1856, subdivision (b)

<sup>144</sup> Fish & G. Code, § 1856, subdivision (g)(2)

<sup>145</sup> Fish & G. Code, § 1856, subdivision (g)(17) [referencing Fish & G. Code, § 1798, subdivision (b)(2)(K)]

agencies. The purpose shall also identify the plans outlined in Section 5.3.6 - MCA Site Development, Management, and Operations.

## 5.3.4 MCA Site and Service Area Information

### 5.3.4.1 Property Ownership Description

The MCA sponsor must provide a description of the property ownership of each MCA site, including the name on title for each legal parcel associated with the MCA. An MCA may include multiple owners, may encompass multiple legal parcels, and may be comprised of multiple non-contiguous sites (see MCA Template Section 4.1 – Property Ownership Description and Section 4.2 – Contact Information).<sup>146</sup>

For publicly owned lands, this section shall include a letter or document signed by the public agency landowner as an exhibit to the MCA Template indicating their approval to include those lands in the MCA (see Section 5.2.4 – Mitigation on Public and Protected Private Lands).

### 5.3.4.2 Contact Information

The MCA must identify the MCA sponsor and identify the MCA sponsor as a person or entity (see MCA Template - Recital A). All MCAs must include contact information for the MCA sponsor, property owner(s), and land manager(s).<sup>147</sup> Additionally, if applicable, the MCA must include contact information for the **CE grantee** or long-term durability agreement entity, and **endowment holder**, which are dependent on the type of real estate instrument and the funding needed for long term management of the MCA respectively (see Section 5.3.7.4 – Real Estate Instrument and Section 5.3.9.2 – Long-term Management Funding). If any contractors and consultants are known at the time the MCA is submitted, their contact information may also be included (see MCA Template Section 4.2 – Contact Information).<sup>148</sup>

Contact information shall be provided in the draft MCA and shall include all of the following, as applicable: name, title, agency, legal parcel (owners only), mailing address, phone number, and email address. Notice must be provided to CDFW within 30 days of any change in the required contacts or

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<sup>146</sup> Fish & G. Code, § 1856, subdivisions (g)(11) & (g)(17) [referencing Fish & G. Code, § 1798, subdivision (b)(2)(F)]

<sup>147</sup> Fish & G. Code, § 1856, subdivisions (g)(1) & (g)(17) [referencing Fish & G. Code, § 1798, subdivision (b)(2)(B)]

<sup>148</sup> Fish & G. Code, § 1856, subdivision (g)(1)

contact information and may require a simple amendment if the MCA is already approved.

### **5.3.4.3 Qualifications**

The MCA must provide the qualifications for the MCA sponsor, land manager(s), CE grantee (if applicable), endowment holder (if applicable), and any of their contractors or consultants (see the MCA Template Section 4.3 – Qualifications).<sup>149</sup> The qualifications for the MCA sponsor should be outlined in Recital A of the Template. The processes for verifying qualifications are dependent on the role of each entity, as follows:

- a. CDFW is required to conduct due diligence when approving entities to hold or manage, and steward mitigation lands, as stated in Government Code Section 65967(c). The roles of the MCA sponsor, property owner, CE grantee and land manager may be held by one or more persons or entities in a variety of combinations. Some combinations are not allowed, and some are only allowed under limited circumstances. For instance, a property owner cannot be the CE grantee. Consult with CDFW if any of the roles overlap. Any entity proposed to hold or manage and steward the MCA site shall be evaluated under CDFW's due diligence process, which must be completed prior to MCA establishment. Information regarding due diligence can be found on [CDFW's Endowments and Mitigation Land Management web page](#).
- b. Any entity proposed to hold an endowment for an MCA shall meet the criteria in [Government Code Section 65965-65968](#) and shall certify to CDFW that they meet the requirements under Government Code Section 65968, subdivision (e)(1)-(5). This certification shall be in the form of a letter (known as a self-certification letter) from the proposed endowment holder. The self-certification letter should be provided as part of the draft MCA package, if it is available; however, it must be provided prior to MCA establishment.

### **5.3.4.4 Location Information**

The MCA must provide location information to identify the MCA site(s) (see MCA Template Section 4.4 – Location Information). An MCA may exist on multiple legal parcels, portions of one or more parcels, and may be comprised of non-contiguous sites. When an MCA is comprised of multiple

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<sup>149</sup> Fish & G. Code, § 1856, subdivisions (g)(1) & (g)(17) [referencing Fish & G. Code, § 1798, subdivision (b)(2)(G)]

locations or sites that are widely separated, they must share a framework, credit types, or **performance standards**.

An MCA site is distinguished from another MCA site based on the following: when the locations are separated by another parcel (non-contiguous), when the property ownership differs, or when the timing of submission is not congruent with the other MCA site(s). CDFW has the discretion to determine how sites are considered based on the above, apply additional fees, or request that separate MCAs be submitted based on the complex nature of review and approval of multiple sites in one MCA. All subsequent references to 'MCA site' include all sites in the draft MCA.

The MCA's location information must include the address (or nearest address), site coordinates (latitude/longitude), a written description (including county, Section, Township and Range) of the location and driving instructions to each MCA site, assessor parcel number (APN), access points, and size (in acres) for each MCA site.<sup>150</sup> The MCA must also provide maps of the site(s) as follows in an exhibit:

- a. General vicinity map(s) showing:
  1. Cities, roads, or other visual markers.
  2. Public lands and permanently protected lands – identify all public lands and permanently protected lands including NCCPs, conservation and mitigation banks, and any other public and permanently protected lands in the vicinity of the MCA site(s).<sup>151</sup>
- b. Site map(s) showing:
  1. The property or parcel boundaries and MCA site boundary on a 7.5-minute U.S. Geologic Survey (USGS) map, with the name of the quadrangle identified.<sup>152</sup>
  2. The land use and zoning of the MCA site and surrounding properties.
  3. Provide spatial data of the location in an industry-standard (Environmental Systems Research Institute [ESRI]-readable) geospatial format and include metadata that meets [CDFW's Minimum Metadata Standards](#).

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<sup>150</sup> Fish & G. Code, § 1856, subdivisions (g)(3) & (g)(17) [referencing Fish & G. Code, § 1798, subdivision (b)(2)(C)]

<sup>151</sup> Fish & G. Code, § 1856, subdivisions (g)(8) & (g)(17) [referencing Fish & G. Code, § 1798, subdivision (b)(2)(J)]

<sup>152</sup> Fish & G. Code, § 1856, subdivision (g)(17) [referencing Fish & G. Code, § 1798, subdivision (b)(2)(D)]

The MCA must also provide photos of the site(s) as follows in an exhibit:

- a. Color aerial photographs that are dated and reflect current conditions of the site and surrounding properties.<sup>153</sup>
- b. Ground-level color photographs taken onsite that reflect the current conditions of the site and surrounding properties.<sup>154</sup> A description of each photograph should include the date, location, direction, and an explanation of what is being captured in the photograph.

### **5.3.4.5 Service Area**

The MCA must identify and explain the service area for each credit type. A service area is the geographic area in which a project may purchase credits from the MCA and use them to mitigate for an impact. Service area dimensions are typically ecologically based and depend on the targeted species or habitat. Each credit type may have its own service area. Each service area must be based on and include an ecological justification; however, it may be truncated based on non-ecological boundaries, such as city or county lines, RCIS boundaries, or any other planning boundaries. The ecological justification for each service area should consider the best available science including, but not limited to, the current and historic range of the species or other conservation element, key habitat features required by the species or other conservation elements, and anticipated range shifts due to climate change (see Section 4.3.7.7 – Climate Change Risk and Resilience). Provided sufficient ecological justification, a service area may extend beyond the boundary of the RCIS.

The MCA must provide a map and written description of each credit type's service area(s). The service area map(s) shall be attached as an exhibit (see MCA Template Section 4.5 – Service Area).<sup>155</sup> Also, spacial data of each credit type's service area(s) in an industry-standard (Environmental Systems Research Institute [ESRI]-readable) geospatial format and include metadata that meets [CDFW's Minimum Metadata Standards](#). The service area map(s) and description shall include the service area boundary, MCA location, cities, counties, roads, and other key features relevant to clearly identify each service area boundary. It shall also indicate the U.S. Geological Survey ([USGS](#)) [Hydrologic Unit](#) Codes (HUCs) and [USDA Ecoregion Subsection\(s\)](#) in

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<sup>153</sup> Fish & G. Code, § 1856, subdivisions (g)(4) & (g)(17) [referencing Fish & G. Code, § 1798, subdivision (b)(2)(E)]

<sup>154</sup> Fish & G. Code, § 1856, subdivision (g)(4)

<sup>155</sup> Fish & G. Code, § 1856, subdivision (g)(17) [referencing Fish & G. Code, § 1798, subdivision (b)(2)(I) and § 1798.5, subdivision (a)(2)(D)]

which the service area is located. The MCA must explain, and ideally map, how and where the MCA's service area(s) overlap with the service areas of established banks or MCAs with comparable credits, NCCPs, and/or other RCISs. If an MCA service area overlaps with any established banks with comparable credits and if those available credits will not be purchased or used, the MCA shall outline why they will not be purchased or used (see Section 5.2.3 – Consideration of Established Conservation and Mitigation Banks).

## **5.3.5 MCA Site Declarations and Review**

### **5.3.5.1 Land Use Consistency Declaration**

To determine what considerations and limitations might affect an MCA site, the MCA must disclose the following (see MCA Template Section 5.1 – Land Use Consistency Declaration):<sup>156</sup>

- A. Whether the site is, or has been, used to fulfill compensatory mitigation requirements;
- B. Whether the site is designated or dedicated for park or open space use; or
- C. Whether the site is designated for purposes that may be inconsistent with the MCA.

Guidance regarding the approval of MCAs on public and protected private lands is discussed in Section 5.2.4 (Mitigation on Public and Protected Private Lands).

If the MCA site is located within the boundary of an existing NCCP, the draft MCA must include a statement that indicates the NCCP implementing entity has approved the creation of mitigation credits (see the MCA Template Section 5.1 – Land Use Consistency Declaration). Additionally, the NCCP implementing entity's written approval shall be attached as an exhibit to the draft MCA. Refer to Section 5.2.2 (Consistency with Existing NCCPs) for more information regarding overlapping NCCPs and this written approval.

### **5.3.5.2 Public Funding**

To ensure that any public funding or grants received for planning, acquisition, restoration, or other purposes related to the MCA does not conflict with the

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<sup>156</sup> Fish & G. Code, § 1856, subdivision (g)(17) [referencing Fish & G. Code, § 1798, subdivision (b)(2)(M)]

creation of mitigation credits, please describe any public funding or grant funds (see MCA Template Section 5.2).<sup>157</sup> For MCAs on public lands, the MCA must not preclude, diminish, or interfere with the funding or purpose of acquisition of the land, encumbrances, or management plans that may already exist on the MCA site (see Section 5.2.4 – Mitigation on Public and Protected Private Lands). No MCA can be utilized to fund or offset the costs of the design, construction, or mitigation of new Delta water conveyance facilities (see MCA Template – Recital J).<sup>158</sup>

### **5.3.5.3 MCA Site Inspection by CDFW**

CDFW shall inspect all MCA site(s) to evaluate the development of actions being implemented for credits as described in sections 5.3.3 (Purpose of the MCA) and 5.3.6.2 (Development Plan). All MCAs must be inspected by CDFW prior to MCA approval.

### **5.3.5.4 Tribal Resources**

CDFW will notify all tribes in accordance with [CDFW's Tribal Communication and Consultation Policy](#), including future updates. It states that CDFW will seek in good faith to consult with tribes whenever CDFW actions may significantly impact tribal interests. Additionally, the MCA sponsor is required to perform a cultural resources records search on the proposed MCA site. The results of the records search must be summarized as an exhibit to the draft MCA titled Tribal Resources Summary (see MCA Template Section 5.4 – Tribal Resources). If the MCA sponsor chooses to conduct field surveys or to collect additional information regarding cultural resources on site, any information that is available for the public should be included in the Tribal Resources Summary exhibit.

Based on the Tribal Resources Summary and any communication resulting from CDFW's tribal notification process, CDFW will follow the procedures in CDFW's Tribal Communication and Consultation Policy prior to determining whether to approve the MCA. Following the procedures may result in additional tribal communication and outreach and/or field surveys or site inspections.

If resources are discovered during MCA development or maintenance that were not already identified or disclosed through the Tribal Resources

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<sup>157</sup> Fish & G. Code, § 1856, subdivision (g)(17) [referencing Fish & G. Code, § 1798, subdivision (b)(2)(N)]

<sup>158</sup> Fish & G. Code, § 1855, subdivision (d)

Summary exhibit or through communications resulting from CDFW's tribal notification process, CDFW will follow the procedures in CDFW's Tribal Communication and Consultation Policy. This may likely result in additional tribal outreach and field surveys or site inspections before continuing with MCA development or maintenance.

#### **5.3.5.5 Approvals**

The MCA sponsor must obtain all permits, authorizations, and other approvals necessary or appropriate to survey, develop, construct, operate, or maintain the MCA, including those issued by CDFW. An approved MCA does not constitute or substitute for any such approvals. Once obtained, copies of all approvals shall be provided to CDFW (see MCA Template Section 5.5 – Approvals).

The MCA must outline all known permits, authorizations, and other approvals expected for each site, including the name and contact of each agency, and their status at the time the draft MCA package is submitted. Once obtained, all permit information should be updated and provided to CDFW.

#### **5.3.5.6 Compliance with the California Environmental Quality Act**

CDFW's approval of an MCA is considered a discretionary action subject to CEQA. Section 5.6 of the MCA Template provides instructions for identifying the CEQA Lead Agency and identifying the appropriate type of CEQA document (i.e., environmental impact report, mitigated negative declaration, or negative declaration) or an appropriate statutory or categorical exemption. CDFW must ultimately make a finding that the approval of the MCA will avoid or reduce to below a level of significance any potential adverse environmental effects and thus will not result in any significant, adverse impacts on the environment.

The MCA may be submitted concurrently or following submittal of a CEQA document or a written justification for use of an appropriate statutory or categorical exemption.

#### **5.3.6 MCA Site Development, Management, and Operations**

This section requires the MCA sponsor to outline the biological suitability of the site within the Natural Resources Evaluation and the specifics on how the site will be developed, maintained, and monitored from site development to

interim management to long-term management, including site closure. The resulting Natural Resources Evaluation, the **Development Plan**, the **Interim Management and Monitoring Plan**, and the **Long-term Management and Monitoring Plan** shall all be attached as an exhibit to the MCA (see MCA Template Section 6 – MCA Site Development, Management, and Operations).<sup>159</sup>

### 5.3.6.1 Natural Resources Evaluation

The MCA shall include a natural resources evaluation for each MCA site that documents biotic and abiotic baseline conditions, including past, current, and adjacent land uses, hydrology, soil types, onsite vegetation types, species information, and topography (see MCA Template Section 6.1 – Natural Resources Evaluation).<sup>160</sup> At a minimum, the natural resources evaluation shall include:

- a. Site history, including past and present land uses (e.g., grazing practices, dryland farming practices), and location in the floodplain (if applicable).
- b. A description of the general site conditions including topography, soils, and hydrology.

If wetlands or other water bodies occur onsite, describe the hydrologic regime. If credits are included for aquatic species, aquatic natural communities, or waters or wetlands, describe existing wetlands, lakes, streams, and other aquatic features or related habitat present onsite. The description should include the onsite and offsite hydrology affecting the resources for which credits are being included, including upstream or downstream barriers or diversions.

- c. A map to scale, indicating existing infrastructure and vegetation types and/or habitats present onsite. The map should provide enough detail to appropriately differentiate the areas of the MCA site that are suitable for any species credits that already exist onsite. If appropriate, the map should use the same vegetation classification system used in the RCIS when identifying vegetation.
- d. A list of known plant and animal species present onsite, including all focal and non-focal species proposed for credits that already exist onsite.

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<sup>159</sup> Fish & G. Code, § 1856, subdivision (g)(17) [referencing Fish & G. Code, § 1798.5, subdivision (a)(2)(B)]

<sup>160</sup> Fish & G. Code, § 1856, subdivisions (g)(7) & (g)(17) [referencing Fish & G. Code, § 1798, subdivision (b)(2)(H)]

- e. An analysis regarding the presence of endangered, threatened, focal, or sensitive species, and/or their habitats. The analysis shall include potential presence of focal species, non-focal species, and other conservation elements identified in the RCIS, including their current and past use of the site and the surrounding area (including range maps and descriptions), up to date **California Natural Diversity Database (CNDDDB)** records and maps depicting occurrences within 5-miles (or a larger radius, if appropriate), and results of any completed surveys. If an MCA is proposing species credits, CDFW may require additional surveys to determine their density and/or population levels. If surveys are necessary, CDFW recommends that all methods be described and provided for review and acceptance prior to conducting surveys.
- f. The presence and general extent of invasive species, and if available, the rating as identified in the [California Invasive Species Council Inventory](#).

### 5.3.6.2 Development Plan

The MCA must include a Development Plan if the MCA sponsor proposes the creation of establishment credits, which may include habitat creation, enhancement, or restoration (see MCA Template Section 6.2 – Development Plan). As appropriate, a combined Development and Interim Management and Monitoring Plan may be submitted, and when preservation credits only are proposed, a Development Plan may not be necessary depending on site specific conditions and initial activities.

The Development Plan shall explain how the site will preserve and/or establish habitat through creation, restoration, or enhancement activities, including all planned construction phases.<sup>161</sup> A Development Plan shall include:

- a. The purpose identified in Section 3 of the draft MCA (see Section 5.3.3) and the goal and purpose of the Development Plan.
- b. Map(s), including existing conditions, final site designs and construction drawings. Final site designs may require CDFW review and acceptance; including the location, delineation, dimensions, types, and amounts of each credit type.
- c. A discussion of the site's current baseline conditions such as, but not limited to: vegetation, hydrology, soils, habitat status or functions, species presence, existing water quality and floodplain management, and all

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<sup>161</sup> Fish & G. Code, § 1856, subdivisions (g)(5) & (g)(17) [referencing Fish & G. Code, §1798.5, subdivision (a)(2)(B)]

existing infrastructure, such as roads, fencing, buildings, etc. This section may reference photos and maps provided in the Location exhibit (see Section 5.3.4.4 – Location Information);

- d. An explanation of the ecological suitability of the site including a brief description of the factors considered during site-selection. The description shall consider information from the RCIS as appropriate, including **ecoregional** features such as aquatic habitat diversity, habitat connectivity, relationships to hydrologic sources, land use trends, ecological benefits, and compatibility of the site(s) with adjacent land uses including known present, entitled, and General Plan designations and zoning.
- e. A detailed description of how each conservation action and/or habitat enhancement action identified in Section 3 of the draft MCA (see Section 5.3.3) will be designed, constructed, implemented, and phased, as applicable, to preserve or establish habitat.
- f. A description with discussion of the future condition of the site, including a summary of site development objectives, types of land use, climate, hydrology, and the species and habitats expected to be present once the performance standards have been met, including the credit types and locations.
- g. Based on the MCA actions, identify which of the **metrics** listed in the RCIS will be used to contribute to offsetting the threats to focal species and achieving the RCIS's goals and objectives. The metrics must incorporate both area and habitat quality and shall be used to measure the net ecological gain from the implementation of the MCA actions as compared to baseline conditions.<sup>162</sup>
- h. Proposed Credit Release Schedule, and if applicable, a justification for any non-focal species credits sought, indicating how actions for focal species or other conservation elements provide for the conservation needs of the targeted non-focal species. Include the estimated acreage, location, and number of credits sought.
- i. A discussion of potential impacts to existing resources on-site, and a list of avoidance and minimization measures to eliminate or reduce impacts to those resources.

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<sup>162</sup> Fish & G. Code, § 1856, subdivision (g)(10)

- j. Identify the ecologically based performance standards that will be used to measure the net ecological gain from implementing the conservation action and/or habitat enhancement action to achieve the desired site conditions. When developing performance standards, the MCA sponsor shall consider the best available scientific information, timing, any site-specific information derived from site surveys, and nearby reference sites that include the desired habitat outlined in the final designs. Performance standards must be measurable ecologically based indicators that track progress of actions for focal species, non-focal species, and or other conservation elements. Performance standards should also include monitoring methods, a schedule for reporting monitoring results, the timing necessary to meet objectives, and a discussion of possible **remedial actions** and adaptive management strategies to meet any unmet performance standards.

### 5.3.6.3 Interim Management and Monitoring Plan

The draft MCA must include a draft of the Interim Management and Monitoring Plan,<sup>163</sup> which may be combined with the Development Plan, if appropriate (see MCA Template Section 6.3 – Interim Management and Monitoring) but must include all items outlined below. The MCA sponsor shall be responsible for conducting management, monitoring, and maintenance activities according to the Interim Management and Monitoring Plan. The Interim Management and Monitoring Plan covers the period beginning at MCA establishment and ending after all performance standards have been met and until approximately three years after the endowment amount is fully funded.

The Interim Management and Monitoring Plan should be based on the Development Plan. It shall identify the interim management activities, including adaptive management strategies, monitoring, reporting, **performance-based milestones**, performance standards, and any other activities that the MCA sponsor intends to implement or monitor during the **interim management period**. If there are separate construction phases, after credits have been released, the Interim Management and Monitoring Plan shall include provisions for managing each construction phase independently as well as together. At a minimum, the Interim Management and Monitoring Plan must include:

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<sup>163</sup> Fish & G. Code, § 1856, subdivision (g)(17) [referencing Fish & G. Code, §1798.5, subdivision (a)(2)(B)]

- a. The purpose identified in Section 3 of the draft MCA (see Section 5.3.3) and the goal and purpose of the Interim Management and Monitoring Plan.
- b. Map(s) of the overall final site design indicating the location, delineation, dimensions, types, and amounts of each credit type.
- c. A description of the site with discussion, including a summary of site development objectives, types of land use, climate, hydrology, and the species and habitats expected to be present once the performance standards have been met, including the credit types and locations.
- d. If applicable, a description of any conservation or habitat enhancement action identified in Section 3 of the draft MCA (see Section 5.3.3) will be completed during the interim management period including the design, construction, implementation, and phasing, as applicable, to establish habitat.
- e. Detail the overall management, including schedule, maintenance and monitoring goals, specific tasks and timing of implementation, the ecological based performance standards and the RCIS metrics outlined in the Development Plan, a discussion of any foreseeable constraints which may impede the achievement of the MCA objectives, and a discussion of adaptive management strategies and remedial actions to mitigate for potential issues and any unmet performance standards.
- f. The Interim Management Security Analysis (see Section 5.3.9.1 – Securities).
- g. The performance standards, thresholds, or criteria that must be met during the interim management period, and if met, outline any scheduled **credit releases** described in the Credit Release Schedule that will occur during this period.
- h. The frequency and timing of monitoring and reporting that must be conducted or completed in order to determine if the performance standards, thresholds, or criteria are being met.

#### **5.3.6.4 Long-term Management and Monitoring Plan**

At the end of the interim management period, the site will go into the **long-term management period**. During this time, the property owner shall be obligated to manage, monitor, and maintain the MCA for the duration of the real estate instrument (e.g., CE or long-term durability agreement) and to

preserve its habitat and conservation values in accordance with the Long-term Management and Monitoring Plan. The property owner may authorize a land manager to carry out necessary activities needed. The owner remains responsible for managing and maintaining the site in accordance with the Long-term Management and Monitoring Plan, the approved MCA, and its exhibits.

All MCAs must include a Long-term Management and Monitoring Plan (see MCA Template Section 6.4 – Long-term Management and Monitoring).<sup>164</sup> The Long-term Management and Monitoring Plan identifies the management activities, including adaptive management strategies, monitoring, reporting, other standards that will be measured, and any other activities to be conducted during the long-term management period. Such activities will normally be paid with funds disbursed from the **endowment fund** (See Section 5.3.9.2 – Long-term Management Funding for funding variations). During the long-term management period, the property owner shall be responsible for submitting annual reports to CDFW but may delegate these responsibilities to an approved land manager (see Section 5.3.11 – Reporting).

The Long-term Management and Monitoring Plan must be consistent with any outline included in the RCIS (see Section 4.3.8 – Additional RCIS Requirements to Create MCAs, bullet a)<sup>165</sup> and, at a minimum, include the following:

- a. The purpose identified in Section 3 of the draft MCA (see Section 5.3.3) and the purpose of the Long-term Management and Monitoring Plan for each action and site.
- b. Map(s) of the overall final site design indicating the location, delineation, dimensions, types, and amounts of each credit type.
- c. A description of the setting, location, types of land use activities, climate, hydrology, and species and habitats expected to be present during long-term management.

Overall management, including maintenance and monitoring goals, specific tasks and timing of implementation, the RCIS metrics outlined in the Development Plan. This shall include the long-term management needs (e.g., management of invasive species, inspections, fencing, etc.)

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<sup>164</sup> Fish & G. Code, § 1856, subdivisions (g)(14) & (g)(17) [referencing Fish & G. Code, §1798.5, subdivision (a)(2)(B)]

<sup>165</sup> Fish & G. Code, § 1856, subdivision (b)(1)

on the site and any temporary or long-term structural management requirements (e.g., levees, weirs, culverts, water development for grazing, etc.) needed to ensure site functions.

- d. The performance standards, thresholds, or criteria that must be maintained during the long-term management period in order to verify that the site continues to provide the intended credits and/or conservation values.
- e. Discussion of adaptive management actions for reasonably foreseeable events and possible thresholds for evaluating and implementing adaptive management.
- f. Monitoring and reporting requirements and schedule with requirements for reporting MCA monitoring results to CDFW, including if the performance standards, thresholds, or criteria that are tied to the long-term effectiveness of the MCA are being met.
- g. Funding for long-term management, such as the Endowment Fund Analysis and Endowment Fund Schedule (see Section 5.3.9.2 – Long-term Management Funding).
- h. Rights of access to the MCA site and prohibited uses of the MCA site as provided in the real estate instrument as approved by CDFW.
- i. Procedures for amendments and notices.
- j. Include a reference to a cultural resource protection plan, if applicable.

### **5.3.6.5 Remedial Action Plan**

The MCA must describe the requirements of all parties if the MCA fails to achieve its performance standards, or if any injury or adverse impact occurs, and a Remedial Action Plan is needed. The MCA Template Section 6.5 (Remedial Action Plan) describes how and when a Remedial Action Plan will need to be developed. If needed, the Remedial Action Plan will identify and describe the actions that will be taken to achieve the impacted performance standards or to remedy an injury or adverse impact to the MCA site, and will set forth a schedule within which the MCA sponsor or owner, as applicable, will implement those actions. If unachieved performance standards, injuries, or adverse impacts are not resolved through the development and implementation of the actions described in the Remedial Action Plan, CDFW shall find the MCA sponsor in default pursuant to the Enforcement Provisions outlined in the MCA Template Section 13.1.

### 5.3.6.6 MCA Site Closure

The MCA Template Section 6.6 (MCA Site Closure) outlines the procedures for closing an MCA site.<sup>166</sup> When an MCA has more than one site, the site closure shall allow for the closure of an individual site even if other sites remain open. **MCA closure** shall occur upon written approval by CDFW with input from all other acknowledging agencies and all requirements described in MCA Template Section 6.6 have been met. At MCA closure no further **credit sales**, or returns shall occur at that site, but use of conservation action credits may occur.

MCA closure shall occur when CDFW provides written confirmation that all of the following have occurred:

- a. All performance-based milestones, including performance standards, have been met and any remedial action required under MCA Template Section 6.5 have been completed for released credits as evidenced by:
  1. Submission of all required annual reports in accordance with MCA Template Section 11.
  2. The completion of all remedial actions, if any, in accordance with the applicable Remedial Action Plan(s).
  3. An on-site inspection by CDFW.
- b. Either: (1) the last authorized credit has been sold; or (2) the MCA sponsor requests MCA closure by written notice to CDFW and CDFW provides written approval of the closure.
- c. All financial responsibilities of the MCA sponsor have been met, including approximately three years after the endowment amount is fully funded, if applicable, and full payment of the applicable CDFW implementation fees (see Section 1.3 – Fees).

### 5.3.7 MCA Site Evaluation

In addition to the natural resources evaluation (see Section 5.3.6.1 – Natural Resources Evaluation), the MCA must include information to assist in evaluating the shared control of the real property as described in the encumbrances on title of the real property; and an evaluation of any hazardous materials found on the land as defined in The Comprehensive

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<sup>166</sup> Fish & G. Code, § 1856, subdivision (g)(17) [referencing Fish & G. Code, §1798.5, subdivision (a)(2)(B)]

Environmental Response, Compensation and Liability Act (CERCLA) of 1980 as amended (42 U.S.C. § 9601, et seq.).

The MCA must include an accurate boundary description of the proposed footprint of the land that will be protected under the real estate instrument related to the requested MCA credits. Below is the real property information needed to assist in evaluating any transfer of property rights consistent with MCA site protection.

### 5.3.7.1 Phase I Environmental Site Assessment

The MCA sponsor shall include a Phase I environmental site assessment for each MCA site (see MCA Template Section 7.1 – Phase I Environmental Site Assessment). The assessment must be dated no more than six months prior to the date the draft MCA package is submitted to CDFW for review and approval. This assessment shall be performed in accordance with the American Society of Testing and Materials (ASTM) Standard E1527-13, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process or any successive ASTM standard active at the time of the assessment.<sup>167</sup> The document should be prepared in accordance with the [Phase 1 Environmental Site Assessment Reports](#).

### 5.3.7.2 Legal Description, and Plat Maps

An MCA must include a legal description and plat map of the property containing the MCA. The boundary of the CE or long-term durability agreement, as applicable, must be prepared in accordance with [CDFW's Land Survey Reference](#).

### 5.3.7.3 Property Assessment and Warranty

All MCAs will be required to provide a **Property Assessment and Warranty (PAW)** (see MCA Template Section 7.3 – Property Assessment and Warranty) as an exhibit to the draft MCA. The PAW identifies the owner of the fee simple title and shows all liens, easements, and other encumbrances and depicts all relevant property lines, easements, dedications, and other features including a legal description, and parcel maps.<sup>168</sup> The PAW represents a covenant, representation, and warranty by the MCA property owner to the following matters: title to property, authority, no conflicting right, legal access, senior rights, mineral, water, and air rights, no other interests, certification (of PAW),

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<sup>167</sup> Fish & G. Code, § 1856, subdivision (g)(17) [referencing Fish & G. Code, §1798.5, subdivision (a)(2)(H)]

<sup>168</sup> Fish & G. Code, § 1856, subdivision (g)(17) [referencing Fish & G. Code, §1798, subdivision (b)(2)(L)]

and no options which are outlined in the [Property Assessment and Warranty Template](#), available on [CDFW's Conservation and Mitigation Banking Instructions and Templates web page](#).<sup>169</sup>

The PAW must include the following:

- a. Preliminary Title Report which is issued by a Title provider after a thorough title search has been made on the MCA's real property and all the documents affecting the property have been examined to determine their effect on the MCA site. The title search is based on public records, recorded by the County Recorder of the county in which the MCA property is located.
- b. An explanation of all recorded and unrecorded encumbrances affecting the Property on title and how these encumbrances may or may not conflict with the conservation values proposed in the MCA and its real estate instruments.

A Boundary Improvements and Encumbrances (BIE) Map must be included in accordance with [CDFW's Land Survey Reference](#). The BIE Map is a digital (PDF) map (24-in x 36-in).

If the preliminary title report indicates that there are mineral rights that are reserved or severed, the sponsor must provide a Mineral Assessment Report which shall include a mineral remoteness opinion, prepared by a licensed geologist. The Mineral Assessment Report must be included as an attachment to the PAW. The preliminary title report shall not be dated more than one year before the date the draft MCA package is submitted to CDFW for review and approval.

#### **5.3.7.4 Real Estate Instrument**

An MCA that proposes conservation actions resulting in permanent credits must include a draft CE (see MCA Template Section 7.4 – Real Estate Instrument)<sup>170</sup> that is prepared in accordance with the [Conservation Easement Template](#).<sup>171</sup> The draft CE must be submitted for review in track changes. If an MCA is located within an approved NCCP and is proposing

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<sup>169</sup> These templates were developed for conservation and mitigation banks. To use with an MCA, replace "bank" with "MCA site(s)" and replace "BEI" with "MCA."

<sup>170</sup> Fish & G. Code, § 1856, subdivisions (g)(12) & (g)(17) [referencing Fish & G. Code, §1798.5, subdivision (a)(2)(C)]

<sup>171</sup> This template was developed for conservation and mitigation banks. To use with an MCA, replace "bank" with "MCA site(s)" and replace "BEI" with "MCA."

permanent credits, the CE or other perpetual real estate instrument must be consistent with the NCCP (see Section 5.2.2 – Consistency with Existing NCCPs).<sup>172</sup> The draft CE must also include all exhibits to the document, e.g., Legal Description(s) and Plat(s) and any other exhibits described in the CE.

An MCA proposing habitat enhancement actions and using a long-term durability agreement must include an explanation regarding how the long-term durability of the site will be ensured.<sup>173</sup> Long-term durability shall be accomplished through an enforceable legal instrument, such as a deed restriction, contract, or other type of non-perpetual easement, which must remain in effect at least as long as it would take for the potential impacts covered by the credits to be returned to pre-impact ecological conditions or until MCA closure, whichever is longer.<sup>174</sup> MCA sponsors should consult with CDFW as to the appropriateness of any particular durability instrument for each site with a habitat enhancement action; not all instruments listed can be used for all habitat enhancement actions.

#### **5.3.7.5 Title Insurance**

Prior to recording the real estate instrument to protect the mitigation property, a Pro forma Title Policy will be requested to review the disposition of exceptions on title prior to acceptance of the property; and, to ensure that the correct legal description of the property has been described in the pro forma. The policy holder should be the CE grantee.

After recording the real estate instrument, a copy of the obtained title insurance is required for MCA establishment for all MCAs proposing conservation actions (see MCA Template Section 7.5 – Title Insurance). Receipt of title insurance shall be required upon recordation of the CE. Title insurance is not needed for sites only proposing habitat enhancement actions.

#### **5.3.8 MCA Establishment**

MCA establishment is after MCA approval, and the point in time where the MCA sponsor may begin selling and using MCA credits. To achieve MCA establishment, all of the conditions described in the MCA Template Section 8 (MCA Establishment), must be met. This includes:

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<sup>172</sup> Fish & G. Code, § 1856, subdivision (g)(12)

<sup>173</sup> Fish & G. Code, § 1856, subdivision (g)(12)

<sup>174</sup> Fish & G. Code, § 1856, subdivision (e)

- a. The MCA has been approved by all of the parties;
- b. One of the following real estate instruments are in place, as applicable:
  1. A CE that has been (1) executed by the Grantor; (2) accepted by a Grantee that has been approved by CDFW; and (3) recorded in the Official Records of the county in which the MCA is located;
  2. A long-term durability agreement approved by CDFW that has been properly processed;
- c. The MCA sponsor has complied with its obligation to furnish all necessary financial securities in accordance with MCA Template Section 9;
- d. Any subordination agreement(s), required by CDFW to prioritize the CE or long-term durability agreement, as applicable, over other encumbrances, has been executed and recorded.
- e. A copy of the title insurance policy has been provided to CDFW upon recordation of the required real estate instrument according to MCA Template Section 7.4, if required;
- f. Sufficient long-term management funding is in place to cover any credits released upon establishment. For endowments, the funding shall be in accordance with MCA Template Section 9.2.1;
- g. All reporting requirements necessary since MCA approval have been met according to MCA Template Section 11;
- h. All applicable entities designated as the land manager or CE grantee have been approved under CDFW's due diligence review; and
- i. All endowment holders, as applicable, have submitted their self-certification letters indicating they meet the requirements of Government Code Section 65968, subdivision (e)(1-5).

MCA establishment is the first point in time where the MCA sponsor may begin selling and using MCA credits.

To ensure that the preserved or established habitat is protected, it must be clear that all conflicting easements and encumbrances on the property, as required by CDFW, will be subordinated to the CE or long-term durability agreement. If any such easements or encumbrances exist, and CDFW requires the subordination of an easement or another encumbrance, the MCA sponsor must ensure that the CE grantee or third-party beneficiary, as applicable, of the easement or encumbrance being subordinated executes

an agreement in a form to be approved by CDFW's Office of General Counsel.

Once all the MCA components are finalized, CDFW will inform the MCA sponsor in writing that they have achieved all conditions necessary for MCA establishment. Upon MCA establishment, CDFW may release credits and the MCA sponsor can begin selling or using any credits released as outlined in the Credit Release Schedule exhibit.

### **5.3.9 Financial Securities and Funding**

The MCA sponsor is responsible for providing financial securities to guarantee that construction, management, monitoring, reporting, and remedial actions, are completed as described in the MCA and that performance standards are met. These financial securities can be in the form of one or more instruments. Long-term management funding, in the form of an endowment fund will also be needed for the long-term protection and management of each site. If the MCA sponsor is a state agency, another comparable funding mechanism approved by CDFW in accordance with an adopted statewide policy regarding funding for long-term management and operations of mitigation sites may be provided.<sup>175</sup>

#### **5.3.9.1 Securities**

Securities are required to ensure funding of specific tasks that are to be completed during defined periods of MCA site development or for various phases of management (see MCA Template Section 9.1 – Securities). Financial securities are typically required for activities not completed or fully funded prior to MCA establishment and prior to release of credits. The securities shall be necessary based on the release of credits prior to meeting all performance-based milestones, including performance standards, or prior to MCA closure. The types of securities required for each MCA will depend on the type of credit and/or action that has been released and may include securities for construction, performance, interim management, and/or compliance.

The financial securities are not required at the time the draft MCA package is submitted but are required prior to MCA establishment. A Securities Analysis exhibit must be submitted and accepted for approval of all MCAs with the

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<sup>175</sup> Fish & G. Code, § 1856, subdivision (g)(13)

draft MCA.<sup>176</sup> The Securities Analysis must describe the estimated value of each security and how they were calculated, as well as the time period (e.g., construction phase), and the specific tasks or performance standards that are to be covered by each security, including the types of monitoring and reporting necessary for each phase.

Each Securities Analysis shall include the following: a schedule of the activities associated with the security; a table or spreadsheet that shows all the tasks (management, monitoring, reporting), task descriptions; labor (hours); costs per unit; the cost, frequency, and timing of all tasks; the total annual funding necessary for each task; and any associated assumptions for each task. The total annual expenses should include administration and contingency costs as well. All cost estimates should be based on tasks implemented by a third-party in present-day dollars or equipment prices in present day dollars.

- a. **Construction Security:** A Construction Security is only required if credits will be released for sale or use, prior to the completion of all construction related activities. This is based on the total cost of construction yet to be completed.

For a Construction Security to be released, CDFW must ensure that the site was built as described in the Development Plan. Therefore, if the MCA includes construction, as-built drawings of each MCA site, with accurate maps of the constructed habitats, must be submitted to CDFW no later than 90 calendar days following the completion of all construction activities. The as-built drawings shall consist of construction plans, with as-built conditions clearly shown, with a full-size set available upon request. The as-built drawings and any attachments must describe in detail any deviation from the Development Plan. Review and written acceptance by CDFW will be necessary to release the Construction Security or to determine that construction has been completed.

- b. **Performance Security:** A Performance Security is only needed if credits are to be released prior to meeting the performance-based milestones and/or performance standards described in the Development Plan and the Interim Management and Monitoring Plan. The cost is based on a measure of expected costs associated with project management, monitoring, and reporting from the time construction is completed to completing all performance-based milestones and/or performance

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<sup>176</sup> Fish & G. Code, § 1856, subdivision (g)(17) [referencing Fish & G. Code, §1798.5, subdivision (a)(2)(G)]

standards. This cost shall be no less than 10% of the construction cost and shall take into account the cost of any foreseeable remedial action provided by the MCA sponsor for CDFW review and approval. After CDFW determines the MCA sponsor has satisfied all performance-based milestones and/or performance standards, CDFW will release the Performance Security.

- c. **Interim Management Security:** An Interim Management Security is only required if credits will be released for sale and use prior to fully funding the endowment, including completing the interim management period. The cost is based on the expected costs associated with three years of interim management. When the MCA sponsor can show that the interim management period has been completed and accepted, CDFW will release the Interim Management Security.
- d. **Compliance Security:** A Compliance Security is required prior to MCA establishment to cover any foreseeable remedial actions and ensure that the MCA maintains its performance standards until MCA closure. The cost shall be no less than 10% of the construction costs and shall take into account the cost of any foreseeable remedial action.

Additional information regarding the securities is in the MCA Template Section 9.1 (Securities). If the MCA is on CDFW lands, refer to Section 5.2.4 (Mitigation on Public and Protected Private Lands) regarding costs that must be accounted for.

If securities are required, they must be in the form of an irrevocable standby **letter of credit (LOC)** with CDFW as the beneficiary to be held by CDFW or cash.<sup>177</sup> If a LOC is used, the MCA sponsors must use the [Letter of Credit Template](#). Any changes to the LOC Template shall be made in track changes for CDFW's review and acceptance.<sup>178</sup> Each LOC should be issued for at least one year and shall indicate that the expiration date will be automatically extended for at least one year on successive expiration dates until which time the security is no longer required as determined by CDFW. Each security must be approved in advance, in writing, by CDFW's Office of the General Counsel.

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<sup>177</sup> Fish & G. Code, § 1856, subdivision (g)(17) [referencing Fish & G. Code, §1798.5, subdivision (a)(2)(G)]

<sup>178</sup> This template was developed for conservation and mitigation banks. To use with an MCA, replace "bank" with "MCA site(s)" and replace "BEI" with "MCA."

CDFW, as the holder of the securities, shall be entitled to draw upon the security for default, including but not limited to failure to perform any tasks, as required under the Development Plan or the Interim Management and Monitoring Plan, as applicable.

If any portion of any security is drawn upon, the MCA sponsor shall replenish the security to the amount specified in the Securities Analyses Exhibit (See MCA Template Section 9.1 – Securities) within 90 calendar days after written notice from CDFW.

### **5.3.9.2 Long-term Management Funding**

The MCA sponsor shall explain how the long-term protection and management of the conservation action(s) or habitat enhancement action(s) at each site will be adequately funded through an endowment or another comparable funding mechanism approved by CDFW if the MCA sponsor is a California state agency (see MCA Template Section 9.2 – Long-term Management Funding).<sup>179</sup>

For endowments, the fund shall be held in trust for the benefit of the resources to be protected and shall be held, managed, invested, and disbursed solely for, permanently restricted to, the stewardship and management of the MCA site in accordance with the MCA. For conservation actions, the endowment amount shall be supported by an economic analysis of the funding necessary to fully fund the maintenance and long-term management activities of the site, including monitoring and reporting, in perpetuity.<sup>180</sup> The entity proposed to hold an endowment must meet the qualifications indicated in Section 5.3.4.3 (Qualifications).

All endowment deposits must be adjusted for inflation until the endowment is fully funded. The endowment fund should be governed by an investment policy statement that is designed to generate investment returns, over long periods of time, sufficient to keep pace with inflation and pay the costs of long-term management and monitoring, net of any financial investment and administrative fees. Each endowment deposit shall be confirmed by CDFW and must be summarized in the Endowment Inflation Report annually as indicated in Section 5.3.11.1 (Annual Inflation Adjustments to Endowment Inflation Report). Disbursements shall not be made from the endowment fund until approximately three years after the endowment amount is fully funded;

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<sup>179</sup> Fish & G. Code, § 1856, subdivision (g)(13)

<sup>180</sup> Fish & G. Code, § 1856, subdivision (g)(17) [referencing Fish & G. Code, §1798.5, subdivision (a)(2)(F)]

typically, after three years the income earned on the endowment is enough to manage the property and the principal of the endowment is left for growth, ensuring it will be perpetual. All financial records related to the endowment fund must be maintained and may be audited at the request of CDFW.

The Endowment Fund Analysis and the Endowment Fund Schedule exhibits shall include a table and/or spreadsheet that shows the projected annual capitalization rate; all of the tasks (e.g., management, maintenance, monitoring, reporting); task descriptions; labor (hours); materials; equipment; cost per unit; timing, frequency, or scheduling of the tasks; the total annual funding necessary for each task; and any assumptions made for calculating each task required by the Long-term Management and Monitoring Plan. The total annual expenses should also include administration and contingency expenses. Cost estimates should be calculated with the assumption that tasks may be implemented by a third-party and/or equipment prices in present day dollars. If the MCA is on CDFW lands, refer to Section 5.2.4 (Mitigation on Public and Protected Private Lands) regarding additional costs that must be accounted for in the endowment. When the MCA sponsor is a state agency, another comparable funding mechanism(s) may be proposed subject to CDFW approval; however, the alternative funding mechanism must be comparable to an endowment and if conservation actions are proposed, ensure perpetual funding.<sup>181</sup>

If an MCA sponsor proposes only habitat enhancement actions, an alternative funding mechanism may be proposed; however, it must ensure that the maintenance and management activities of the site, including monitoring and reporting, are fully funded for at least as long as the duration of the credits described in the MCA.

Any alternative funding mechanism must be proposed prior to MCA approval for review and approval by CDFW's Office of General Counsel and in accordance with an adopted statewide policy regarding funding for long-term management and operations of mitigation sites.<sup>182</sup>

If an MCA sponsor intends to release credits for sale or use prior to fully funding the endowment, the same or greater portion of the endowment's principal must be funded.

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<sup>181</sup> Fish & G. Code, § 1856, subdivision (g)(13) and 1798.5, subdivision (a)(2)(F)

<sup>182</sup> Fish & G. Code, § 1856, subdivision (g)(13)

## 5.3.10 Credit Type, Release, Sale and Use, and Reporting

### 5.3.10.1 Credit Type and Quantity

The MCA shall describe the type and quantity of credits to be created and the supporting justification (see MCA Template Section 10.1 – Credit Type and Quantity).<sup>183</sup>

MCA credits shall directly correlate to the conservation needs of the focal species, non-focal species, and other conservation elements addressed by the conservation actions or habitat enhancement actions of an approved RCIS.<sup>184</sup> MCA credits may be proposed in three categories: 1) permanent preservation credits as conservation actions; 2) permanent establishment credits as conservation actions; or 3) non-permanent establishment credits as habitat enhancement actions. Permanent preservation credits are created when the land is permanently protected, monitored, and managed. An establishment credit would create, restore or enhance ecological resources, and a non-permanent establishment credit would create, restore or enhance ecological resources with a long-term durability agreement that does not permanently protect the land.

MCAs should propose one of the following credit types:

- a. Permanent preservation credits (conservation actions). These credits must permanently manage and maintain existing habitat and species values for focal species, non-focal species, or other conservation elements with *little to no improvements to the land*. Permanent preservation credits are created through the implementation of conservation actions to *preserve* ecological resources, including habitat, natural communities, ecological processes, wildlife corridors and habitat connectivity, in perpetuity. Permanent preservation credits may only be created on lands that are not yet permanently protected and have never been used to fulfill compensatory mitigation requirements for permanent impacts, or have only been used as mitigation for temporary impacts that have lapsed.
- b. Permanent establishment credits (conservation actions). These credits are created through the implementation of conservation actions to *create, restore, or enhance* ecological resources, including habitat, natural

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<sup>183</sup> Fish & G. Code, § 1856, subdivision (g)(9)

<sup>184</sup> Fish & G. Code, § 1856, subdivision (g)(9)

communities, ecological processes, wildlife corridors, fish passage barrier removals, and habitat connectivity, to protect those resources permanently, and to provide for their perpetual management, so as to help achieve one or more biological goals and objectives for one or more focal species, non-focal species, or other conservation elements.

Permanent establishment credits (conservation actions) may be created on unprotected lands, that have never been used to fulfill compensatory mitigation requirements for permanent impacts, or have only been used to fulfill non-permanent compensatory mitigation that have expired.

Permanent establishment credits may also be created on lands that are already permanently protected but have never been used to fulfill compensatory mitigation requirements for permanent impacts. The permanent establishment credits must result in a quantifiable net ecological gain for the focal species, non-focal species, and/or other conservation elements above the site's current conditions. The land must be permanently protected.

c. Non-permanent establishment credits (habitat enhancement actions).

These credits are created through the implementation of habitat enhancement actions to create, restore, or enhance ecological resources, including habitat, natural communities, ecological processes, wildlife corridors, fish passage barrier removals, and habitat connectivity.

These credits do not include the permanent protection of habitat, but they do help achieve one or more biological goals and objectives for one or more focal species, non-focal species, or other conservation elements. Protection of the land includes a long-term durability instrument. These may include actions such as the flooding of habitat for longer periods of time to benefit aquatic species, reduction of invasive species to allow native species to thrive, and other temporary improvements to fish and wildlife habitat. Non-permanent establishment credits must include a defined duration.

The duration of non-permanent credits may be established for any length of time; however, the longer the credits are secured the more utility they may be able to provide. This credit approval process must ensure that those habitat enhancement actions, management, monitoring and protection of the land remain in effect at least until the site of the

environmental impact is returned to pre-impact ecological conditions.<sup>185</sup> The duration of non-permanent credits must be outlined in the draft MCA for CDFW review. They may also be extended through an MCA amendment.

Non-permanent establishment credits may be created on lands that are not yet permanently protected, on lands that are already permanently protected and have not been used for any mitigation, or have only been used to fulfill compensatory mitigation requirements for temporary impacts that have elapsed. For example, credits for these actions may help offset temporal loss of riparian habitat over multiple seasons due to dewatering for maintenance. Onsite restoration of the temporarily disturbed habitat may also likely be a requirement in the permit for the impacted site, in addition to any MCA credits used.

The non-permanent establishment credits must result in a quantifiable net ecological gain for the focal species, non-focal species, and/or other conservation elements above the site's current conditions. Proposed habitat enhancement action credits should outline any actions, including development, that would occur onsite at the time of MCA closure to ensure that there are no impacts to the species or habitat when the MCA closes and the long-term durability protections are removed.

In general, both permanent and non-permanent credits may be considered for fulfilling mitigation requirements of temporary impacts so long as the non-permanent credits created will exist at least as long as the impact duration.<sup>186</sup>

The MCA sponsor may create multiple credit types, suggest the creation of other credit types or classifications for CDFW consideration, including credits that meet other applicable local, state, or federal regulatory mitigation needs, and may elect to bundle a variety of credits together. Bundling allows the sponsor to combine credit designations such as credits for multiple species, habitats, and/or credit classifications desired by other agencies. However, all credit types must be consistent with the RCIS Program statute and requirements of these Guidelines and must be approved by CDFW.

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<sup>185</sup> Fish & G. Code, § 1856, subdivision (e)

<sup>186</sup> Fish & G. Code, § 1856, subdivision (e)

The MCA shall describe the intended relationship to regulatory programs and authorities for each credit type, as applicable. For example, to provide compensatory mitigation for specific species listed under CESA.

### **5.3.10.2 Credit Evaluation and Table**

The MCA must provide a Credit Evaluation and Credit Table (see MCA Template Section 10.2 – Credit Evaluation and Table). The credit evaluation must explain the methods and calculations undertaken to formulate the quantity and value of each type of credit for each focal species, non-focal species, and other conservation element associated with the MCA.

The Credit Table must show the number and type of credits to be released. The Credit Table should distinguish between credits intended for specific regulatory uses (e.g., CESA, LSA, CEQA).

The MCA shall also indicate the unit of measurement (e.g., acres, linear feet) and the quantity of each credit type and provide supporting rationale. The description of non-permanent credits shall indicate the credit duration period and the start and end dates. The start date may be the date the first credits are released or later, such as the date the credits are used. The end date should be based on the start date and the duration of the MCA. It must be at least as long as the duration of the impact for which the credits are used.<sup>187</sup>

CDFW will review all credit calculations and may adjust credit values based on a variety of factors, including, but not limited to, the proposed: species and their ranges, affected habitats, the size and location of the proposed MCA; existing and proposed land protections; and the duration of any existing or proposed protections.

If an MCA sponsor wishes to add a species or other conservation elements not included as a credit type in the established MCA, this would require an MCA Amendment (see Section 5.7 – Amending an MCA). Requirements must be reviewed for consistency with the needs of the added focal species, non-focal species, and/or other conservation element within the RCIS.

### **5.3.10.3 Credit Release Schedule**

The credits described in the Credit Table exhibit for each focal species, non-focal species, and/or other conservation element covered by the MCA shall be released in accordance with the Credit Release Schedule exhibit (see

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<sup>187</sup> Fish & G. Code, § 1856, subdivision (e)

MCA Template Section 10.3 – Credit Release Schedule).<sup>188</sup> Each credit release described in the Credit Release Schedules must be tied to specific performance-based milestones and/or performance standards.<sup>189</sup> Credits may be released by phase, as described in the Credit Release Schedule for CDFW’s review and approval. The Credit Release Schedule must clearly state the number of releases, the performance-based milestones and/or performance standards or triggers that must be met prior to each release, including when and how many credits are intended to be released. Performance-based milestones shall include, but are not limited to, the following:

- a. An established MCA.
- b. One of the following real estate instruments is in place, as applicable:<sup>190</sup>
  1. A CE approved by CDFW that has been (1) accepted by a CE grantee that has been determined to be qualified by CDFW through the due diligence process; (2) deemed consistent with an approved NCCP within the area of the applicable RCIS on the site of a conservation action<sup>191</sup>; and (3) recorded in the official records of the county in which the MCA is located; OR
  2. A long-term durability agreement (i.e., a deed restriction, contract, non-perpetual easement, or other, legally-enforceable instrument) approved by CDFW that ensures the site’s habitat enhancement actions will remain in effect at least as long as it would take for the potential impacts covered by the credits to be returned to pre-impact ecological conditions;
- c. Any applicable financial securities have been furnished (see Section 5.3.9 – Financial Securities and Funding).
- d. Any applicable subordination agreement(s) has been executed and recorded.

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<sup>188</sup> Fish & G. Code, § 1856, subdivisions (g)(17) [referencing Fish & G. Code, §1798.5, subdivision (a)(2)(E)] & (g)(18)

<sup>189</sup> Fish & G. Code, § 1856, subdivision (h)(2)

<sup>190</sup> Fish & G. Code, § 1856, subdivision (h)(2)(A)

<sup>191</sup> Fish & G. Code, § 1856, subdivision (g)(12)

- e. Implementation of a conservation action or a habitat enhancement action has been completed as outlined in the Development Plan and reviewed and accepted by CDFW.<sup>192</sup>
- f. Temporal ecological performance standards for habitat restoration have been achieved (e.g., standards established for one year, three years, or five years following the initiation of habitat restoration).<sup>193</sup> Generally, monitoring of credit release performance standards is for a minimum of five years.
- g. Ecological performance standards are fully achieved.<sup>194</sup> Generally, monitoring for performance standards for credit releases is for a minimum of five years.

The Credit Release Schedules shall reserve a substantial share (minimum of 15%) of the total credits for release after all ecological performance standards are fully achieved.<sup>195</sup> Credits may be released in full once all performance-based milestones are met including until approximately three years after the endowment amount is fully funded.

Credit releases are also contingent on meeting all annual reporting requirements (see Section 5.3.11.2 – Annual Report), payment of CDFW program fees, and a site visit(s) at the appropriate time of year as deemed necessary by CDFW. The initial implementation fee is due upon MCA approval (see Section 1.3 – Fees) and may include an initial credit release if MCA establishment occurs at the same time. There is a separate implementation fee for each subsequent credit release. Each fee shall be paid prior to each credit release.

CDFW may approve the release of credits for sale or use under an MCA upon the MCA sponsor's request.<sup>196</sup> Requests for credit releases shall be submitted in writing to CDFW for review and approval. For credits to be released, the MCA sponsor shall demonstrate to CDFW that the applicable performance-based milestones and/or performance standards for the specified credit release have been met and that any associated CDFW fees have been paid. CDFW shall determine whether the performance-based

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<sup>192</sup> Fish & G. Code, § 1856, subdivision (h)(2)(B)

<sup>193</sup> Fish & G. Code, § 1856, subdivision (h)(2)(C)

<sup>194</sup> Fish & G. Code, § 1856, subdivision (h)(2)(D)

<sup>195</sup> Fish & G. Code, § 1856, subdivision (h)(2)

<sup>196</sup> Fish & G. Code, § 1856, subdivision (h)(1)

milestones and/or performance standards associated with the credit release have been met and if credits may be released in accordance with what was specified in the Credit Release Schedule.<sup>197</sup>

Credits will be released based on meeting performance-based milestones and/or performance standards, not solely on the timeline outlined in the Credit Release Schedule. When performance-based milestones and/or performance standards are not met, the MCA sponsor may need to wait until CDFW approves the proposed release or modify the Credit Release Schedule through an amendment (see Section 5.7 – Amending an MCA).<sup>198</sup> If performance standards are underperforming, CDFW may need to reduce the amount of credits released for the MCA through an amendment, a Remedial Action Plan may be recommended, and/or the MCA may be considered in default as outlined in Section 5.3.13 (Other Provisions).

Credit releases and the information demonstrating that performance-based milestones and/or performance standards have been met will be available on [CDFW's MCA web page](#) (see Section 5.6 – Publicly Available MCA Credit Information).<sup>199</sup>

#### **5.3.10.4 Credit Sale and Use**

Upon CDFW approval, the MCA sponsor may sell or use the credits that have been released in accordance with the MCA.<sup>200</sup> MCA credits may be used to fulfill the mitigation obligations of other regulatory agencies if the agency determines, at their discretion, that the credits meet their requirements. The MCA must include an exhibit explaining the conditions under which a credit may be sold, used, or returned back to the MCA sponsor and shall be consistent with MCA Template Section 10.4 (Credit Sale and Use).<sup>201</sup> The sale and use of credits created under an MCA are not limited to the duration or expiration of the related RCIS.<sup>202</sup> Once a credit is sold by the MCA sponsor, that credit may not be sold or transferred to another entity.<sup>203</sup>

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<sup>197</sup> Fish & G. Code, § 1856, subdivision (h)(4)

<sup>198</sup> Fish & G. Code, § 1856, subdivision (h)(3)

<sup>199</sup> Fish & G. Code, § 1856, subdivision (l)

<sup>200</sup> Fish & G. Code, § 1856, subdivision (f)

<sup>201</sup> Fish & G. Code, § 1856, subdivision (g)(15)

<sup>202</sup> Fish & G. Code, § 1856, subdivision (h)(1)

<sup>203</sup> Pursuant to Streets and Highway Code 800.6(b), the Department of Transportation is authorized to purchase credits, then allow other transportation agencies to use them. This must be reflected in the Credit Receipt of the sale and use of credits.

Previously sold credits, that have not been used, may be returned directly back to the MCA sponsor at the MCA sponsor's discretion. If a credit is returned, a Credit Receipt must be completed, and the MCA sponsor must update the Credit Ledger to document the transaction. Once the transaction has been properly documented and approved, the MCA sponsor may subsequently sell any returned credits to another recipient. In order to return credits back to the ledger the following conditions must be met:

- a. The MCA is open;
- b. The original purchaser of the unused credits obtains written documentation of MCA sponsor's conditional approval to return credits and provides a copy to CDFW for CDFW review and written approval;
- c. MCA sponsor enters the returned credits in the ledger.
- d. Upon the return of the credits specified above, the MCA sponsor shall submit copies of the following to the parties listed in the notices section of the MCA and approving/regulatory agency(ies)/authorities associated with those credits:
  1. Credit Receipt;
  2. An updated ledger.

Additional information regarding terms of sale, use, and the return of credits can be found in the MCA Template Section 10.4 (Credit Sale and Use).

### **5.3.10.5 Credit Reporting**

Each MCA must include an explanation of how the included credits will be accounted for, including the specific methods for reporting and maintaining a record of all credits created, released, sold, used or returned.<sup>204</sup> This shall include a Credit Receipt and a Credit Ledger (see MCA Template Section 10.5 – Credit Reporting).<sup>205</sup>

A [template Credit Receipt](#) is available on [CDFW's RCIS Program web page](#) and shall be included as an exhibit. Any modifications to the template shall be made in track changes for review and approval by CDFW. The Credit

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<sup>204</sup> Fish & G. Code, § 1856, subdivision (g)(15)

<sup>205</sup> Fish & G. Code, § 1856, subdivisions (g)(17) [referencing Fish & G. Code, § 1798.5, subdivision (a)(2)(E)] & (g)(18)

Receipt shall be included as an exhibit to the MCA, and shall, at a minimum, include the following:

1. MCA name;
2. Name, address, and phone number of the entity receiving credits;
3. Type(s) of credit transaction(s): Sale, use, or return;
4. Date of credit transaction;
5. Number of credits sold, used, and/or returned;
6. Project name associated with credits used, if applicable;
7. Permit type and number, if applicable;
8. CEQA clearing house number, CEQA project name and National Environmental Policy Act (NEPA)<sup>206</sup> tracking number, if applicable;
9. Resource agency project file numbers, if applicable;
10. A statement that the MCA sponsor represents and warrants that it has good title to the credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances;
11. A statement that the MCA sponsor covenants and agrees with the buyer to warrant and defend the sale of the credits hereinbefore described against all and every person and persons whomsoever lawfully claiming or to claim the same;
12. Signature of the MCA sponsor.

The Credit Ledger (to be attached as an exhibit) shall include, at a minimum:

1. MCA name;
2. MCA sponsor;
3. Transaction number;
4. Name, address, phone number of entity receiving credits;
5. Types of credits (including bundled credit types if applicable) being sold, used, or returned;

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<sup>206</sup> 42 U.S. Code, sections 4321, et seq.

6. Number of credits (including bundled credit types if applicable) being sold, used, or returned;
7. Date of credit sale, use, or return;
8. Type of credit transaction (sale, use, or return);
9. Total number of each type of credit released by CDFW to date;
10. Total number of each type of credit sold to date (inclusive);
11. Total number of each type of credit returned to date (inclusive);
12. Total number of each credit type used to date (inclusive);
13. Balance of each type of credit remaining;
14. Project name associated with **credit used**;
15. Permitting agency;
16. Permit type and number associated with credits used;
17. CEQA clearing house number (if applicable);
18. Agency project file numbers associated with credit used.

### **5.3.11 Reporting**

The MCA sponsor and the property owner are responsible for completing and submitting various reports as described in the subsections below and the MCA Template sections referenced.

All reports must be submitted in both Word and PDF electronic file formats. Reports must be completed and submitted in a timely manner for the authorization of subsequent credit releases.

If the MCA sponsor, or owner, as applicable, fails to submit complete reports on time, they may be considered in default. Default measures are described in the MCA Template Section 13.1 (Enforcement Provisions).

#### **5.3.11.1 Annual Inflation Adjustments to Endowment Inflation Report**

For MCAs that are utilizing an endowment fund to provide long-term protection and management of the MCA, the MCA sponsor must submit an Endowment Inflation Report annually until the endowment is fully funded. This report must be submitted to CDFW and the endowment holder, by August 1st

of each year following the first deposit, and adjusted based on the Consumer Price Index (CPI) published mid-June each year. The report shall include both the adjusted endowment amount and the resulting adjusted endowment deposit amounts (see MCA Template Section 11.1 – Annual Inflation Adjustments to Endowment Inflation Report).

### **5.3.11.2 Annual Report**

Prior to the end of the interim management period, the MCA sponsor shall be responsible for any annual reports associated with the MCA's development and interim management tasks described in the Interim Management and Monitoring Plan. After the end of the interim management period, the property owner shall be responsible for continuing the annual reporting and monitoring of the MCA's long-term management tasks described in the Long-term Management and Monitoring Plan. Annual reports must be submitted to CDFW, the RCIS proponent, and any acknowledging agencies to the MCA on or before January 31st of each year following the approval of the MCA and shall conform to any additional reporting processes outlined in the RCIS.<sup>207</sup> Each annual report shall cover the period from January 1st through December 31st (See MCA Template Section 11.2 – Annual Report). If the MCA sponsor or owner, as applicable, fails to submit complete reports on time, they are in default per MCA Template Section 13.1 (Enforcement Provisions).

All Annual Reports shall include the cumulative ecological gain from the implementation of the MCA's conservation actions and/or habitat enhancement actions using the consistent metrics identified in the RCIS and agreed to in the MCA. The consistent metrics shall measure the increment of gain in both the area and the quality of habitat or other natural resource values, compared to baseline conditions,<sup>208</sup> and address any reporting components of the Interim Management and Monitoring Plan or the Long-term Management and Monitoring Plan. The information shall be based on relevant, current, best available information and analysis.

### **5.3.11.3 Credit Sale and Use Reporting**

The MCA sponsor shall submit a copy of the fully executed Credit Receipt (see Section 5.3.10.5 – Credit Reporting and MCA Template Section 10.5.1 – Credit Receipt) and an updated credit sale and use ledger (see MCA

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<sup>207</sup> Fish & G. Code, § 1856, subdivision (b)(2)(A)

<sup>208</sup> Fish & G. Code, § 1856, subdivision (g)(10)

Template Section 10.5.2 – Credit Ledger) to CDFW upon every transaction of credits, which may include a credit sale, use, combined sale and use, or return (see MCA Template Section 11.3 – Credit Sale and Use Reporting).

### 5.3.12 Responsibilities

The MCA must describe the responsibilities of the MCA sponsor, CDFW, and the property owner. See MCA Template Section 12 for a full list of responsibilities.

### 5.3.13 Other Provisions

The MCA shall include enforcement provisions,<sup>209</sup> including but not limited to, provisions for notification of violations, opportunity to cure or remedy any violation, length of time to cure or remedy any violation, dispute resolution procedures, sanctions for minor violations, and suspension and revocation for significant uncured violations. The enforcement and dispute resolution provisions are included in the MCA Template Section 13 – Other Provisions.

The MCA Template specifies several other provisions that the MCA must also contain, including: **extraordinary circumstances**, controlling law, no limitation of authority, modification and amendment, termination of agreement, entire agreement, successors and assigns, partial invalidity, notices, counterparts, no third-party beneficiaries, MCA program fees and liabilities.

## 5.4 Procedures for Creating Credits from a Project's Excess Ecological Benefits

If a project would create ecological benefits that exceed the compensatory mitigation requirements needed for the project pursuant to CESA,<sup>210</sup> LSA Agreements,<sup>211</sup> or CEQA,<sup>212</sup> the project proponent may seek to establish credits for the project's excess ecological benefits through an MCA.<sup>213</sup>

Examples of such projects include, but are not limited to:

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<sup>209</sup> Fish & G. Code, § 1856, subdivision (g)(16)

<sup>210</sup> Fish & G. Code, §§ 2050 – 2100

<sup>211</sup> Fish & G. Code, §§ 1600 – 1617

<sup>212</sup> Pub. Resources Code, §§ 21000 – 21189

<sup>213</sup> Fish & G. Code, § 1856, subdivision (i)(1)

- a. Creation or modification of setback levees that result in the creation of more floodplain or riparian habitat than is required to compensate for project impacts.
- b. Transportation improvements that remove barriers to fish or wildlife movement and improve the quality of habitat or address **stressors** to wildlife more than is required to compensate for identified construction impacts.

For projects where improvements for focal species, non-focal species, and/or other conservation elements exceed the mitigation needed to offset a project's impacts, the project proponent may propose an MCA with terms and conditions under which credits may be created from the excess mitigation. The MCA may be submitted concurrently with, or following submittal of a CEQA document, LSA Agreement notification, or CESA individual take permit (ITP) application. When an MCA is submitted concurrently with a CEQA document, LSA notification, or ITP application, CDFW shall, to the maximum extent practicable, complete reviews of the MCA concurrently with its review of those documents or approvals.<sup>214</sup>

A draft MCA package submitted concurrently with, or after, a CESA ITP application or LSA Agreement notification is submitted, shall meet the same MCA requirements indicated in the statute and in these Guidelines. For those projects that improve ecological benefits, such as improved wildlife habitat or reduced stressors to wildlife, to the extent that exceeds compensatory mitigation requirements, construction of the project itself may be a performance-based milestone. CDFW will work with the MCA sponsor to clearly identify the necessary components of the MCA to help with processing.

## 5.5 MCA Development, Review, and Approval Process

This section provides guidance on the responsibilities, timing, and requirements for tasks that the MCA sponsor or CDFW must complete during the phases of MCA development, review, and approval. Figure 2, below, provides a flowchart to help orient the MCA sponsor with the development, review, and approval processes.

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<sup>214</sup> Fish & G. Code, § 1856, subdivision (i)(1)

All MCA submittals, including MCA Concepts, frameworks, and draft MCAs, shall be submitted as both Word and PDF electronic files that are separate and clearly labeled, and must contain all the applicable information and documents described in Fish and Game Code section 1856 and Section 5 of these Guidelines. Some elements of the MCA may not be available or finalized at the time it is submitted, which have been identified throughout these Guidelines and the [MCA checklist](#). Rather, those elements may be submitted and finalized for MCA establishment (see Section 5.3.8 – MCA Establishment).

For information regarding the submittal of all necessary documents and files, see Section 1.4 (Program Contacts). Fees for each of the MCA submittal products and phases are listed in Section 1.3 (Fees). To facilitate and expedite review and approval by CDFW, all edits, replaced text, deletions, or changes to the [MCA Template](#) language must be made in track changes in the draft MCA.

## **5.5.1 Pre-Submittal Options**

This section provides an overview of options that an MCA sponsor may wish to take advantage of prior to, or during, the development of a draft MCA. All of these opportunities are optional; however, consultation with CDFW and any other applicable regulatory agencies is strongly recommended to ensure the quickest possible review and approval of the MCA.

### **5.5.1.1 Consultation with CDFW**

CDFW strongly recommends early and ongoing coordination and collaboration with CDFW's RCIS Program staff within the headquarters office and applicable regional offices when developing an MCA. This will allow for early feedback on the various components (e.g., service area, credit types, real estate instrument) and typically results in a quicker formal review with less extensive comments.

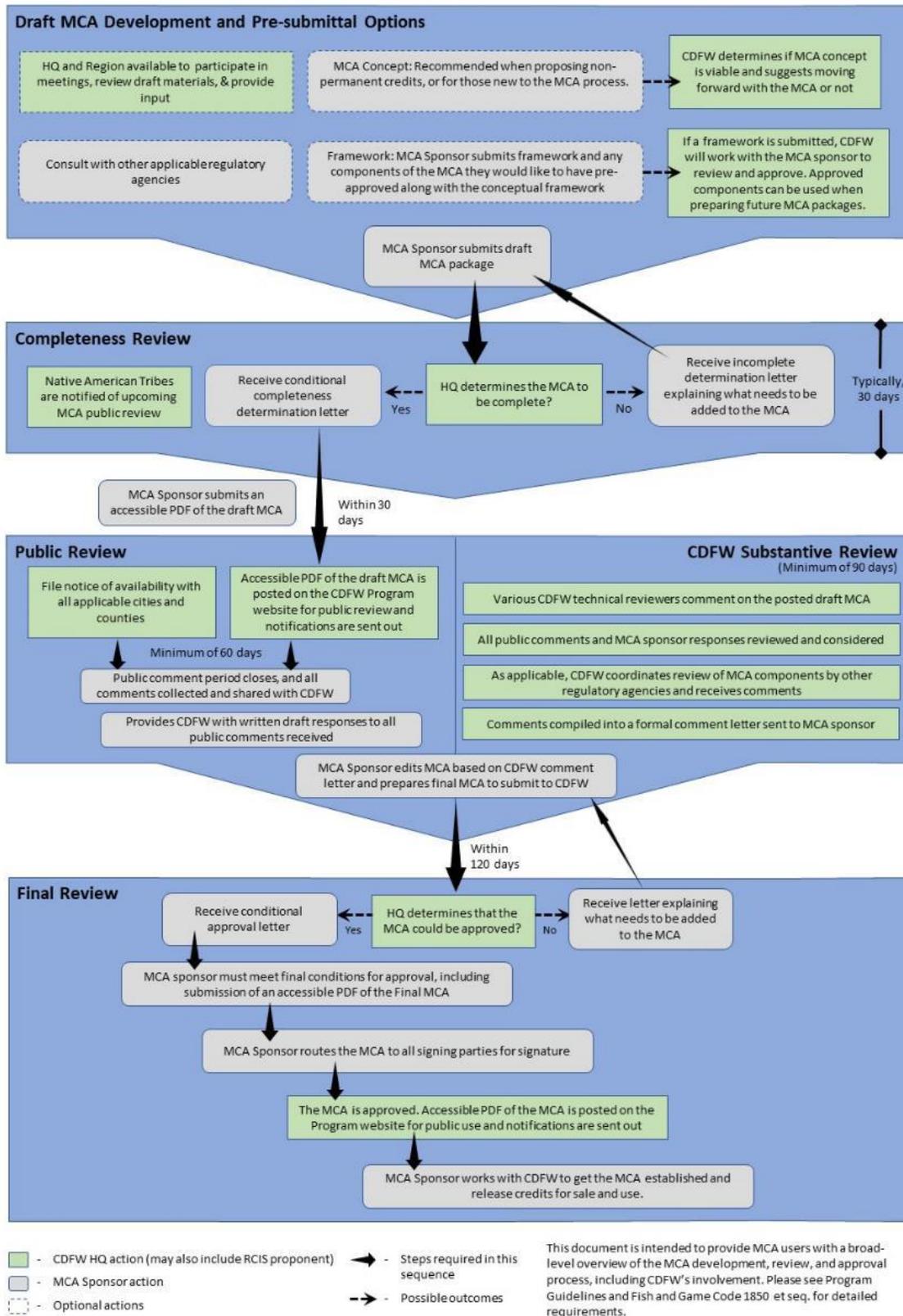


Figure 2 – MCA Development, Review, and Approval Process

### **5.5.1.2 Consultation with Other Regulatory Agencies**

If the MCA sponsor is seeking MCA credits that may be used to offset impacts to other resources outside of CDFW's jurisdiction, the MCA sponsor is responsible for inviting and engaging with the applicable regulatory agencies to participate during the development of the MCA. If needed, and upon the request of the MCA sponsor, CDFW can assist in identifying appropriate points of contact. Early inclusion of any other applicable regulatory agencies is critical for ensuring that their requirements for creating credits are met and that they will be able to accept the use of the credits for offsetting impacts to resources within their jurisdiction.

CDFW may correspond directly with the other regulatory agency points of contact throughout MCA development, review, and approval, but the MCA sponsor will be lead for coordinating with CDFW and any other participating regulatory agencies.

### **5.5.1.3 MCA Concept**

An MCA concept is a brief concept-level proposal that is optional but recommended when an MCA sponsor is scoping for an MCA, contemplating a specific MCA idea, proposing wildlife connectivity actions, proposing habitat enhancement actions, or for those new to the MCA process. The MCA concept allows CDFW to provide initial feedback on a particular site or if the action proposed is adequate to support the development of an MCA. The MCA concept review process allows for early collaboration between CDFW and the MCA sponsor to clarify the intent of the MCA and to identify potential benefits and issues. The MCA concept will be reviewed and evaluated by CDFW to determine if it is feasible as an MCA. CDFW may require a visit to the MCA site and/or request additional information for clarification and information to aid the MCA sponsor and CDFW on the draft MCA concept review.

The concept step is intended to identify potential obstacles early so that the MCA sponsor may resolve issues, revise and refine the MCA concept, or provide information for the MCA sponsor to decide not to pursue the MCA before investing in the development of the full draft MCA package.

The MCA sponsor is not required to submit an MCA concept and may instead elect to begin preparation of a draft MCA package.

### 5.5.1.4 MCA Framework

An MCA sponsor may develop and submit an optional advance mitigation framework to CDFW for review and approval prior to submitting a draft MCA package.

The MCA sponsor shall include an [MCA Framework Checklist](#) with the submitted framework for review and approval by CDFW. The Framework must include the following:<sup>215</sup>

- a. A process and the terms and conditions on which CDFW will base its review and approval of mitigation credits on future sites.
- b. A description of the conservation actions or habitat enhancement actions that are consistent with, and will measurably advance the objectives of, an approved RCIS, and will be used to create mitigation credits.
- c. A prioritization strategy for selecting future sites to implement the conservation actions or habitat enhancement actions described in the Framework.

In addition to these requirements, the MCA sponsor must submit the framework fee (see Section 1.3 – Fees). When initially submitted, the MCA sponsor can submit various sections of the [MCA Template](#) as well as any completed, or partially completed, MCA exhibits for CDFW review and approval. Submittal of the Framework must include all the sections of the MCA Template that the MCA sponsor wishes CDFW to review and approve at the time of submission; this should be clearly labeled on the MCA Framework Checklist.

The framework allows the MCA sponsor to get sections and/or modified language for an MCA approved prior to the development of one or more MCA sites. Using the Framework may result in a quicker review of future draft MCAs, may provide certainty to the MCA sponsor for approved components of a future MCA, and allow for the review of a draft MCA for one or multiple sites all at once or over time. An approved Framework may be used for multiple future MCAs, as appropriate.

Once approved, if the MCA sponsor wishes to change or add sections to a previously approved Framework, an amendment will be required, which will be subject to the Framework amendment fee (see Section 1.3 – Fees).

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<sup>215</sup> Fish & G. Code, § 1856, subdivision (c)(1-4)

Substantial changes may be viewed as a new Framework, at CDFW's discretion.

When a draft MCA is submitted using an approved Framework, the MCA sponsor must provide a tracked changes version of the approved Framework that indicates the changes that were made to the previously approved sections. CDFW will, to the greatest extent feasible, not alter approved text and sections. CDFW retains the ability to review and update any sections necessary to approve the MCA based on the specific conservation actions or habitat enhancement actions, the site location, and the resulting habitat and advance mitigation credits.

## **5.5.2 Submission and Review of the Draft MCA**

The MCA sponsor must submit a complete draft MCA package before CDFW can begin official review of the draft MCA. A complete draft MCA package includes the draft MCA (preferably using the [MCA Template](#)) with all applicable exhibits and any necessary letters, the [MCA checklist](#) indicating that all necessary checklist components are included, and the required MCA review fees (see Section 1.3 – Fees). The draft MCA shall contain all applicable information required by Fish and Game Code section 1856 and Section 5 of these Guidelines.

### **5.5.2.1 Completeness Review**

Once the full draft MCA package is received, CDFW shall strive to conduct its completeness review within 30 days.

If CDFW deems the draft MCA incomplete, CDFW will explain in writing to the MCA sponsor what additional information is required to complete the draft MCA and will meet with the MCA sponsor if necessary or if requested. The MCA sponsor may incorporate all missing information, as indicated in CDFW's letter, and resubmit for another completeness review. Additional fees will not be required for resubmittal.

CDFW will notify the MCA sponsor in writing that the draft MCA has been deemed complete if the draft MCA includes information in response to each of the requirements listed in Fish and Game Code section 1856, Section 5 of these Guidelines, and if the PDF of the draft MCA meets web accessibility standards (see Section 1.5 – Accessibility). The MCA sponsor may choose to submit a non-accessible document for completeness review, in which case CDFW will review for Fish and Game Code and Guidelines requirements only

and will provide the MCA sponsor with a letter of conditional completeness. Once an accessible PDF has been resubmitted to, and reviewed by, CDFW, the conditions for completeness will have been met and the review process will continue with the public and substantive reviews.

Please note, the purpose of the completeness review is only to identify whether any required information is missing. CDFW will review the MCA for accuracy and adequacy during its subsequent substantive review (See Section 5.5.2.3), and may identify additional information that will need to be included in the MCA before it could be approved by CDFW. Early and ongoing comprehensive communication and coordination with CDFW and other applicable regulatory agencies is strongly encouraged as it typically reduces the extent of comments provided during the completeness and substantive reviews.

### **5.5.2.2 Public Review**

Within 30 days of deeming a draft MCA complete, CDFW shall:<sup>216</sup>

- a. File a notice of availability of the draft MCA with the Governor's Office of Planning and Research and the city and county clerks of any cities or counties whose jurisdictions overlaps with the MCA or its service area, in part or in whole.
- b. Make the draft MCA available to the public on [CDFW's MCA web page](#) for review and comment for a period of at least 60 days. At that time, CDFW shall send an email notification to announce the availability of the draft MCA to any public agency, organization, or individual who has filed a written request to CDFW to receive such notifications. Depending on the scope, length, and complexity of the draft MCA, CDFW may determine that the public review period must be longer than 60 days.

At the end of the comment period, the MCA sponsor and CDFW must coordinate to ensure that both entities have a copy of all public comments received. The MCA sponsor shall respond to written comments submitted during the public comment period and provide a draft to CDFW. CDFW shall review the draft responses, and potentially provide additional comments or revisions.<sup>217</sup> The MCA sponsor shall then provide their final response directly to the commentor.

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<sup>216</sup> Fish & G. Code, § 1856, subdivision (g)

<sup>217</sup> Fish & G. Code, § 1856, subdivision (g)

### 5.5.2.3 Substantive Review

After deeming the draft MCA complete, and generally concurrent with the public review, CDFW will conduct its substantive review. The substantive review is a thorough review, by CDFW, of the draft MCA for accuracy and adequacy. If other regulatory agencies are involved with the development of the MCA, CDFW will also ask them to participate in the substantive review with the intent to incorporate other regulatory agencies comments with CDFW's substantive review response. CDFW typically requires additional time beyond the public review period to complete the substantive review. The time required for the review depends on the scope, length, and complexity of the draft MCA, the edits to the [MCA Template](#), as well as the extent to which the MCA sponsor has consulted with CDFW and other regulatory agencies, as applicable, during the development of the draft MCA.

Upon completion of the substantive review, and with consideration of the public comments and responses and the applicable regulatory agency's comments, CDFW shall inform the MCA sponsor in writing whether the MCA has been conditionally approved without revisions, conditionally approved with revisions, or disapproved.<sup>218</sup>

If CDFW conditionally approves the draft MCA without edits, the MCA sponsor can immediately submit a final MCA (see Section 5.5.3 – Submission and Review of the Final MCA).

If the draft MCA is conditionally approved with revisions, CDFW shall include comments in the letter to the MCA sponsor that identify any required and/or suggested changes to the draft MCA. The MCA sponsor must then incorporate the necessary changes in the final MCA prior to submission.

CDFW will only reject a draft MCA if there are fundamental issues that the MCA sponsor and CDFW are unable to resolve after multiple substantive review phases. In this case, the MCA sponsor may choose to submit a new MCA concept, Framework, or draft MCA to begin consultation again with CDFW and any other applicable regulatory agencies. The processes described throughout Section 5 would begin again, including the submission of any applicable fees.

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<sup>218</sup> Fish & G. Code, § 1856, subdivision (g)

### 5.5.3 Submission and Review of the Final MCA

If the draft MCA is conditionally approved with revisions, the MCA sponsor shall make the revisions and submit a final MCA to CDFW within 120 days. If more time is needed to adequately address the comments, the MCA sponsor can request an extension. If the final MCA is submitted after 120 days or the approved extension, and if CDFW or the applicable regulatory agencies believe the MCA information is out of date, the MCA may be treated as a new application subject to additional review and fees. Substantial edits that are not in response to the public or substantive comments may also be subject to additional review and fees.

An MCA submitted to CDFW for final review and approval must not include track changes and will be routed for signature. After the final MCA is signed by all parties, the MCA sponsor must provide CDFW with a PDF version of the MCA that is edited for web accessibility (see Section 1.5 – Accessibility) to be posted on [CDFW's MCA web page](#). The MCA will then be considered approved.

Once approved, the MCA sponsor may begin establishing the MCA (see Section 5.3.8 – MCA Establishment).

## 5.6 Publicly Available MCA Credit Information

Upon MCA establishment (see Section 5.3.8 – MCA Establishment), CDFW shall make the MCA's credits and release information available on [CDFW's MCA web page](#).<sup>219</sup> This shall include documentation, provided by the MCA sponsor, demonstrating that the appropriate performance-based milestones for each credit release have been met (see Section 5.3.10.3 – Credit Release Schedule). This could include an annual report or separate report, as deemed appropriate by CDFW, as an electronic version that is edited for web accessibility (see Section 1.5 – Accessibility) to place on CDFW's internet web page.

## 5.7 Amending an MCA

An MCA may only be amended if CDFW and the MCA sponsor agree to the amendment in writing or if CDFW determines that a change is required by

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<sup>219</sup> Fish & G. Code, § 1856, subdivision (l)

law or changed circumstances. The MCA sponsor can propose a simple or complex amendment by submitting a draft of the amendment(s) and the appropriate fee to CDFW for review and approval (see Section 1.3 – Fees). The MCA sponsor shall coordinate any amendments with any other acknowledging agencies.

A simple MCA amendment is any amendment that relates to the organization or administration of the MCA including, but not limited to, changes in MCA name, property ownership, address, MCA sponsor, or endowment holder. A simple amendment would not modify the scope or nature of the MCA or any MCA action.

A complex amendment means any amendment that relates to the operation, management, or other material element of the MCA. Review and approval of complex amendments will vary depending on the nature of the amendment. Complex amendments may include, but are not limited to the following:

- a. Adding a site;
- b. Adding conservation actions and habitat enhancement actions;
- c. Altering existing credits or proposing the creation of additional credits;
- d. Altering the credit-release schedule;
- e. Expanding the service area of one, or more, credits.

A complex amendment would have to go through the same submittal, review, and approval processes described in Sections 5.5 (MCA Development, Review, and Approval Process). Adding a site or adding conservation actions or habitat enhancement actions may require another public review. If an MCA sponsor applies for a simple amendment, and CDFW deems it to be a complex amendment, the MCA sponsor shall pay the difference between the two amendments.

For information regarding framework amendments see Section 5.5.1.4 (MCA Framework).